The Journal OF THE House of Representatives

Number 19 **Friday, April 27, 2001**

The House was called to order by the Speaker at 10:30 a.m.

Prayer

The following prayer was offered by the Reverend Thomas C. Veit of St. Mary the Virgin Church of Brandon, upon invitation of Rep. Byrd:

Most gracious God, we humbly beseech Thee for the people of the great state of Florida in general, and especially for the House of Representatives here assembled, that Thou wouldst be pleased to direct and prosper all their consultations to the advancement of Thy glory and safety, honor, and welfare of Thy people. That all things may be so ordered and settled by their endeavors, upon the best and surest foundations, that peace and happiness, truth and justice, religion and piety, may be established among us for all generations. We beseech Thee to guide and bless the Legislature of this state, that they may ordain for our governance only such things as please Thee, to the glory of Thy name and the welfare of the people. These and all other necessary things, for them, for us, and for the great state of Florida, we humbly ask in the name of Almighty God. Amen.

The following Members were recorded present:

Session Vote Sequence: 199

The Chair	Cantens	Harrell	Mayfield
Allen	Carassas	Harrington	Maygarden
Andrews	Clarke	Hart	McGriff
Argenziano	Cusack	Henriquez	Meadows
Arza	Davis	Heyman	Mealor
Atwater	Detert	Hogan	Melvin
Ausley	Diaz de la Portilla	Holloway	Miller
Baker	Diaz-Balart	Jennings	Murman
Ball	Dockery	Johnson	Needelman
Barreiro	Farkas	Jordan	Negron
Baxley	Fasano	Joyner	Paul
Bean	Fields	Justice	Pickens
Bendross-Mindingall	Fiorentino	Kallinger	Prieguez
Bennett	Flanagan	Kendrick	Rich
Bense	Frankel	Kilmer	Richardson
Benson	Gannon	Kosmas	Ritter
Berfield	Garcia	Kottkamp	Romeo
Betancourt	Gardiner	Kravitz	Ross
Bilirakis	Gelber	Kyle	Russell
Bowen	Gibson	Lee	Ryan
Brown	Goodlette	Lerner	Seiler
Brummer	Gottlieb	Littlefield	Simmons
Brutus	Green	Lynn	Siplin
Bucher	Greenstein	Machek	Slosberg
Bullard	Haridopolos	Mack	Smith
Byrd	Harper	Mahon	Sobel
Spratt	Wallace	Weissman	Wilson
Stansel	Waters	Wiles	Wishner
Trovillion			

(A list of excused Members appears at the end of the *Journal*.)

A quorum was present.

Pledge

The Members, led by Adam Castellanos of Miami, Michael Stephen Cummons II of Jacksonville, Christina Marie Cusack of Orlando, Joshua Ryan Hicks of Tallahassee, Mike Jowers of Jacksonville, Jarrett Kime of Orlando, Veronica Leigh Lopez of Tallahassee, Holly Danielle Messer McFadden of Crawfordville, Allison Moore of Tallahassee, Ashley Moore of Tallahassee, John Steven Sheppard of Blountstown, Peter Joshua Tebow of Bryceville, Patricia Urban of Tampa, and Christopher Wright of Tallahassee, pledged allegiance to the Flag. Adam Castellanos served at the invitation of Rep. Lacasa. Michael Stephen Cummons II, Mike Jowers, and Peter Joshua Tebow, served at the invitation of Rep. Hogan. Christina Marie Cusack served at the invitation of Rep. Trovillion. Joshua Ryan Hicks served at the invitation of Rep. Richardson. Jarrett Kime served at the invitation of Rep. Bilirakis. Veronica Leigh Lopez served at the invitation of Rep. Bucher. Holly Danielle Messer McFadden served at the invitation of Rep. Kendrick. Patricia Urban served at the invitation of Rep. Murman.

Correction of the *Journal*

The *Journal* of April 26 was corrected and approved as follows: On page 849, column 1, lines 2 through 4 from the bottom, delete all of said lines and insert: On motion by Rep. Kendrick, the House reconsidered the vote by which Amendment 1 was laid on the table earlier today.

The question recurred on the adoption of Amendment 1, which failed of adoption.

And on page 942, column 1, line 13 from the bottom, delete "which was withdrawn." and insert in lieu thereof: which was adopted.

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney April 26, 2001
Speaker, House of Representatives

Dear Mr. Speaker:

Your Procedural & Redistricting Council herewith submits as Special Orders for Friday, April 27, 2001. Consideration of the House Bills on Special Orders shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the attached list of bills:

A quorum of the Council was present in person, and a majority of those present agreed to the above Report.

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

Special Orders for Friday, April 27, 2001

489	Johnson	High Speed Rail Study Commission
251	Kilmer	Sales Tax Exemption/Clothing
991	Mayfield	Funeral & Cemetery Services
1889	Ritter	Taxation/Communication Services
1891	Ritter	Public Records/Communications Tax
1893	Ritter	Local Communications Services Tax TF
1919	Dockery	Technology Enterprise Trust Fund/DMS
1943	Brummer	Bargaining Agent's Dues/Assessments
201	Rubio	Moving Traffic Violation/Fees
427	Fiorentino	Homelessness
1015	Harrell	Young Children/Learning Gateway (Pending Committee Action)
1661	Mealor	John McKay Scholarships/ Students/Disabilities
1193	Arza	Education
1535	Lynn	Public Records/Edu. Professionals
1655	Clarke	Labor & Employment Security Dept.
1845	Hart	Criminal Use of Personal ID Info.
1977	Lacasa	State Planning & Budgeting
1931	Lacasa	Health Insurance Subsidy/Retirees
1981	Wallace	Tax Administration
1909	Dockery	Purchasing & Transportation Support
1941	Dockery	Trust Funds
1633	Attkisson	Student Assessment
1811	Hart	Information Technology
379	Allen	Entertainment Industry
1187	Wishner	White Collar Crime Victim Protection
1673	Kyle	Domestic Violence
589	Fasano	Local Govt. Utilities Assistance Act
161	Argenziano	Citrus/Hernando Waterways Council
729	Argenziano	Environmental Control
1863	Farkas	Onsite Sewage Treatment & Disposal
1691	Atwater	Law Enforcement Officers
805	Benson	Pool/Spa Servicing Contractor
1439	Berfield	Health Insurance
579	Crow	Uniform commercial Code
973	Davis	Property Tax/Disabled/Physicians
455	Detert	Mortgage Brokers & Lenders
437	Farkas	Pharmacists/Licensure by Endorsement
605	Gibson	Florida Alzheimer's Training Act
523	Green & Heyman	Nursing Student Loan Forgiveness
1485	Kravitz	Sexual Offenders Release Supervision
411	Kyle	Florida Mobile Home Act
1067	Kyle	Physician Records/Adverse Incidents
167	Littlefield	Domestic Violence
305	Littlefield	Ad Val Tax/Resident in Another State
997	Littlefield	Spinal Cord Injuries/Pilot Program
1577	Machek	Water Mgmt. District Fiscal Matters
1077	Mack	Health Care/Alternative Treatment
163	Prieguez	Tax/Collegiate Facility Renovation
613	Ross	Construction Contracts
159	Rubio	HMO/Physicians/ Adverse Determination
1713	Lacasa	State Employee Benefits
1765	Melvin	Public Protection
1085	Pickens	Rodman Reservoir State Reserve
1777	Murman	Schools/Adult Entertainment Location
1947	Lacasa	Public Employees/Optional Retirement
1249	Littlefield	Adoption Benefits/State/WMD Employee
649	Bilirakis	Law Enforcement Officers Disability
1933	Lacasa	Public Employee Disability TF/DMS
37	Paul	Absentee Ballots (Memorial)
1221	Cantens	Water Mgmt Districts
1663	Harrell	Seaport Security
1403	Mealor	Health Care
1153	Harrell	Certificate of Need
1529	Simmons	Controlled Substances
1189	Diaz-Balart	Brownfield Redevelopment Incentives
1951	Brummer	Public Records/Paratransit Services
1883	Johnson	Administrative Trust Fund
731	Kottkamp	Public Records/Local Govt/WMD
1415	Kallinger	Medicaid/Environmental Modification
979	Melvin	North Okaloosa Fire District
1957	Hart	State Technology/Property & Services
137	Goodlette	Probate
1341	Benson	Ad Val Tax / Refund of Filing Fees
247	Harrell	Unfair Discrimination/Insurance
109	Cantens	Collection of Consumer Debts
573	Gibson	Homestead Assessment /Elderly Living
295	Gibson	Ad Val Tax Exemption/Elderly Living
1205	Diaz-Balart	School Employee/Unused Sick Leave
1255	Diaz-Balart	Florida Building Code
1411	Pickens	District School Tax
1519	Berfield	Clearinghouse on Disability Info.
1785	Haridopolos	Brevard Co/City of Satellite Beach
1759	Hart	Stalking Offense/Cyberstalk
345	Johnson	Sports Industry Economic Development
1545	Lynn	Schools/Performance Reporting
1509	Diaz-Balart	Student Financial Assistance
1043	Kilmer	Sewer, Water, & Stormwater Systems
267	Kravitz	School Attendance/Violent Offenders
281	Alexander	Higher Educational Facilities
1089	Bilirakis	Real Estate professionals
599	Mack	Public Record/Child Support Services
1091	Wishner	Fla. Golf License Plate
1829	Russell	Motor Vehicle Titles
329	Baxley	Drug Free Legislators
1833	Crow	Real Property Liens/Duration
453	Prieguez	Energy Performance Savings
1207	Carassas	Nonprofit Civic Organization/Alcohol
209	Maygarden	Taxes/Property/Airports & Seaports
1009	Baxley	Excise Tax on Documents
3	Ball	Citizens' Right to Honest Gov't Act
211	Maygarden	Civil Actions/Admission of Liability
529	Wallace	Outcome-Based Total Accountability
521	Green	Financial Institutions
571	Johnson	Economic Impact Statement/Voting
575	Baker	Filing Fees/Corporate Fee
955	Bean	Correctional Officers / Job Protection
593	Bowen	Municipal Law Enforcement Officers
757	Barreiro	Wrecker Liens
767	Brown	Structured Settlements
1959	Hart	Technology Enterprise Operating TF
791	Hogan	Property Exempt from Legal Process
989	Mealor	Universities Designations
1111	Allen	Spaceport Infrastructure Act
1763	Hart	DEP/Public Notices/Internet Costs
1491	Attkisson	Wastewater Residual Reduction Act
9	Ball	Solid Waste Management Facilities
113	Trovillion	Construction / Prompt Payment Act
1955	Hart	Law Enforcement Radio Operating TF
747	Brown	Credit Insurance
961	Carassas	Nursing Homes & Health Care Facility
1969	Harrington	Land Acquisition & Mgmt
1425	Bowen	Violent Crime & Drug Control Council
625	Bean	Security for Public Deposits
441	Baker	County Government/Property Sales
595	Haridopolos	Landlord & Tenant
1031	Carassas	Durable Powers of Attorney
1611	Arza	Relief/Mary Beth Wiggers/DOC
1219	Brown	Insurance Agents
1059	Baker	NASA's Small Aircraft Transportation
789	Mealor	Governmental Data Processing
19	Greenstein	Fair Housing Act
73	Wallace	Fla. Customer Service Standards Act

131	Harrington	Correctional Facilities
259	Slosberg	Driver's Licenses/DUI Convictions
689	Wallace	Taxes/Limitations
293	Crow	Certified Capital Company Act
301	Wilson	Testing of Inmates for HIV
315	Kottkamp	Opticianry/Violations & Penalties
331	Baxley	Physician Assistants
351	Mayfield	Deferred Compensation Programs
371	Spratt	Electric Utilities/Interruption
1349	Mealor	Crimes/Using 2-way communications
569	Garcia	Probation or Community Control
1835	Crow	Excise Tax/Real Property
811	Clarke	Criminal Records/Obscene Materials
863	Ritter	North Springs Improvement District (LB)
967	Gardiner	Enterprise Zones/Boundaries
497	Andrews	Homicide of an Unborn Child
1039	Paul	Ad Val/Disabled Ex-Service Members
235	Prieguez	Dental Service Claims/Appeals
1203	Mealor	Motor Vehicles
1379	Flanagan	Emergency Telephone System
1401	Pickens	DUI
1547	Kottkamp	Fla. Prepaid College Program
1603	Mayfield	Comprehensive Everglades Restoration
1635	Goodlette	Environmental Control
147	Ball	DNA Evidence
261	Jordan	Law Officer/Background Investigators
719	Stansel	Agri.Products/Damage or Destruction
1397	Greenstein	Florida Mobile Home Relocation TF
1147	Kendrick	Public Records/Personal/Medical
1437	Ball	Public Records/Communications Systems
1615	Brummer	School District Guarantee Program
545	Carassas	David Levitt School Anti Hunger Act
1433	Bennett	Growth Management
1601	Jennings	Workforce Development
465	Baker	Tuition/Residency/National Guard
1339	Farkas	State University System
5	Heyman	Retired Judges
7	Heyman	Eminent Domain/Public School Purpose
11	Heyman	Drivers/Secondary Activity
25	Crow	Offenses Against Children
61	Trovillion	Open Contracting Act
65	Trovillion	Public Libraries/Computers/Obscenity
85	Meadows	Florida Infant Crib Safety Act
99	Weissman	Ad Valorem Tax Exemption
157	Weissman	Motor Vehicle Airbags
193	Kosmas	Public Health Care Employees/Safety
199	Trovillion	Substance Abuse Treatment Programs
213	Barreiro	Money Transmitter's Code
239	Allen	Child Safety Booster Seat Act
255	Bullard	Citrus Canker Eradication
285	Wilson	Sexual Violence/Jails & Prisons
289	Barreiro	Motorsports Entertainment Complex
309	Crow	Surplus Lines Insurance
337	Garcia	Public Libraries/Operating Grants
341	Attkisson	Officer Malcolm Thompson Act
349	Gannon	Support Owed to Child or Spouse
357	Crow	Parental Consent/Medical Treatment
361	Stansel	Sentencing
363	Henriquez	Tampa-Hillsborough Co. Expressway
375	Seiler	Unlawful Killing of Human Being
421	Bean	Mental Health Treatment/Adults
1701	Smith	Public Records/Code Enforc. Officers
423	Greenstein Bucher	Individual Development Accounts
443	Wallace & McGriff	Industrial Partnership Professorship
457	Lee	Property & Casulty Insurers
483	Wiles & others	Medicaid Eligibility/Work Incentives
533	Miller	Professions Regulated by DBPR
541	Rubio	Alcoholic Beverages/Underage Student
615	Kallinger	Payment or Performance Bonds
617	Harper	Youthful Offenders
623	Mack	Government Accountability
635	Hart	Driver's Licenses/Selective Service
645	Henriquez	Alcoholic Beverages/Nonprofit Orgs.
653	Bilirakis	Access to Medical Treatment Act
685	Romeo	Consumer Protection
707	Kyle	State Lottery Commisson
733	Wiles	Lighthouses/Study
737	Lerner	Security of Medical Facilities
751	McGriff	Indigent Hospital Patients
759	Bilirakis	Character Evidence/Child Molestation
771	Rubio	Certificate of Need
793	Hogan	Elderly Persons & Disabled Adults
795	Justice	Relief/Alfred Roberts/St. Petersburg
825	Gardiner	Constitutional Amendments/Approval
947	Seiler	Decedent's Medical Records/Presuits
949	Attkisson	Local Water or Wastewater Utilities
985	Justice	Med. Records/Solicitation/Marketing
1049	Betancourt	Cargo Theft
1051	Andrews	CPA/Null & Void License/Reinstate
1087	Pickens	Florida State Boxing Commission
1097	Kyle	Real Estate Brokers
1121	Byrd	Driver Licenses/Co. Tax Collectors
1127	Andrews	Non-Ad Valorem Assessments
1129	Greenstein	Nursing Programs
1133	Brutus	Correctional Work Programs/Operation
1197	Berfield	Legislative Oversight
1215	Andrews	Taxation/New Product Development
1223	Cantens	Commercial Buildings Construction
1225	Pickens	Economic Development
1239	Diaz-Balart	Motor Vehicle Dealer/Franchises
1241	Hart	Welfare Transition Trust Fund
1263	Dockery	Mining
1361	Arza & others	Charter Schools
1367	Gottlieb	Local Govt. /Financial Emergency
1371	Betancourt	Optional Medicaid Services/Dental
1377	Benson	Civil Rights/Complaints
1389	Dockery	Rural & Family Lands Protection Act
1393	Spratt	Hurricane Loss Mitigation Program
1405	Clarke & others	Student Records
1407	Kallinger	Toni Jennings Blvd.
1413	Garcia	Relative Caregiver Program
1421	Prieguez	Public Records/Business Info./Taxes
1431	Byrd	Passport to Economic Progress Act
1449	Spratt	Consumer Protection
1451	Negron	Ad Val Exemption/Personal Property
1465	Wiles	Prison Release Reoffender
1469	Rich	Public Employees/Volunteers/Ins.
1489	Dockery	FWC Commission/Funding
1513	Simmons	Insurance Competitions/Compensations
1523	Slosberg	Public Records/Tobacco Industry
1537	Brummer	Public Records/Agency/Contracting
1539	Prieguez	Economic Development
1543	Farkas	Health Care Practitioner/Credentials
1551	Jennings	Enterprise Zones/Boundaries
1587	Baxley	Illegal Personal Property or Equip.
1607	Bennett	Insurance Department
1649	Bense	Condominiums
1683	Miller	Unlawful Activities/Driver's License
1687	Slosberg	Teenage Driver Education
1703	Detert	Adoption & Medical Asst. Compact
1709	Dockery	Boiler Safety
1755	Goodlette	Judicial Office/Earlier Qualifying
1771	Melvin	Juvenile Records/Confidentiality
1783	Brutus	Universitites/Credit & Debit Cards
1801	Kilmer	Univ. of West Fla. & FAU/Degrees
1817	Cantens	Condominiums & Cooperatives
1819	Waters	Insurance/Public Records Illegal Use
1827	Sorensen	Special Districts
1831	Harrington	Demineralization Concentrate
1843	Farkas	Nursing
1853	Goodlette	Foreign Govt./Civil Court Action

1869	Crow	Child Support Enforcement
1873	Farkas	Health Care
1875	Russell	Driver Licensing Study Commission
1877	Spratt	Obsolete & Inactive Provisions
1905	Russell	Transportation Outreach Program
1907	Kyle	Condominiums
1923	Kyle	Business & Professional Reg. Dept.
1945	Brummer	Commodities & Contractual Services
1961	Wallace	Sales Tax/State Tax Policy
1965	Wallace	Ad Val Tax/Tangible Property
1967	Needelman	Corrections Department
1973	Wallace	State Debt
1975	Wallace	Corp. Income Tax/Internal Revenue
1979	Wallace	Trust Fund Administration
1983	Wallace	Ad Valorem Tax Administration
829	Ritter	Broward Co./Lauderdale-By-The-Sea
831	Ritter	Broward Co. / Pompano Beach
835	Ritter	Broward Co./Corporate Boundaries
837	Ritter	Sunshine Drainage District
839	Ritter	Broward Co./Control of Dogs
843	Ritter	Coral Springs/Corporate Limits
853	Carrassas	Pinellas Co./Tourist Dev. Council
867	Romeo	Hillsborough Co./Tourist Development
869	Ritter	Broward Co./Concurrency Requirements
873	Frankel	West Palm Beach/Police Pension
891	Wiles	Daytona Beach/Submerged Lands/Lease
899	Murman	Tampa/Firefighters & Police Pension
917	Bucher	Palm Beach Co./Building Code
921	Bennett	Manatee Co. /Fire & Rescue District
923	Bennett	Bayshore Gardens Park & Recreations
935	Miller	Pensacola/Civil Service System
941	Jordan	Jacksonville/Civil Service Status
1161	Sorensen	Florida Keys/Fed. Emergency Mgmt.
1177	Kottkamp	Florida Waterways/Open Access
1797	Melvin	Dr. Ed Haskell Legislative Clinic
1849	Bennett	Manatee Co. /Mosquito Control Dist.
1865	Crow	Judiciary/Number Increases
1963	Wallace	Income Tax Deduction/Sales Taxes
1985	Brummer	Public Records/Exemptions

On motion by Rep. Byrd, the above report was adopted.

Motions Relating to Committee or Council References

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 459 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 561 was withdrawn from the Committee on Fiscal Policy & Resources and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1017 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1099 was withdrawn from the Committee on Fiscal Policy & Resources and the Council for Ready Infrastructure and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1477 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1507 was withdrawn from the Committee on Judicial Oversight and remains referred to the Council for Competitive Commerce.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1621 was withdrawn from the Council for Ready Infrastructure and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1911 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1949 was withdrawn from the Council for Ready Infrastructure and placed on the Calendar of the House.

Bills and Joint Resolutions on Third Reading

Pursuant to adoption of Special Rule 01-11, consideration of Bills and Joint Resolutions on Third Reading was temporarily postponed.

Special Orders

Special Order Calendar

HB 489—A bill to be entitled An act relating to high-speed rail; creating the High-Speed Rail Study Commission; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; directing the Department of Transportation to begin collecting and organizing existing data on high-speed rail systems; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 050595)

Amendment 1—On page 1, line 29 and page 4, line 18
remove from the bill: *Study*

Rep. Mayfield moved the adoption of the amendment, which was adopted.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 361681)

Amendment 2 (with title amendment)—On page 2, line 1
remove from the bill: *Study*

And the title is amended as follows:

On page 1, line 3
remove from the title of the bill: Study

Rep. Mayfield moved the adoption of the amendment, which was adopted.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 915519)

Amendment 3—On page 3, line 17 of the bill, after the semicolon

insert: *the use of existing rail;*

Rep. Mayfield moved the adoption of the amendment, which was adopted.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 362769)

Amendment 4—On page 4, line 4
remove from the bill: all of said line

and insert in lieu thereof:

(f) The commission is tasked with providing the documentation necessary to seek and obtain federal funding in order to build a high-speed rail system in Florida.

(g) Any other issues the commission deems relevant to

Rep. Mayfield moved the adoption of the amendment, which was adopted.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 942647)

Amendment 5—On page 4, lines 4-5
remove from the bill: remove all of said lines

and insert in lieu thereof:

(f) The possibility and costs of using existing rail.

(g) Any other issues the commission deems relevant to the development of a high-speed rail system.

Rep. Johnson moved the adoption of the amendment, which was adopted.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 235399)

Amendment 6—On page 4, line 19
remove from the bill: *$400,000*

and insert in lieu thereof: *$3 million*

Rep. Mayfield moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 251—A bill to be entitled An act relating to the tax on sales, use, and other transactions; specifying a period during which the sale of clothing and certain other items shall be exempt from such tax; defining "clothing"; providing exceptions; providing for rules; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Joyner and Gannon offered the following:

(Amendment Bar Code: 571963)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *For the period beginning at 12:01 a.m., July 28, 2001, and through midnight, August 6, 2001, taxes levied under chapter 212, Florida Statutes, shall have extraordinary administration and be collected in the following manner:*

(a) No tax levied under the provisions of chapter 212, Florida Statutes, shall be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of $100 or less, during the period from 12:01 a.m., August 4, 2001, through midnight, August 5, 2001.

(b) Taxes administered on sales of clothing, wallets or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of $100 unless during the period from 12:01 a.m., July 28, 2001 through midnight, August 4, 2001, shall be collected as stated in chapter 212, Florida Statutes, except that such revenues shall be designated to restore funding to individuals, including individuals over 21 years of age, who qualify to receive adult dental, visual and hearing services under the state Medicaid program.

(c) As used in this section, "clothing" means any article of wearing apparel, including all footwear, except skis, swim fins, in-line skates, and other skates, intended to be worn on or about the human body. For purposes of this section, "clothing" does not include watches, watchbands, jewelry, umbrellas, or handkerchiefs.

(d) This section does not apply to sales within a theme park or entertainment complex, as defined by s. 509.013(9), Florida Statutes, within a public lodging establishment, as defined by s. 509.013(4), Florida Statutes, or within an airport, as defined by s. 330.27(2), Florida Statutes.

(e) The provisions of chapter 120, Florida Statutes, to the contrary notwithstanding, the Department of Revenue may adopt rules to carry out this section.

Section 2. *The sum of $200,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering this act.*

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from the title of the bill: all of said lines

and insert in lieu thereof: A bill to be entitled An act relating to the tax on sales, use, and other transactions; specifying a period during which the sale of clothing and certain other items shall be exempt from such tax; specifying a period during which the taxes collected from the sale of clothing shall be used to restore funding for dental, visual, and hearing services; defining "clothing"; providing exceptions; providing for rules; providing an appropriation; providing an effective date.

Rep. Joyner moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 200

Yeas—45

Attkisson	Gardiner	Lee	Seiler
Ausley	Gelber	Lerner	Siplin
Bendross-Mindingall	Gottlieb	Machek	Slosberg
Betancourt	Greenstein	Mahon	Smith
Brutus	Harper	McGriff	Sobel
Bucher	Henriquez	Meadows	Weissman
Bullard	Heyman	Negron	Wiles
Carassas	Holloway	Rich	Wilson
Cusack	Jennings	Richardson	Wishner
Fields	Joyner	Ritter	
Frankel	Justice	Romeo	
Gannon	Kosmas	Ryan	

Nays—71

The Chair	Brummer	Harrell	Mealor
Allen	Byrd	Harrington	Melvin
Andrews	Cantens	Hart	Miller
Argenziano	Clarke	Hogan	Murman
Arza	Davis	Johnson	Needelman
Atwater	Detert	Jordan	Paul
Baker	Diaz de la Portilla	Kallinger	Pickens
Ball	Diaz-Balart	Kendrick	Prieguez
Barreiro	Dockery	Kilmer	Ross
Baxley	Farkas	Kottkamp	Rubio
Bean	Fasano	Kravitz	Russell
Bennett	Fiorentino	Kyle	Simmons
Bense	Flanagan	Lacasa	Spratt
Benson	Garcia	Littlefield	Stansel
Berfield	Gibson	Lynn	Trovillion
Bilirakis	Goodlette	Mack	Wallace
Bowen	Green	Mayfield	Waters
Brown	Haridopolos	Maygarden	

Votes after roll call:
Yeas to Nays—Attkisson, Gardiner, Mahon, Negron

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 991 was taken up. On motion by Rep. Mayfield, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1610 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Banking and Insurance and Senator Latvala and others—

CS for SB 1610—A bill to be entitled An act relating to funeral and cemetery services; amending s. 497.003, F.S.; revising references relating to need determinations; amending s. 497.005, F.S.; providing and revising definitions; amending s. 497.201, F.S.; increasing minimum acreage requirements to establish a cemetery company; eliminating need determinations for new cemeteries; clarifying provisions governing authorized trust companies, banks, and savings and loan associations; revising experience requirements for the general manager of a cemetery company; amending s. 497.237, F.S.; authorizing care and maintenance trust funds to be established with a federal savings and loan association holding trust powers in this state; amending s. 497.245, F.S.; revising provisions governing burial rights; amending s. 497.253, F.S.; revising minimum acreage requirements and references, to conform; revising requirements for sale or disposition of certain cemetery lands, to conform; repealing s. 497.353(12), F.S., relating to prohibiting the use in need determinations of spaces or lots from burial rights reacquired by a cemetery, to conform; amending s. 497.405, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations; amending s. 497.417, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations; revising the authority of certificateholders offering preneed funeral and burial merchandise and services contracts to revest title to trust assets by posting a bond or using other forms of security or insurance; providing a time limitation on such authority; amending s. 497.425, F.S.; providing a time limitation on the authority to post certain bonds to secure preneed contract assets; amending s. 497.429, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations with respect to alternative preneed contracts; amending s. 470.002, F.S.; redefining the term “legally authorized person” for purposes of ch. 470, F.S.; providing an effective date.

—was taken up, read the first time by title, and substituted for CS/HB 991. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Mayfield, the rules were waived and CS for SB 1610 was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Special Orders

Continuation of Special Order Calendar

CS/HB 1889—A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of said tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer’s place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming language; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer’s duty to update a database and to the amount of dealer’s credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting language relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer’s credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming language; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on

communications services providers may increase its local tax rate by resolution; requiring notice to the department; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under said section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunication services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunication service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida, which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates.

—was read the second time by title.

Representative(s) Ritter and Barriero offered the following:

(Amendment Bar Code: 175593)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 202.105, Florida Statutes, is created to read:

202.105 Declaration of legislative findings and intent.—

(1) It is declared to be a specific legislative finding that the creation of this chapter fulfills important state interests by reforming the tax laws to provide a fair, efficient, and uniform method for taxing communications services sold in this state. This chapter is essential to the continued economic vitality of this increasingly important industry because it restructures state and local taxes and fees to account for the impact of federal legislation, industry deregulation, and the convergence of service offerings that is now taking place among providers. This chapter promotes the increased competition that accompanies deregulation by embracing a competitively neutral tax policy that will free consumers to choose a provider based on tax-neutral considerations. This chapter further spurs new competition by simplifying an extremely complicated state and local tax and fee system. Simplification will lower the cost of collecting taxes and fees, increase service availability, and place downward pressure on price. Newfound administrative efficiency is demonstrated by a reduction in the number of returns that a provider must file each month. By restructuring separate taxes and fees into a revenue-neutral communications services tax centrally administered by the department, this chapter will ensure that the growth of the industry is unimpaired by excessive governmental regulation. The tax imposed pursuant to this chapter is a replacement for taxes and fees previously imposed and is not a new tax. The taxes imposed and administered pursuant to this chapter are of general application and are imposed in a uniform, consistent, and nondiscriminatory manner.

(2) It is declared to be a specific legislative finding that this chapter will not reduce the authority that municipalities or counties had to raise revenue in the aggregate, as such authority existed on February 1, 1989.

Section 2. Subsections (2), (14), and (16) of section 202.11, Florida Statutes, are amended, subsection (18) is added to said section, and, effective August 1, 2002, subsections (8) and (15) are amended and subsections (19), (20), (21), (22), (23), (24), and (25) are added to said section, to read:

202.11 Definitions.—As used in this chapter:

(2) "Cable service" means the transmission of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of any such programming service, regardless of whether the programming is transmitted over facilities owned or operated by the cable service provider or over facilities owned or operated by one or more other dealers of communications services. The term includes *point-to-point and* point-to-multipoint distribution services by which programming is transmitted or broadcast by microwave or other equipment directly to the purchaser's premises, but does not include direct-to-home satellite service. The term includes basic, extended, premium, pay-per-view, digital, and music services.

(8) "Mobile communications service" means *commercial mobile radio service, as defined in 47 C.F.R. s. 20.3 as in effect on June 1, 1999* ~~any one-way or two-way radio communications service, whether identified by the dealer as local, toll, long distance, or otherwise, and which is carried between mobile stations or receivers and land stations, or by mobile stations communicating among themselves, and includes, but is not limited to, cellular communications services, personal communications services, paging services, specialized mobile radio services, and any other form of mobile one-way or two-way communications service~~. *The term does not include air-ground radiotelephone service as defined in 47 C.F.R. s. 22.99 as in effect on June 1, 1999.*

(14) "Sales price" means the total amount charged in money or other consideration by a dealer for the sale of *the right or privilege of using* communications services in this state, including any property or other services that are part of the sale. *The sales price of communications services shall not be reduced by any separately identified components of the charge that constitute expenses of the dealer, including, but not limited to, sales taxes on goods or services purchased by the dealer, property taxes, taxes measured by net income, and universal-service fund fees.*

(a) The sales price of communications services shall ~~also~~ include, whether or not separately stated, charges for any of the following:

~~1. Separately identified components of the charge or expenses of the dealer, including, but not limited to, sales taxes on goods or services purchased by the dealer, property taxes, taxes measured by net income, and federal universal-service fund fees.~~

1.~~2.~~ The connection, movement, change, or termination of communications services.

2.~~3.~~ The detailed billing of communications services.

3.~~4.~~ The sale of directory listings in connection with a communications service.

4.~~5.~~ Central office and custom calling features.

5.~~6.~~ Voice mail and other messaging service.

6.~~7.~~ Directory assistance.

7. The service of sending or receiving a document commonly referred to as a facsimile or "fax," except when performed during the course of providing professional or advertising services.

(b) The sales price of communications services does not include charges for any of the following:

1. Any excise tax, sales tax, or similar tax levied by the United States or any state or local government on the purchase, sale, use, or consumption of any communications service, including, but not limited to, any tax imposed under this chapter or chapter 203 which is permitted or required to be added to the sales price of such service, if the tax is stated separately.

2. Any fee or assessment levied by the United States or any state or local government, including, but not limited to, regulatory fees and emergency telephone surcharges, which is required to be added to the price of such service if the fee or assessment is separately stated.

3. *Communications services* ~~Local telephone service~~ paid for by inserting coins into coin-operated communications devices available to the public.

4. The sale or recharge of a prepaid calling arrangement.

5. The provision of air-to-ground communications services, defined as a radio service provided to purchasers while on board an aircraft.

6. A dealer's internal use of communications services in connection with its business of providing communications services.

7. Charges for property or other services that are not part of the sale of communications services, if such charges are stated separately from the charges for communications services.

(15) "Service address" means:

(a)~~(b)~~ *Except as otherwise provided in this section* ~~In the case of all other communications services~~, the location of the communications equipment from which communications services originate or at which communications services are received by the customer. If the location of such equipment cannot be determined as part of the billing process, as in the case of ~~mobile communications services, paging systems, maritime systems,~~ third-number and calling-card calls~~,~~ and similar services, the term means the location determined by the dealer based on the customer's telephone number, the customer's mailing address to which bills are sent by the dealer, or another street address provided by the customer. ~~However, such address must be within the licensed service area of the dealer.~~ In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is the address of the central office, as determined by the area code and the first three digits of the seven-digit originating telephone number.

(b)~~(a)~~ In the case of cable services and direct-to-home satellite services, the location where the customer receives the services in this state.

(c) In the case of mobile communications services, the customer's place of primary use.

(16) "Substitute communications system" means any telephone system, or other system capable of providing communications services, which a person purchases, installs, rents, or leases for his or her own use to provide himself or herself with services used as a substitute for *any switched service or dedicated facility by which* ~~communications services provided by~~ a dealer of communications services *provides a communication path*.

(18) "Private communications service" means a communications service that entitles the subscriber or user to exclusive or priority use of a communications channel or group of channels between or among channel termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services which are provided in connection with the use of such channel or channels.

(19)(a) "Customer" means:

1. The person or entity that contracts with the home service provider for mobile communications services; or

2. If the end user of mobile communications services is not the contracting party, the end user of the mobile communications service. This subparagraph only applies for the purpose of determining the place of primary use.

(b) "Customer" does not include:

1. A reseller of mobile communications services; or

2. A serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(20) "Enhanced zip code" means a United States postal zip code of 9 or more digits.

(21) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile communications services.

(22) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide mobile communications service to the customer.

(23) "Place of primary use" means the street address representative of where the customer's use of the mobile communications service primarily occurs, which must be:

(a) The residential street address or the primary business street address of the customer; and

(b) Within the licensed service area of the home service provider.

(24)(a) "Reseller" means a provider who purchases communications services from another communications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile communications service.

(b) "Reseller" does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(25) "Serving carrier" means a facilities-based carrier providing mobile communications service to a customer outside a home service provider's or reseller's licensed service area.

Section 3. Effective with respect to bills issued by communications services providers on or after October 1, 2001, subsections (1) and (3) of section 202.12, Florida Statutes, are amended and paragraph (d) is added to subsection (1), and, effective with respect to bills issued by communications services providers after August 1, 2002, paragraph (e) is added to subsection (1), to read:

202.12 Sales of communications services.—The Legislature finds that every person who engages in the business of selling communications services at retail in this state is exercising a taxable privilege. It is the intent of the Legislature that the tax imposed by chapter 203 be administered as provided in this chapter.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction, and the tax is due and payable as follows:

(a) *Except as otherwise provided in this subsection,* at *a* ~~the~~ rate *of 6.8 percent* ~~calculated pursuant to s. 30, chapter 2000-260, Laws of Florida,~~ applied to the sales price of the communications service~~, except for direct-to-home satellite service,~~ which:

1. Originates and terminates in this state, or

2. Originates or terminates in this state and is charged to a service address in this state,

when sold at retail, computed on each taxable sale for the purpose of remitting the tax due. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph. If no tax is imposed by this paragraph by reason of s. 202.125(1), the tax imposed by chapter 203 shall nevertheless be collected and remitted in the manner and at the time prescribed for tax collections and remittances under this chapter.

(b) At the rate set forth in paragraph (a) on the actual cost of operating a substitute communications system, to be paid in accordance with s. 202.15. This paragraph does not apply to the use by any dealer of his or her own communications system to conduct a business of providing communications services or any communications system operated by a county, a municipality, the state, or any political subdivision of the state. The gross receipts tax imposed by chapter 203 shall be applied to the same costs, and remitted with the tax imposed by this paragraph.

(c) At *the* ~~a~~ rate *of 10.8 percent* ~~to be computed by the Revenue Estimating Conference and approved by the Legislature~~ on the retail sales price of any direct-to-home satellite service received in this state. ~~The rate computed by the Revenue Estimating Conference shall be the sum of:~~

~~1. The rate set forth in paragraph (a); and~~

~~2. The weighted average, based on the aggregate population in the respective taxing jurisdictions, of the rate computed under s. 202.20(2)(a)1. for municipalities and charter counties and the rate computed under such subparagraph for all other counties.~~

The proceeds of the tax imposed under this paragraph shall be accounted for and distributed in accordance with s. 202.18(2). The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

(d) At the rate set forth in paragraph (a) on the sales price of private communications services provided within this state. In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the states in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

(e) At the rate set forth in paragraph (a) applied to the sales price of all mobile communications services deemed to be provided to a customer by a home service provider pursuant to s. 117(a) of the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, if such customer's service address is located within this state.

(2) A dealer of taxable communications services shall bill, collect, and remit the taxes on communications services imposed pursuant to chapter 203 and this section at a combined rate that is the sum of the rate of tax on communications services prescribed in chapter 203 and the applicable rate of tax prescribed in this section. Each dealer subject to the tax provided in paragraph (1)(b) shall also remit the taxes imposed pursuant to chapter 203 and this section on a combined basis. However, a dealer shall, in reporting each remittance to the department, identify the portion thereof which consists of taxes remitted pursuant to chapter 203. Return forms prescribed by the department shall facilitate such reporting.

(3) Notwithstanding any law to the contrary, the combined amount of taxes imposed under this section and s. 203.01(1)(a)2. shall not exceed $100,000 per calendar year on charges to any person for interstate communications services that originate outside this state and terminate within this state. This subsection applies only to holders of a direct-pay permit issued under this subsection. A refund may not be given for taxes paid before receiving a direct-pay permit. Upon application, the department may issue *one* ~~a~~ direct-pay permit to the purchaser of communications services authorizing such purchaser to pay *the Florida communications services* tax on such services directly to the department if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. *Only one direct-pay permit shall be issued to a person. Such direct-pay permit shall identify the taxes and service addresses to which it applies.* Any dealer of communications services furnishing communications services to the holder of a valid direct-pay permit is relieved of the obligation to collect and remit the taxes imposed under this section and s. 203.01(1)(a)2. on such services. Tax payments and returns pursuant to a direct-pay permit shall be monthly. As used in this subsection, "person" means a single legal entity and does not mean a group or combination of affiliated entities or entities controlled by one person or group of persons.

Section 4. Effective January 1, 2004, paragraph (d) of subsection (1) of section 202.12, Florida Statutes, as created by this act, is amended to read:

202.12 Sales of communications services.—The Legislature finds that every person who engages in the business of selling communications services at retail in this state is exercising a taxable privilege. It is the intent of the Legislature that the tax imposed by chapter 203 be administered as provided in this chapter.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction, and the tax is due and payable as follows:

(d) At the rate set forth in paragraph (a) on the sales price of private communications services provided within this state*, which shall be determined in accordance with the following provisions:*~~.~~

1. Any charge with respect to a channel termination point located within this state;

2. Any charge for the use of a channel between two channel termination points located in this state; and

3. Where channel termination points are located both within and outside of this state:

a. If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

b. If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within this state and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the states in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

Section 5. Effective with respect to bills issued by communications services providers after August 1, 2002, section 202.155, Florida Statutes, is created to read:

202.155 Special rules for mobile communications services.—

(1) A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use. Subject to subsections (2) and (3), if the home service provider's reliance on information provided by its customer is in good faith:

(a) The home service provider shall be entitled to rely on the applicable residential or business street address supplied by such customer.

(b) The home service provider shall be held harmless from liability for any additional taxes imposed by or pursuant to this chapter or chapter 203 which are based on a different determination of such customer's place of primary use.

(2) Except as provided in subsection (3), a home service provider shall be allowed to treat the address used for tax purposes for any customer under a service contract in effect on August 1, 2002, as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement.

(3)(a) The department shall provide notice to the customer of its intent to redetermine the customer's place of primary use. If a final order is entered ruling that the address used by a home service provider as a customer's place of primary use does not meet the definition of "place of primary use" provided by s. 202.11, the department shall notify the home service provider of the proper address to be used as such customer's place of primary use. The home service provider shall begin using the correct address within 120 days.

(b) The department shall provide notice to the home service provider of its intent to redetermine the assignment of a taxing jurisdiction by a home service provider under s. 202.22. If a final order is entered ruling that the jurisdiction assigned by the home service provider is incorrect, the department shall notify the home service provider of the proper jurisdictional assignment. The home service provider shall begin using the correct jurisdictional assignment within 120 days.

(4)(a) If a mobile communications service is not subject to the taxes administered pursuant to this chapter, and if the sales price of such service is aggregated with and not separately stated from the sales price of services subject to tax, then the nontaxable mobile communications service shall be treated as being subject to tax unless the home service provider can reasonably identify the sales price of the service not subject to tax from its books and records kept in the regular course of business.

(b) If a mobile communications service is not subject to the taxes administered pursuant to this chapter, a customer may not rely upon the nontaxability of such service unless the customer's home service provider separately states the sales price of such nontaxable services or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the sales price of such nontaxable service.

Section 6. Paragraph (a) of subsection (1) and subsection (3) of section 202.16, Florida Statutes, are amended to read:

202.16 Payment.—The taxes imposed or administered under this chapter and chapter 203 shall be collected from all dealers of taxable communications services on the sale at retail in this state of communications services taxable under this chapter and chapter 203. The full amount of the taxes on a credit sale, installment sale, or sale made on any kind of deferred payment plan is due at the moment of the transaction in the same manner as a cash sale.

(1)(a) Except as otherwise provided in ss. 202.12(1)(b) and 202.15, the taxes collected under this chapter and chapter 203~~, including any penalties or interest attributable to the nonpayment of such taxes or for noncompliance with this chapter or chapter 203,~~ shall be paid by the purchaser of the communications service and shall be collected from such person by the dealer of communications services.

(3) Notwithstanding the rate of tax on the sale of communications services imposed pursuant to this chapter and chapter 203, the department shall *make available in an electronic format or otherwise* ~~prescribe by rule~~ the tax amounts and brackets applicable to each taxable sale such that the tax collected results in a tax rate no less than the tax rate imposed pursuant to this chapter and chapter 203.

Section 7. Subsections (1), (2), (4), and (6) of section 202.17, Florida Statutes, are amended to read:

202.17 Registration.—

(1) Each person seeking to engage in business as a dealer of communications services must file with the department an application for a certificate of registration. *Registration under this section does not constitute registration with a municipality or county for the purpose of placing and maintaining communications facilities in municipal or county rights-of-way, as described in s. 337.401.*

(2) A person may not engage in the business of providing communications services without first obtaining a certificate of registration. The failure or refusal to submit an application by any person required to register, as required by this section, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who fails or refuses to register shall pay an initial registration fee of $100 ~~in lieu of the $5 registration fee prescribed under subsection (4)~~. However, this fee ~~increase~~ may be waived by the department if the failure is due to reasonable cause.

(4) Each application required by paragraph (3)(a) must ~~be accompanied by a registration fee of $5, to be deposited in the General Revenue Fund, and must~~ set forth:

(a) The name under which the person will transact business within this state.

(b) The street address of his or her principal office or place of business within this state and of the location where records are available for inspection.

(c) The name and complete residence address of the owner or the names and residence addresses of the partners, if the applicant is a partnership, or of the principal officers, if the applicant is a corporation or association. If the applicant is a corporation organized under the laws of another state, territory, or country, he or she must also file with the application a certified copy of the certificate or license issued by the Department of State showing that the corporation is authorized to transact business in this state.

(d) Any other data required by the department.

(6) In addition to the certificate of registration, the department shall provide to each newly registered dealer an *initial* ~~annual~~ resale certificate that is valid for the *remainder of the period of issuance* ~~remaining portion of the year~~. The department shall provide to each active dealer*, except persons registered pursuant to s. 202.15,* an annual resale certificate. As used in this section, "active dealer" means a person who is registered with the department and who is required to file a return at least once during each applicable reporting period.

Section 8. Subsection (2) and paragraphs (a) and (c) of subsection (3) of section 202.18, Florida Statutes, are amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(2) The proceeds of the taxes remitted under s. 202.12(1)(c) shall be divided as follows:

(a) The portion of such proceeds which constitutes gross receipts taxes, imposed at the rate prescribed in chapter 203, shall be deposited as provided by law and in accordance with s. 9, Art. XII of the State Constitution.

(b) *Sixty-three percent* ~~The portion~~ of *the remainder* ~~such proceeds which is derived from the rate component specified in s. 202.12(1)(c)1.~~ shall be allocated to the state and distributed pursuant to s. 212.20(6)*, except that the proceeds allocated pursuant to s. 212.20(6)(d)3. shall be prorated to the participating counties in the same proportion as that month's collection of the taxes and fees imposed pursuant to chapter 212 and paragraph (1)(b).*

(c)*1. During each calendar year, the remaining portion of such proceeds shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and shall be allocated in the same proportion as the allocation of total receipts of the half-cent sales tax under s. 218.61 and the emergency distribution under s. 218.65 in the prior state fiscal year. However, during calendar year 2001, state fiscal year 2000-2001 proportions shall be used.*

2. The proportion of the proceeds allocated based on the emergency distribution under s. 218.65 shall be distributed pursuant to s. 218.65.

3. In each calendar year, the proportion of the proceeds allocated based on the half-cent sales tax under s. 218.61 shall be allocated to each county in the same proportion as the county's percentage of total sales tax allocation for the prior state fiscal year and distributed pursuant to s. 218.62, except that for calendar year 2001, state fiscal year 2000-2001 proportions shall be used. ~~The remaining portion of such proceeds shall be allocated to the municipalities and counties in proportion to the allocation of receipts from the half-cent sales tax under s. 218.61 and the emergency distribution of such tax under s. 218.65.~~

4. The department shall distribute the appropriate amount to each municipality and county each month at the same time that local communications services taxes are distributed pursuant to subsection (3).

(3)(a) Notwithstanding any law to the contrary, the proceeds of each local communications services tax levied by a municipality or county pursuant to s. 202.19*(1) or s. 202.20(1)*, less the department's costs of administration, shall be transferred to the Local Communications Services Tax Clearing Trust Fund and held there to be distributed to such municipality or county. However, the proceeds of any communications services tax imposed pursuant to s. 202.19(5) shall be deposited and disbursed in accordance with ss. 212.054 and 212.055. For purposes of this section, the proceeds of any tax levied by a municipality, county, or school board under s. 202.19*(1) or s. 202.20(1)* are all funds collected and received by the department pursuant to a specific levy authorized by such *sections* ~~section~~, including any interest and penalties attributable to the tax levy.

(c)1. Except as otherwise provided in this paragraph, proceeds of the taxes levied pursuant to s. 202.19, less amounts deducted for costs of administration in accordance with paragraph (b), shall be distributed monthly to the appropriate jurisdictions. The proceeds of taxes imposed pursuant to s. 202.19(5) shall be distributed in the same manner as discretionary surtaxes are distributed, in accordance with ss. 212.054 and 212.055.

2. The department shall make any adjustments to the distributions pursuant to this paragraph which are necessary to reflect the proper amounts due to individual jurisdictions. *In the event that the department adjusts amounts due to reflect a correction in the situsing of a customer, such adjustment shall be limited to the amount of tax actually collected from such customer by the dealer of communication services.*

Section 9. Effective with respect to communications services reflected on bills dated on or after October 1, 2001, section 202.19, Florida Statutes, is amended to read:

202.19 Authorization to impose local communications services tax.—

(1) The governing authority of each county and municipality may, by ordinance, levy a discretionary communications services tax.

(2)*(a) Charter counties and municipalities may levy the tax authorized by subsection (1) at a rate of up to 5.1 percent for municipalities and charter counties that have not chosen to levy permit fees, and at a rate of up to 4.98 percent for municipalities and charter counties that have chosen to levy permit fees.*

(b) Noncharter counties may levy the tax authorized by subsection (1) at a rate of up to 1.6 percent.

(c) The maximum rates authorized by paragraphs (a) and (b) do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401, nor do they supersede conversion or emergency rates authorized by s. 202.20 which are in excess of these maximum rates. ~~The rate of such tax shall be as follows:~~

~~(a) For municipalities and charter counties, the rate shall be up to the maximum rate determined for municipalities and charter counties in accordance with s. 202.20(2).~~

~~(b) For all other counties, the rate shall be up to the maximum rate determined for other counties in accordance with s. 202.20(2).~~

~~The rate imposed by any municipality or county shall be expressed in increments of one-tenth of a percent and rounded up to the nearest one-tenth percent.~~

(3)~~(a) The maximum rates established under subsection (2) reflect the rates for communications services taxes imposed under this chapter which are necessary for each municipality or county to raise the maximum amount of revenues which it was authorized to raise prior to July 1, 2000, through the imposition of taxes, charges, and fees, but that it is prohibited from imposing under s. 202.24, other than the discretionary surtax authorized under s. 212.055. It is the legislative intent that the maximum rates for charter counties be calculated by treating them as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.~~

(a)~~(b)~~ The tax authorized under this section includes any fee or other consideration to which the municipality or county is otherwise entitled for granting permission to dealers of communications services, *including, but not limited to,* ~~or~~ providers of cable television services, as authorized in 47 U.S.C. s. 542, to use or occupy its roads or rights-of-way for the placement, construction, and maintenance of poles, wires, and other fixtures used in the provision of communications services.

(b)~~(c)~~ This subsection does not supersede or impair the right, if any, of a municipality or county to require the payment of consideration or to require the payment of regulatory fees or assessments by persons using or occupying its roads or rights-of-way in a capacity other than that of a dealer of communications services.

(4)(a)*1.* Except as otherwise provided in this section, the tax imposed by any municipality shall be on all communications services subject to tax under s. 202.12 which:

a.~~1.~~ Originate or terminate in this state; and

b.~~2.~~ Are charged to a service address in the municipality.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the municipality. In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.

(b)*1. Except as otherwise provided in this section,* the tax imposed by any county under subsection (1) shall be on all communications services subject to tax under s. 202.12 which:

a.~~1.~~ Originate or terminate in this state; and

b.~~2.~~ Are charged to a service address in the unincorporated area of the county.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the unincorporated

area of the county. In determining the amount of charges for private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.

(5) In addition to the communications services taxes authorized by subsection (1), a discretionary sales surtax that a county or school board has levied under s. 212.055 is imposed as a local communications services tax under this section, and the rate shall be determined in accordance with s. 202.20*(3)*~~(5)~~.

(a) Except as otherwise provided in this subsection, each such tax rate shall be applied, in addition to the other tax rates applied under this chapter, to communications services subject to tax under s. 202.12 which:

1.~~(a)~~ Originate or terminate in this state; and

2.~~(b)~~ Are charged to a service address in the county.

(b) With respect to private communications services, the tax shall be on the sales price of such services provided within the county. In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.

(6) Notwithstanding any other provision of this section, a tax imposed under this section does not apply to any direct-to-home satellite service.

(7) Any tax imposed by a municipality, school board, or county under this section also applies to the actual cost of operating a substitute communications system, to be paid in accordance with s. 202.15. This subsection does not apply to the use by any provider of its own communications system to conduct a business of providing communications services or to the use of any communications system operated by a county, a municipality, the state, or any political subdivision of the state.

(8) Notwithstanding any law to the contrary, a tax imposed under this section shall not exceed $25,000 per calendar year on communications services charges billed to a service address located in a municipality or county imposing a local communications services tax for interstate communications services that originate outside this state and terminate within this state. This subsection applies only to holders of a direct-pay permit issued under *s. 202.12(3)* ~~this subsection~~. *A person who does not qualify for a direct-pay permit under s. 202.12(3) does not qualify for a direct-pay permit under this subsection.* A refund may not be given for taxes paid before receiving a direct-pay permit. Upon application, the department *shall identify the service addresses qualifying for the limitation provided by this subsection on the direct-pay permit issued under s. 202.12(3) and authorize* ~~may issue a direct-pay permit to the purchaser of communications services authorizing~~ such purchaser to pay *the local communications* tax on such *interstate* services directly to the department if *the application indicates that* the majority of such services used by such person *and billed to a service address* are for communications originating outside of this state and terminating in this state. *The direct-pay permit shall also indicate the counties or municipalities to which it applies.* Any dealer of communications services furnishing communications services to the holder of a valid direct-pay permit is relieved of the obligation to collect and remit the tax on such services. Tax payments and returns pursuant to a direct-pay permit shall be monthly. As used in this subsection, "person" means a single legal entity and does not mean a group or combination of affiliated entities or entities controlled by one person or group of persons.

(9) ~~A municipality or county that imposes a tax under subsection (1) may use~~ The revenues raised by *any* ~~such~~ tax *imposed under subsection (1) or s. 202.20(1) may be used by a municipality or county* for any public purpose, including, but not limited to, pledging such revenues for the repayment of current or future bonded indebtedness. Revenues raised by a tax imposed under subsection (5) shall be used for the same purposes as the underlying discretionary sales surtax imposed by the county or school board under s. 212.055.

(10) Notwithstanding any provision of law to the contrary, the exemption set forth in s. 202.125(1) shall not apply to a tax imposed by a municipality, school board, or county pursuant to subsection (4) or subsection (5).

(11) To the extent that a provider of communications services is required to pay *to a local taxing jurisdiction* a tax, charge, or other fee under any franchise agreement or ordinance with respect to the services or revenues that are also subject to the tax imposed by this section, such provider is entitled to a credit against the amount payable to the state pursuant to this section in the amount of such tax, charge, or fee with respect to such services or revenues. *The amount of such credit shall be deducted from the amount that such local taxing jurisdiction is entitled to receive under s. 202.18(3).*

Section 10. Effective January 1, 2004, subsections (4) and (5) of section 202.19, Florida Statutes, as amended by this act, are amended to read:

202.19 Authorization to impose local communications services tax.—

(4)(a)1. Except as otherwise provided in this section, the tax imposed by any municipality shall be on all communications services subject to tax under s. 202.12 which:

a. Originate or terminate in this state; and

b. Are charged to a service address in the municipality.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the municipality, *which shall be determined in accordance with the following provisions:*~~.~~

a. Any charge with respect to a channel termination point located within such municipality;

b. Any charge for the use of a channel between two channel termination points located in such municipality; and

c. Where channel termination points are located both within and outside of the municipality:

(I) If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

(II) If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within such municipality and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

(b)1. Except as otherwise provided in this section, the tax imposed by any county under subsection (1) shall be on all communications services subject to tax under s. 202.12 which:

a. Originate or terminate in this state; and

b. Are charged to a service address in the unincorporated area of the county.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the unincorporated area of the county*, which shall be determined in accordance with the following provisions:*~~.~~

a. Any charge with respect to a channel termination point located within the unincorporated area of such county;

b. Any charge for the use of a channel between two channel termination points located in the unincorporated area of such county; and

c. Where channel termination points are located both within and outside of the unincorporated area of such county:

(I) If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

(II) If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within the unincorporated area of such county and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the amount of charges for private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

(5) In addition to the communications services taxes authorized by subsection (1), a discretionary sales surtax that a county or school board has levied under s. 212.055 is imposed as a local communications services tax under this section, and the rate shall be determined in accordance with s. 202.20(3).

(a) Except as otherwise provided in this subsection, each such tax rate shall be applied, in addition to the other tax rates applied under this chapter, to communications services subject to tax under s. 202.12 which:

1. Originate or terminate in this state; and

2. Are charged to a service address in the county.

(b) With respect to private communications services, the tax shall be on the sales price of such services provided within the county*, which shall be determined in accordance with the following provisions:*~~.~~

1. Any charge with respect to a channel termination point located within such county;

2. Any charge for the use of a channel between two channel termination points located in such county; and

3. Where channel termination points are located both within and outside of such county:

a. If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

b. If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within such county and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

Section 11. Effective with respect to bills issued by communications services providers after August 1, 2002, subsection (12) is added to section 202.19, Florida Statutes, to read:

202.19 Authorization to impose local communications services tax.—

(12) Notwithstanding any other provision of this section, with respect to mobile communications services, the rate of a local communications services tax levied under this section shall be applied to the sales price of all mobile communications services deemed to be provided to a customer by a home service provider pursuant to s. 117(a) of the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, if such customer's service address is located within the municipality levying the tax or within the unincorporated area of the county levying the tax, as the case may be.

Section 12. Effective with respect to communications services reflected on bills dated on or after October 1, 2001, section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax *conversion* rates.—

(1)*(a) For the period of October 1, 2001, through September 30, 2002, there are hereby levied the following local communications services tax conversion rates on taxable sales as authorized by s. 202.19. The conversion rates take effect without any action required by the local government. The conversion rates for local governments that have not chosen to levy permit fees do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401.*

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
ALACHUA	*Alachua*	*5.00%*	*4.88%*
Alachua	*Alachua*	*4.10%*	*3.98%*
Archer	*Alachua*	*3.30%*	*3.18%*
Gainesville	*Alachua*	*5.30%*	*5.18%*
Hawthorne	*Alachua*	*2.00%*	*1.88%*
High Springs	*Alachua*	*2.80%*	*2.68%*
LaCrosse	*Alachua*	*3.60%*	*3.48%*
Micanopy	*Alachua*	*2.70%*	*2.58%*
Newberry	*Alachua*	*4.60%*	*4.48%*
Waldo	*Alachua*	*1.40%*	*1.28%*
BAKER	*Baker*	*0.50%*	*0.50%*
Glen Saint Mary	*Baker*	*5.70%*	*5.58%*
Macclenny	*Baker*	*6.40%*	*6.28%*
BAY	*Bay*	*0.00%*	*0.00%*
Callaway	*Bay*	*5.50%*	*5.38%*
Cedar Grove	*Bay*	*5.20%*	*5.08%*
Lynn Haven	*Bay*	*5.30%*	*5.18%*
Mexico Beach	*Bay*	*3.20%*	*3.08%*
Panama City	*Bay*	*5.30%*	*5.18%*
Panama City Beach	*Bay*	*3.80%*	*3.68%*
Parker	*Bay*	*5.10%*	*4.98%*

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
Springfield	*Bay*	*4.40%*	*4.28%*
BRADFORD	*Bradford*	*0.50%*	*0.50%*
Brooker	*Bradford*	*3.20%*	*3.08%*
Hampton	*Bradford*	*2.40%*	*2.28%*
Lawtey	*Bradford*	*1.20%*	*1.08%*
Starke	*Bradford*	*3.80%*	*3.08%*
BREVARD	*Brevard*	*1.40%*	*1.18%*
Cape Canaveral	*Brevard*	*4.90%*	*4.78%*
Cocoa	*Brevard*	*4.30%*	*4.18%*
Cocoa Beach	*Brevard*	*5.50%*	*5.38%*
Indialantic	*Brevard*	*6.70%*	*6.58%*
Indian Harbour Beach	*Brevard*	*4.30%*	*4.18%*
Malabar	*Brevard*	*5.30%*	*5.18%*
Melbourne	*Brevard*	*5.40%*	*5.28%*
Melbourne Beach	*Brevard*	*5.20%*	*5.08%*
Melbourne Village	*Brevard*	*4.50%*	*4.38%*
Palm Bay	*Brevard*	*5.40%*	*5.28%*
Palm Shores	*Brevard*	*5.20%*	*5.08%*
Rockledge	*Brevard*	*4.40%*	*4.28%*
Satellite Beach	*Brevard*	*1.80%*	*1.68%*
Titusville	*Brevard*	*5.70%*	*5.58%*
West Melbourne	*Brevard*	*5.80%*	*5.68%*
BROWARD	*Broward*	*5.20%*	*5.08%*
Coconut Creek	*Broward*	*5.10%*	*4.98%*
Cooper City	*Broward*	*5.20%*	*5.08%*
Coral Springs	*Broward*	*5.40%*	*5.28%*
Dania	*Broward*	*5.60%*	*5.48%*
Davie	*Broward*	*5.60%*	*5.48%*
Deerfield Beach	*Broward*	*1.50%*	*1.38%*
Ft. Lauderdale	*Broward*	*5.50%*	*5.38%*
Hallandale	*Broward*	*5.20%*	*5.08%*
Hillsboro Beach	*Broward*	*1.30%*	*1.18%*
Hollywood	*Broward*	*5.20%*	*5.08%*
Lauderdale-by-the-Sea	*Broward*	*5.30%*	*5.18%*
Lauderdale Lakes	*Broward*	*5.60%*	*5.48%*
Lauderhill	*Broward*	*5.50%*	*5.38%*
Lazy Lake Village	*Broward*	*0.60%*	*0.48%*
Lighthouse Point	*Broward*	*6.60%*	*6.48%*
Margate	*Broward*	*5.60%*	*5.48%*
Miramar	*Broward*	*5.40%*	*5.28%*
North Lauderdale	*Broward*	*4.10%*	*3.98%*
Oakland Park	*Broward*	*5.70%*	*5.58%*
Parkland	*Broward*	*1.40%*	*1.28%*
Pembroke Park	*Broward*	*5.00%*	*4.88%*
Pembroke Pines	*Broward*	*5.70%*	*5.58%*
Plantation	*Broward*	*5.00%*	*4.88%*
Pompano Beach	*Broward*	*4.90%*	*4.78%*
Sea Ranch Lakes	*Broward*	*1.60%*	*1.48%*
Southwest Ranches	*Broward*	*4.90%*	*4.78%*
Sunrise	*Broward*	*5.00%*	*4.88%*
Tamarac	*Broward*	*2.50%*	*1.78%*
Weston	*Broward*	*5.50%*	*5.38%*
Wilton Manors	*Broward*	*5.90%*	*5.78%*
CALHOUN	*Calhoun*	*0.00%*	*0.00%*
Altha	*Calhoun*	*4.30%*	*4.18%*
Blountstown	*Calhoun*	*1.40%*	*1.28%*
CHARLOTTE	*Charlotte*	*2.00%*	*1.88%*
Punta Gorda	*Charlotte*	*5.40%*	*5.28%*
CITRUS	*Citrus*	*2.10%*	*2.10%*
Crystal River	*Citrus*	*5.60%*	*5.48%*
Inverness	*Citrus*	*5.60%*	*5.48%*
CLAY	*Clay*	*6.30%*	*6.18%*
Green Cove Springs	*Clay*	*4.00%*	*3.88%*
Keystone Heights	*Clay*	*2.30%*	*2.18%*
Orange Park	*Clay*	*0.80%*	*0.68%*
Penney Farms	*Clay*	*2.00%*	*1.88%*
COLLIER	*Collier*	*2.30%*	*2.30%*
Everglades	*Collier*	*4.20%*	*3.88%*
Marco Island	*Collier*	*2.50%*	*1.98%*
Naples	*Collier*	*3.60%*	*3.48%*
COLUMBIA	*Columbia*	*1.40%*	*1.40%*
Ft. White	*Columbia*	*0.70%*	*0.58%*
Lake City	*Columbia*	*4.70%*	*4.58%*
DESOTO	*DeSoto*	*2.20%*	*2.20%*
Arcadia	*DeSoto*	*4.00%*	*3.88%*
DIXIE	*Dixie*	*0.10%*	*0.10%*
Cross City	*Dixie*	*2.70%*	*2.58%*
Horseshoe Beach	*Dixie*	*6.70%*	*6.58%*
DUVAL/Jax	*Duval*	*4.80%*	*4.68%*
Atlantic Beach	*Duval*	*6.40%*	*6.28%*
Baldwin	*Duval*	*6.60%*	*6.48%*
Jacksonville Beach	*Duval*	*5.00%*	*4.78%*
Neptune Beach	*Duval*	*4.30%*	*4.18%*
ESCAMBIA	*Escambia*	*1.70%*	*1.70%*
Century	*Escambia*	*2.30%*	*2.18%*
Pensacola	*Escambia*	*5.50%*	*5.38%*
FLAGLER	*Flagler*	*0.70%*	*0.70%*
Beverly Beach	*Flagler*	*2.00%*	*1.88%*
Bunnell	*Flagler*	*2.70%*	*2.58%*
Flagler Beach	*Flagler & Volusia*	*5.40%*	*5.28%*
Marineland	*Flagler & St. Johns*	*0.40%*	*0.28%*
Palm Coast	*Flagler*	*1.40%*	*1.28%*
FRANKLIN	*Franklin*	*0.90%*	*0.90%*
Apalachicola	*Franklin*	*3.90%*	*3.78%*
Carrabelle	*Franklin*	*6.20%*	*6.08%*
GADSDEN	*Gadsden*	*0.30%*	*0.30%*
Chattahoochee	*Gadsden*	*1.10%*	*0.98%*
Greensboro	*Gadsden*	*0.00%*	*0.00%*
Gretna	*Gadsden*	*4.20%*	*4.08%*
Havana	*Gadsden*	*0.80%*	*0.68%*
Midway	*Gadsden*	*4.00%*	*3.88%*
Quincy	*Gadsden*	*1.20%*	*1.08%*
GILCHRIST	*Gilchrist*	*0.00%*	*0.00%*
Bell	*Gilchrist*	*4.80%*	*4.68%*
Fanning Springs	*Gilchrist & Levy*	*6.00%*	*5.88%*

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Trenton	*Gilchrist*	*4.20%*	*4.08%*
GLADES	*Glades*	*0.50%*	*0.50%*
Moore Haven	*Glades*	*1.30%*	*1.18%*
GULF	*Gulf*	*0.40%*	*0.40%*
Port St. Joe	*Gulf*	*3.90%*	*3.78%*
Wewahitchka	*Gulf*	*3.90%*	*3.78%*
HAMILTON	*Hamilton*	*0.30%*	*0.30%*
Jasper	*Hamilton*	*5.20%*	*4.98%*
Jennings	*Hamilton*	*1.60%*	*1.48%*
White Springs	*Hamilton*	*5.40%*	*5.28%*
HARDEE	*Hardee*	*1.20%*	*1.20%*
Bowling Green	*Hardee*	*3.40%*	*3.28%*
Wauchula	*Hardee*	*5.40%*	*5.28%*
Zolfo Springs	*Hardee*	*2.40%*	*2.28%*
HENDRY	*Hendry*	*0.70%*	*0.70%*
Clewiston	*Hendry*	*3.50%*	*3.38%*
La Belle	*Hendry*	*4.40%*	*4.28%*
HERNANDO	*Hernando*	*1.50%*	*1.50%*
Brooksville	*Hernando*	*1.00%*	*0.88%*
Weeki Wachee	*Hernando*	*0.10%*	*0.00%*
HIGHLANDS	*Highlands*	*1.20%*	*1.20%*
Avon Park	*Highlands*	*4.70%*	*4.58%*
Lake Placid	*Highlands*	*1.00%*	*0.88%*
Sebring	*Highlands*	*1.20%*	*0.88%*
HILLSBOROUGH	*Hillsborough*	*2.20%*	*2.08%*
Plant City	*Hillsborough*	*6.10%*	*5.98%*
Tampa	*Hillsborough*	*5.50%*	*5.28%*
Temple Terrace	*Hillsborough*	*5.80%*	*5.68%*
HOLMES	*Holmes*	*0.20%*	*0.20%*
Bonifay	*Holmes*	*6.20%*	*6.08%*
Esto	*Holmes*	*0.90%*	*0.78%*
Noma	*Holmes*	*0.20%*	*0.08%*
Ponce de Leon	*Holmes*	*2.90%*	*2.78%*
Westville	*Holmes*	*1.00%*	*0.88%*
INDIAN RIVER	*Indian River*	*1.50%*	*1.50%*
Fellsmere	*Indian River*	*4.40%*	*4.28%*
Indian River Shores	*Indian River*	*3.00%*	*2.88%*
Orchid	*Indian River*	*2.30%*	*2.18%*
Sebastian	*Indian River*	*3.50%*	*3.38%*
Vero Beach	*Indian River*	*5.40%*	*5.28%*
JACKSON	*Jackson*	*0.20%*	*0.20%*
Alford	*Jackson*	*0.30%*	*0.18%*
Bascom	*Jackson*	*1.30%*	*1.18%*
Campbellton	*Jackson*	*0.30%*	*0.18%*
Cottondale	*Jackson*	*4.70%*	*4.58%*
Graceville	*Jackson*	*4.80%*	*4.68%*
Grand Ridge	*Jackson*	*0.80%*	*0.68%*
Greenwood	*Jackson*	*0.40%*	*0.28%*
Jacob City	*Jackson*	*0.00%*	*0.00%*
Malone	*Jackson*	*0.50%*	*0.38%*
Marianna	*Jackson*	*4.30%*	*4.18%*
Sneads	*Jackson*	*3.60%*	*3.48%*
JEFFERSON	*Jefferson*	*1.00%*	*1.00%*
Monticello	*Jefferson*	*4.90%*	*4.78%*
LAFAYETTE	*Lafayette*	*0.00%*	*0.00%*
Mayo	*Lafayette*	*2.10%*	*1.98%*
LAKE	*Lake*	*1.90%*	*1.90%*
Astatula	*Lake*	*4.80%*	*4.68%*
Clermont	*Lake*	*5.00%*	*4.88%*
Eustis	*Lake*	*5.50%*	*5.38%*
Fruitland Park	*Lake*	*5.10%*	*4.98%*
Groveland	*Lake*	*5.30%*	*5.18%*
Howey-in-the-Hills	*Lake*	*3.60%*	*3.48%*
Lady Lake	*Lake*	*1.50%*	*1.38%*
Leesburg	*Lake*	*1.40%*	*1.28%*
Mascotte	*Lake*	*4.20%*	*4.08%*
Minneola	*Lake*	*3.50%*	*3.38%*
Montverde	*Lake*	*1.90%*	*1.78%*
Mount Dora	*Lake*	*1.70%*	*1.28%*
Tavares	*Lake*	*5.60%*	*5.48%*
Umatilla	*Lake*	*3.40%*	*3.28%*
LEE	*Lee*	*2.20%*	*2.08%*
Bonita Springs	*Lee*	*1.90%*	*1.78%*
Cape Coral	*Lee*	*1.60%*	*1.48%*
Ft. Myers	*Lee*	*5.10%*	*4.98%*
Ft. Myers Beach	*Lee*	*2.30%*	*2.18%*
Sanibel	*Lee*	*2.50%*	*2.38%*
LEON	*Leon*	*1.10%*	*1.10%*
Tallahassee	*Leon*	*4.70%*	*4.58%*
LEVY	*Levy*	*0.00%*	*0.00%*
Bronson	*Levy*	*2.80%*	*2.68%*
Cedar Key	*Levy*	*2.30%*	*2.18%*
Chiefland	*Levy*	*2.90%*	*2.78%*
Inglis	*Levy*	*3.80%*	*3.68%*
Otter Creek	*Levy*	*0.70%*	*0.58%*
Williston	*Levy*	*1.80%*	*1.68%*
Yankeetown	*Levy*	*6.00%*	*5.88%*
LIBERTY	*Liberty*	*0.60%*	*0.60%*
Bristol	*Liberty*	*3.10%*	*2.98%*
MADISON	*Madison*	*0.40%*	*0.40%*
Greenville	*Madison*	*2.30%*	*2.18%*
Lee	*Madison*	*0.50%*	*0.38%*
Madison	*Madison*	*5.30%*	*4.88%*
MANATEE	*Manatee*	*0.80%*	*0.80%*
Anna Maria	*Manatee*	*1.50%*	*1.38%*
Bradenton	*Manatee*	*6.10%*	*5.98%*
Bradenton Beach	*Manatee*	*6.00%*	*5.88%*
Holmes Beach	*Manatee*	*3.80%*	*3.68%*
Palmetto	*Manatee*	*5.80%*	*5.68%*
Longboat Key	*Manatee & Sarasota*	*3.50%*	*3.38%*
MARION	*Marion*	*0.00%*	*0.00%*
Belleview	*Marion*	*1.00%*	*0.88%*
Dunnellon	*Marion*	*4.80%*	*4.68%*
McIntosh	*Marion*	*1.40%*	*1.28%*
Ocala	*Marion*	*5.20%*	*5.08%*
Reddick	*Marion*	*1.40%*	*1.28%*
MARTIN	*Martin*	*1.50%*	*1.50%*
Jupiter Island	*Martin*	*0.70%*	*0.58%*
Ocean Breeze Park	*Martin*	*2.40%*	*2.28%*
Sewalls Point	*Martin*	*2.40%*	*2.28%*
Stuart	*Martin*	*5.20%*	*5.08%*
MIAMI-DADE	*Miami-Dade*	*5.00%*	*4.78%*
Aventura	*Miami-Dade*	*5.60%*	*5.48%*
Bal Harbour	*Miami-Dade*	*5.40%*	*5.28%*
Bay Harbor Islands	*Miami-Dade*	*5.20%*	*5.08%*
Biscayne Park	*Miami-Dade*	*4.70%*	*4.58%*
Coral Gables	*Miami-Dade*	*4.40%*	*4.28%*
El Portal	*Miami-Dade*	*6.00%*	*5.88%*
Florida City	*Miami-Dade*	*5.80%*	*5.68%*

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
Golden Beach	*Miami-Dade*	*2.10%*	*1.98%*
Hialeah	*Miami-Dade*	*5.40%*	*5.28%*
Hialeah Gardens	*Miami-Dade*	*5.60%*	*5.48%*
Homestead	*Miami-Dade*	*5.70%*	*5.58%*
Indian Creek Village	*Miami-Dade*	*0.80%*	*0.68%*
Islandia	*Miami-Dade*	*0.00%*	*0.00%*
Key Biscayne	*Miami-Dade*	*5.00%*	*4.88%*
Medley	*Miami-Dade*	*6.70%*	*6.58%*
Miami	*Miami-Dade*	*5.10%*	*4.98%*
Miami Beach	*Miami-Dade*	*5.10%*	*4.98%*
Miami Shores	*Miami-Dade*	*6.10%*	*5.98%*
Miami Springs	*Miami-Dade*	*3.20%*	*3.08%*
North Bay	*Miami-Dade*	*5.30%*	*5.18%*
North Miami	*Miami-Dade*	*5.20%*	*5.08%*
North Miami Beach	*Miami-Dade*	*5.40%*	*5.28%*
Opa-Locka	*Miami-Dade*	*4.00%*	*3.88%*
Pinecrest	*Miami-Dade*	*5.90%*	*5.78%*
South Miami	*Miami-Dade*	*5.20%*	*5.08%*
Sunny Isles Beach	*Miami-Dade*	*5.50%*	*5.38%*
Surfside	*Miami-Dade*	*5.20%*	*5.08%*
Sweetwater	*Miami-Dade*	*5.00%*	*4.88%*
Virginia Gardens	*Miami-Dade*	*0.40%*	*0.28%*
West Miami	*Miami-Dade*	*4.80%*	*4.68%*
MONROE	*Monroe*	*1.50%*	*1.50%*
Islamorada	*Monroe*	*0.40%*	*0.00%*
Key Colony Beach	*Monroe*	*2.60%*	*2.48%*
Key West	*Monroe*	*1.60%*	*1.48%*
Layton	*Monroe*	*0.00%*	*0.00%*
Marathon	*Monroe*	*2.10%*	*1.68%*
NASSAU	*Nassau*	*0.80%*	*0.80%*
Callahan	*Nassau*	*4.90%*	*4.78%*
Fernandina Beach	*Nassau*	*5.40%*	*5.28%*
Hilliard	*Nassau*	*3.40%*	*3.28%*
OKALOOSA	*Okaloosa*	*0.70%*	*0.70%*
Cinco Bayou	*Okaloosa*	*5.40%*	*5.28%*
Crestview	*Okaloosa*	*3.70%*	*3.58%*
Destin	*Okaloosa*	*2.10%*	*1.98%*
Ft. Walton Beach	*Okaloosa*	*5.90%*	*5.78%*
Laurel Hill	*Okaloosa*	*3.00%*	*2.88%*
Mary Esther	*Okaloosa*	*5.30%*	*5.18%*
Niceville	*Okaloosa*	*6.00%*	*5.88%*
Shalimar	*Okaloosa*	*5.40%*	*5.28%*
Valparaiso	*Okaloosa*	*4.10%*	*3.98%*
OKEECHOBEE	*Okeechobee*	*0.90%*	*0.90%*
Okeechobee	*Okeechobee*	*4.80%*	*4.68%*
ORANGE	*Orange*	*5.20%*	*4.98%*
Apopka	*Orange*	*6.50%*	*6.38%*
Bay Lake	*Orange*	*0.00%*	*0.00%*
Belle Isle	*Orange*	*1.80%*	*1.68%*
Eatonville	*Orange*	*4.70%*	*4.58%*
Edgewood	*Orange*	*1.00%*	*0.88%*
Lake Buena Vista	*Orange*	*0.00%*	*0.00%*
Maitland	*Orange*	*5.60%*	*5.38%*
Oakland	*Orange*	*5.40%*	*5.28%*
Ocoee	*Orange*	*5.00%*	*4.68%*
Orlando	*Orange*	*4.40%*	*4.28%*
Windermere	*Orange*	*4.70%*	*4.58%*
Winter Garden	*Orange*	*4.70%*	*4.58%*
Winter Park	*Orange*	*6.10%*	*5.98%*
OSCEOLA	*Osceola*	*5.50%*	*5.28%*
Kissimmee	*Osceola*	*4.80%*	*4.68%*
St. Cloud	*Osceola*	*5.50%*	*5.38%*
PALM BEACH	*Palm Beach*	*5.00%*	*4.88%*
Atlantis	*Palm Beach*	*1.20%*	*1.08%*
Belle Glade	*Palm Beach*	*5.40%*	*5.28%*
Boca Raton	*Palm Beach*	*5.70%*	*5.58%*
Boynton Beach	*Palm Beach*	*5.20%*	*5.08%*
Briny Breezes	*Palm Beach*	*3.20%*	*0.28%*
Cloud Lake	*Palm Beach*	*2.40%*	*2.28%*
Delray Beach	*Palm Beach*	*4.70%*	*4.58%*
Glen Ridge	*Palm Beach*	*1.60%*	*1.48%*
Golf Village	*Palm Beach*	*0.60%*	*0.48%*
Golfview	*Palm Beach*	*0.70%*	*0.58%*
Greenacres City	*Palm Beach*	*5.80%*	*5.68%*
Gulf Stream	*Palm Beach*	*1.10%*	*0.98%*
Haverhill	*Palm Beach*	*1.60%*	*1.28%*
Highland Beach	*Palm Beach*	*4.40%*	*4.28%*
Hypoluxo	*Palm Beach*	*6.30%*	*6.18%*
Juno Beach	*Palm Beach*	*5.10%*	*4.98%*
Jupiter	*Palm Beach*	*4.30%*	*4.18%*
Jupiter Inlet Colony	*Palm Beach*	*2.10%*	*1.98%*
Lake Clarke Shores	*Palm Beach*	*1.60%*	*1.48%*
Lake Park	*Palm Beach*	*5.60%*	*5.48%*
Lake Worth	*Palm Beach*	*5.20%*	*5.08%*
Lantana	*Palm Beach*	*5.80%*	*5.68%*
Manalapan	*Palm Beach*	*1.80%*	*1.68%*
Mangonia Park	*Palm Beach*	*5.90%*	*5.78%*
North Palm Beach	*Palm Beach*	*5.50%*	*5.28%*
Ocean Ridge	*Palm Beach*	*1.10%*	*0.98%*
Pahokee	*Palm Beach*	*4.60%*	*4.48%*
Palm Beach	*Palm Beach*	*4.90%*	*4.78%*
Palm Beach Gardens	*Palm Beach*	*1.20%*	*1.08%*
Palm Beach Shores	*Palm Beach*	*5.80%*	*5.68%*
Palm Springs	*Palm Beach*	*5.60%*	*5.48%*
Riviera Beach	*Palm Beach*	*4.80%*	*4.68%*
Royal Palm Beach	*Palm Beach*	*5.30%*	*5.18%*
South Bay	*Palm Beach*	*5.50%*	*5.38%*
South Palm Beach	*Palm Beach*	*6.00%*	*5.88%*
Tequesta Village	*Palm Beach*	*4.40%*	*4.28%*
Wellington	*Palm Beach*	*5.50%*	*5.38%*
West Palm Beach	*Palm Beach*	*5.70%*	*5.58%*
PASCO	*Pasco*	*1.60%*	*1.60%*
Dade City	*Pasco*	*5.30%*	*5.18%*
New Port Richey	*Pasco*	*5.90%*	*5.78%*
Port Richey	*Pasco*	*1.00%*	*0.88%*
Saint Leo	*Pasco*	*1.10%*	*0.98%*
San Antonio	*Pasco*	*0.80%*	*0.68%*
Zephyrhills	*Pasco*	*5.90%*	*5.78%*
PINELLAS	*Pinellas*	*2.00%*	*1.88%*

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Belleair	Pinellas	1.80%	1.68%
Belleair Beach	Pinellas	6.50%	6.38%
Belleair Bluffs	Pinellas	2.10%	1.98%
Belleair Shore	Pinellas	2.60%	2.48%
Clearwater	Pinellas	5.40%	5.28%
Dunedin	Pinellas	5.60%	5.48%
Gulfport	Pinellas	6.50%	6.38%
Indian Rocks Beach	Pinellas	2.50%	2.38%
Indian Shores	Pinellas	2.80%	2.68%
Kenneth City	Pinellas	1.40%	1.28%
Largo	Pinellas	6.00%	5.88%
Madeira Beach	Pinellas	6.00%	5.88%
North Redington Beach	Pinellas	1.80%	1.68%
Oldsmar	Pinellas	6.10%	5.98%
Pinellas Park	Pinellas	5.90%	5.78%
Redington Beach	Pinellas	5.90%	5.78%
Redington Shores	Pinellas	1.20%	1.08%
Safety Harbor	Pinellas	6.90%	6.38%
St. Pete Beach	Pinellas	6.10%	5.98%
St. Petersburg	Pinellas	6.00%	5.88%
Seminole	Pinellas	5.50%	5.38%
South Pasadena	Pinellas	6.10%	5.98%
Tarpon Springs	Pinellas	6.10%	5.98%
Treasure Island	Pinellas	2.40%	2.28%
POLK	Polk	2.90%	2.78%
Auburndale	Polk	4.60%	4.48%
Bartow	Polk	6.50%	5.68%
Davenport	Polk	3.70%	3.58%
Dundee	Polk	6.00%	5.88%
Eagle Lake	Polk	5.80%	5.68%
Ft. Meade	Polk	5.60%	4.98%
Frostproof	Polk	5.70%	5.58%
Haines City	Polk	5.50%	5.38%
Highland Park	Polk	0.00%	0.00%
Hillcrest Heights	Polk	1.10%	0.98%
Lake Alfred	Polk	4.80%	4.68%
Lake Hamilton	Polk	3.90%	3.78%
Lake Wales	Polk	4.80%	4.68%
Lakeland	Polk	5.60%	5.48%
Mulberry	Polk	3.40%	3.28%
Polk City	Polk	3.00%	2.88%
Winter Haven	Polk	6.70%	6.58%
PUTNAM	Putnam	1.30%	1.30%
Crescent City	Putnam	4.70%	4.58%
Interlachen	Putnam	1.80%	1.68%
Palatka	Putnam	5.40%	5.28%
Pomona Park	Putnam	3.10%	2.98%
Welaka	Putnam	2.70%	2.58%
SANTA ROSA	Santa Rosa	1.70%	1.70%
Gulf Breeze	Santa Rosa	1.10%	0.98%
Jay	Santa Rosa	1.40%	1.28%
Milton	Santa Rosa	6.20%	6.08%
SARASOTA	Sarasota	5.10%	4.98%
North Port	Sarasota	6.10%	5.98%
Sarasota	Sarasota	5.60%	5.48%
Venice	Sarasota	5.40%	5.28%
SEMINOLE	Seminole	3.20%	2.98%
Altamonte Springs	Seminole	5.20%	5.08%
Casselberry	Seminole	5.70%	5.58%
Lake Mary	Seminole	4.40%	4.28%
Longwood	Seminole	5.80%	5.68%
Oviedo	Seminole	4.70%	4.58%
Sanford	Seminole	5.00%	4.88%
Winter Springs	Seminole	6.20%	6.08%
ST. JOHNS	St. Johns	1.30%	1.30%
Hastings	St. Johns	1.60%	1.48%
St. Augustine	St. Johns	4.80%	4.68%
St. Augustine Beach	St. Johns	4.90%	4.78%
ST. LUCIE	St. Lucie	1.20%	1.20%
Ft. Pierce	St. Lucie	4.90%	4.78%
Port St. Lucie	St. Lucie	1.60%	1.48%
St. Lucie Village	St. Lucie	1.80%	1.68%
SUMTER	Sumter	0.80%	0.80%
Bushnell	Sumter	5.40%	5.28%
Center Hill	Sumter	4.70%	4.58%
Coleman	Sumter	4.20%	4.08%
Webster	Sumter	3.30%	3.18%
Wildwood	Sumter	3.90%	3.78%
SUWANNEE	Suwannee	0.50%	0.50%
Branford	Suwannee	4.90%	4.78%
Live Oak	Suwannee	6.00%	5.88%
TAYLOR	Taylor	1.20%	1.20%
Perry	Taylor	5.90%	5.78%
UNION	Union	0.40%	0.40%
Lake Butler	Union	2.50%	2.38%
Raiford	Union	0.00%	0.00%
Worthington Springs	Union	0.00%	0.00%
VOLUSIA	Volusia	4.20%	4.08%
Daytona Beach	Volusia	5.00%	4.88%
Daytona Beach Shores	Volusia	5.50%	5.38%
DeBary	Volusia	4.70%	4.58%
DeLand	Volusia	4.60%	4.48%
Deltona	Volusia	6.60%	6.48%
Edgewater	Volusia	5.20%	5.08%
Holly Hill	Volusia	4.50%	4.38%
Lake Helen	Volusia	2.20%	2.08%
New Smyrna Beach	Volusia	4.40%	4.28%
Oak Hill	Volusia	3.80%	3.68%
Orange City	Volusia	4.90%	4.78%
Ormond Beach	Volusia	5.30%	5.18%
Pierson	Volusia	1.20%	1.08%
Ponce Inlet	Volusia	5.70%	5.58%
Port Orange	Volusia	5.10%	4.98%
South Daytona	Volusia	6.10%	5.98%
WAKULLA	Wakulla	0.90%	0.90%
St. Marks	Wakulla	0.00%	0.00%
Sopchoppy	Wakulla	1.30%	1.18%
WALTON	Walton	0.70%	0.70%

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
DeFuniak Springs	*Walton*	*6.00%*	*5.88%*
Freeport	*Walton*	*1.40%*	*1.28%*
Paxton	*Walton*	*2.80%*	*2.68%*
WASHINGTON	*Washington*	*0.30%*	*0.30%*
Caryville	*Washington*	*1.00%*	*0.88%*
Chipley	*Washington*	*5.70%*	*5.58%*
Ebro	*Washington*	*0.60%*	*0.48%*
Vernon	*Washington*	*5.80%*	*5.68%*
Wausau	*Washington*	*1.90%*	*1.78%*

The conversion rate displayed in the rows with the name of the county in capitalized letters assigns the conversion rate for the unincorporated area. This paragraph is repealed October 1, 2002.

(b) Beginning October 1, 2002, there are hereby levied the following local communications services tax conversion rates on taxable sales as authorized by s. 202.19. The conversion rates take effect without any action required by the local government. The conversion rates for local governments that have not chosen to levy permit fees do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401.

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
ALACHUA	*Alachua*	*4.70%*	*4.58%*
Alachua	*Alachua*	*3.80%*	*3.58%*
Archer	*Alachua*	*3.10%*	*2.98%*
Gainesville	*Alachua*	*4.90%*	*4.78%*
Hawthorne	*Alachua*	*1.90%*	*1.78%*
High Springs	*Alachua*	*2.60%*	*2.48%*
LaCrosse	*Alachua*	*3.30%*	*3.18%*
Micanopy	*Alachua*	*2.50%*	*2.38%*
Newberry	*Alachua*	*4.20%*	*4.08%*
Waldo	*Alachua*	*1.30%*	*1.18%*
BAKER	*Baker*	*0.40%*	*0.40%*
Glen Saint Mary	*Baker*	*5.30%*	*5.18%*
Macclenny	*Baker*	*5.90%*	*5.78%*
BAY	*Bay*	*0.00%*	*0.00%*
Callaway	*Bay*	*5.10%*	*4.98%*
Cedar Grove	*Bay*	*4.80%*	*4.68%*
Lynn Haven	*Bay*	*4.90%*	*4.78%*
Mexico Beach	*Bay*	*3.00%*	*2.88%*
Panama City	*Bay*	*4.90%*	*4.78%*
Panama City Beach	*Bay*	*3.50%*	*3.38%*
Parker	*Bay*	*4.80%*	*4.68%*
Springfield	*Bay*	*4.00%*	*3.88%*
BRADFORD	*Bradford*	*0.50%*	*0.50%*
Brooker	*Bradford*	*3.00%*	*2.88%*
Hampton	*Bradford*	*2.20%*	*2.08%*
Lawtey	*Bradford*	*1.10%*	*0.98%*
Starke	*Bradford*	*3.50%*	*2.88%*
BREVARD	*Brevard*	*1.30%*	*1.08%*
Cape Canaveral	*Brevard*	*4.50%*	*4.38%*
Cocoa	*Brevard*	*3.90%*	*3.78%*
Cocoa Beach	*Brevard*	*5.10%*	*4.98%*
Indialantic	*Brevard*	*6.20%*	*6.08%*
Indian Harbour Beach	*Brevard*	*4.00%*	*3.88%*
Malabar	*Brevard*	*4.90%*	*4.78%*
Melbourne	*Brevard*	*4.90%*	*4.78%*
Melbourne Beach	*Brevard*	*4.80%*	*4.68%*
Melbourne Village	*Brevard*	*4.10%*	*3.98%*
Palm Bay	*Brevard*	*5.00%*	*4.88%*
Palm Shores	*Brevard*	*4.80%*	*4.68%*
Rockledge	*Brevard*	*4.10%*	*3.98%*
Satellite Beach	*Brevard*	*1.70%*	*1.58%*
Titusville	*Brevard*	*5.30%*	*5.18%*
West Melbourne	*Brevard*	*5.40%*	*5.28%*
BROWARD	*Broward*	*4.80%*	*4.68%*
Coconut Creek	*Broward*	*4.70%*	*4.58%*
Cooper City	*Broward*	*4.80%*	*4.68%*
Coral Springs	*Broward*	*5.00%*	*4.88%*
Dania	*Broward*	*5.20%*	*5.08%*
Davie	*Broward*	*5.20%*	*5.08%*
Deerfield Beach	*Broward*	*1.40%*	*1.28%*
Ft. Lauderdale	*Broward*	*5.10%*	*4.98%*
Hallandale	*Broward*	*4.80%*	*4.68%*
Hillsboro Beach	*Broward*	*1.20%*	*1.08%*
Hollywood	*Broward*	*4.80%*	*4.68%*
Lauderdale-by-the-Sea	*Broward*	*4.90%*	*4.78%*
Lauderdale Lakes	*Broward*	*5.20%*	*5.08%*
Lauderhill	*Broward*	*5.10%*	*4.98%*
Lazy Lake Village	*Broward*	*0.60%*	*0.48%*
Lighthouse Point	*Broward*	*6.10%*	*5.98%*
Margate	*Broward*	*5.20%*	*5.08%*
Miramar	*Broward*	*5.00%*	*4.88%*
North Lauderdale	*Broward*	*3.80%*	*3.68%*
Oakland Park	*Broward*	*5.30%*	*5.18%*
Parkland	*Broward*	*1.30%*	*1.18%*
Pembroke Park	*Broward*	*4.60%*	*4.48%*
Pembroke Pines	*Broward*	*5.30%*	*5.18%*
Plantation	*Broward*	*4.60%*	*4.48%*
Pompano Beach	*Broward*	*4.50%*	*4.38%*
Sea Ranch Lakes	*Broward*	*1.50%*	*1.38%*
Southwest Ranches	*Broward*	*4.50%*	*4.38%*
Sunrise	*Broward*	*4.60%*	*4.48%*
Tamarac	*Broward*	*2.30%*	*1.58%*
Weston	*Broward*	*5.00%*	*4.88%*
Wilton Manors	*Broward*	*5.50%*	*5.38%*
CALHOUN	*Calhoun*	*0.00%*	*0.00%*
Altha	*Calhoun*	*4.00%*	*3.88%*
Blountstown	*Calhoun*	*1.30%*	*1.18%*
CHARLOTTE	*Charlotte*	*1.80%*	*1.68%*

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
Punta Gorda	*Charlotte*	*5.00%*	*4.88%*
CITRUS	*Citrus*	*2.00%*	*2.00%*
Crystal River	*Citrus*	*5.10%*	*4.98%*
Inverness	*Citrus*	*5.20%*	*5.08%*
CLAY	*Clay*	*5.80%*	*5.68%*
Green Cove Springs	*Clay*	*3.70%*	*3.58%*
Keystone Heights	*Clay*	*2.10%*	*1.98%*
Orange Park	*Clay*	*0.80%*	*0.68%*
Penney Farms	*Clay*	*1.90%*	*1.78%*
COLLIER	*Collier*	*2.10%*	*2.10%*
Everglades	*Collier*	*3.90%*	*3.58%*
Marco Island	*Collier*	*2.30%*	*1.78%*
Naples	*Collier*	*3.30%*	*3.18%*
COLUMBIA	*Columbia*	*1.30%*	*1.30%*
Ft. White	*Columbia*	*0.60%*	*0.48%*
Lake City	*Columbia*	*4.40%*	*4.28%*
DESOTO	*Desoto*	*2.10%*	*2.10%*
Arcadia	*Desoto*	*3.70%*	*3.58%*
DIXIE	*Dixie*	*0.10%*	*0.10%*
Cross City	*Dixie*	*2.50%*	*2.38%*
Horseshoe Beach	*Dixie*	*6.20%*	*6.08%*
DUVAL/Jax	*Duval*	*4.50%*	*4.38%*
Atlantic Beach	*Duval*	*5.90%*	*5.78%*
Baldwin	*Duval*	*6.10%*	*5.98%*
Jacksonville Beach	*Duval*	*4.60%*	*4.38%*
Neptune Beach	*Duval*	*4.00%*	*3.88%*
ESCAMBIA	*Escambia*	*1.60%*	*1.60%*
Century	*Escambia*	*2.10%*	*1.98%*
Pensacola	*Escambia*	*5.10%*	*4.88%*
FLAGLER	*Flagler*	*0.60%*	*0.60%*
Beverly Beach	*Flagler*	*1.80%*	*1.68%*
Bunnell	*Flagler*	*2.50%*	*2.38%*
Flagler Beach	*Flagler & Volusia*	*4.90%*	*4.78%*
Marineland	*Flagler & St. Johns*	*0.40%*	*0.28%*
Palm Coast	*Flagler*	*1.30%*	*1.18%*
FRANKLIN	*Franklin*	*0.90%*	*0.90%*
Apalachicola	*Franklin*	*3.60%*	*3.48%*
Carrabelle	*Franklin*	*5.70%*	*5.58%*
GADSDEN	*Gadsden*	*0.20%*	*0.20%*
Chattahoochee	*Gadsden*	*1.00%*	*0.88%*
Greensboro	*Gadsden*	*0.00%*	*0.00%*
Gretna	*Gadsden*	*3.90%*	*3.78%*
Havana	*Gadsden*	*0.80%*	*0.68%*
Midway	*Gadsden*	*3.70%*	*3.58%*
Quincy	*Gadsden*	*1.10%*	*0.98%*
GILCHRIST	*Gilchrist*	*0.00%*	*0.00%*
Bell	*Gilchrist*	*4.50%*	*4.38%*
Fanning Springs	*Gilchrist & Levy*	*5.50%*	*5.38%*
Trenton	*Gilchrist*	*3.90%*	*3.78%*
GLADES	*Glades*	*0.50%*	*0.50%*
Moore Haven	*Glades*	*1.20%*	*1.08%*
GULF	*Gulf*	*0.30%*	*0.30%*
Port St. Joe	*Gulf*	*3.60%*	*3.48%*
Wewahitchka	*Gulf*	*3.60%*	*3.48%*
HAMILTON	*Hamilton*	*0.30%*	*0.30%*
Jasper	*Hamilton*	*4.80%*	*4.58%*
Jennings	*Hamilton*	*1.50%*	*1.38%*
White Springs	*Hamilton*	*5.00%*	*4.88%*
HARDEE	*Hardee*	*1.10%*	*1.10%*
Bowling Green	*Hardee*	*3.20%*	*3.08%*
Wauchula	*Hardee*	*5.00%*	*4.88%*
Zolfo Springs	*Hardee*	*2.20%*	*2.08%*
HENDRY	*Hendry*	*0.70%*	*0.70%*
Clewiston	*Hendry*	*3.20%*	*3.08%*
La Belle	*Hendry*	*4.10%*	*3.98%*
HERNANDO	*Hernando*	*1.40%*	*1.40%*
Brooksville	*Hernando*	*0.90%*	*0.78%*
Weeki Wachee	*Hernando*	*0.10%*	*0.00%*
HIGHLANDS	*Highlands*	*1.10%*	*1.10%*
Avon Park	*Highlands*	*4.40%*	*4.28%*
Lake Placid	*Highlands*	*0.90%*	*0.78%*
Sebring	*Highlands*	*1.10%*	*0.78%*
HILLSBOROUGH	*Hillsborough*	*2.10%*	*1.98%*
Plant City	*Hillsborough*	*5.60%*	*5.48%*
Tampa	*Hillsborough*	*5.00%*	*4.88%*
Temple Terrace	*Hillsborough*	*5.40%*	*5.28%*
HOLMES	*Holmes*	*0.20%*	*0.20%*
Bonifay	*Holmes*	*5.70%*	*5.58%*
Esto	*Holmes*	*0.80%*	*0.68%*
Noma	*Holmes*	*0.10%*	*0.00%*
Ponce de Leon	*Holmes*	*2.70%*	*2.58%*
Westville	*Holmes*	*0.90%*	*0.78%*
INDIAN RIVER	*Indian River*	*1.40%*	*1.40%*
Fellsmere	*Indian River*	*4.10%*	*3.98%*
Indian River Shores	*Indian River*	*2.80%*	*2.68%*
Orchid	*Indian River*	*2.10%*	*1.98%*
Sebastian	*Indian River*	*3.30%*	*3.18%*
Vero Beach	*Indian River*	*5.00%*	*4.88%*
JACKSON	*Jackson*	*0.20%*	*0.20%*
Alford	*Jackson*	*0.30%*	*0.18%*
Bascom	*Jackson*	*1.20%*	*1.08%*
Campbellton	*Jackson*	*0.30%*	*0.18%*
Cottondale	*Jackson*	*4.30%*	*4.18%*
Graceville	*Jackson*	*4.40%*	*4.28%*
Grand Ridge	*Jackson*	*0.80%*	*0.68%*
Greenwood	*Jackson*	*0.40%*	*0.28%*
Jacob City	*Jackson*	*0.00%*	*0.00%*
Malone	*Jackson*	*0.50%*	*0.38%*
Marianna	*Jackson*	*4.00%*	*3.88%*
Sneads	*Jackson*	*3.30%*	*3.18%*
JEFFERSON	*Jefferson*	*0.90%*	*0.90%*
Monticello	*Jefferson*	*4.50%*	*4.38%*
LAFAYETTE	*Lafayette*	*0.00%*	*0.00%*
Mayo	*Lafayette*	*2.00%*	*1.88%*
LAKE	*Lake*	*1.70%*	*1.70%*
Astatula	*Lake*	*4.40%*	*4.28%*
Clermont	*Lake*	*4.70%*	*4.58%*
Eustis	*Lake*	*5.10%*	*4.98%*
Fruitland Park	*Lake*	*4.70%*	*4.58%*
Groveland	*Lake*	*4.90%*	*4.78%*
Howey-in-the-Hills	*Lake*	*3.30%*	*3.18%*
Lady Lake	*Lake*	*1.40%*	*1.28%*
Leesburg	*Lake*	*1.30%*	*1.18%*
Mascotte	*Lake*	*3.90%*	*3.78%*

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
Minneola	*Lake*	*3.20%*	*3.08%*
Montverde	*Lake*	*1.80%*	*1.68%*
Mount Dora	*Lake*	*1.50%*	*1.18%*
Tavares	*Lake*	*5.20%*	*5.08%*
Umatilla	*Lake*	*3.10%*	*2.98%*
LEE	*Lee*	*2.00%*	*1.88%*
Bonita Springs	*Lee*	*1.70%*	*1.58%*
Cape Coral	*Lee*	*1.50%*	*1.38%*
Ft. Myers	*Lee*	*4.70%*	*4.58%*
Ft. Myers Beach	*Lee*	*2.20%*	*2.08%*
Sanibel	*Lee*	*2.30%*	*2.18%*
LEON	*Leon*	*1.00%*	*1.00%*
Tallahassee	*Leon*	*4.40%*	*4.28%*
LEVY	*Levy*	*0.00%*	*0.00%*
Bronson	*Levy*	*2.50%*	*2.38%*
Cedar Key	*Levy*	*2.10%*	*1.98%*
Chiefland	*Levy*	*2.70%*	*2.58%*
Inglis	*Levy*	*3.50%*	*3.38%*
Otter Creek	*Levy*	*0.70%*	*0.58%*
Williston	*Levy*	*1.60%*	*1.48%*
Yankeetown	*Levy*	*5.60%*	*5.48%*
LIBERTY	*Liberty*	*0.60%*	*0.60%*
Bristol	*Liberty*	*2.90%*	*2.78%*
MADISON	*Madison*	*0.40%*	*0.40%*
Greenville	*Madison*	*2.10%*	*1.98%*
Lee	*Madison*	*0.50%*	*0.38%*
Madison	*Madison*	*4.90%*	*4.48%*
MANATEE	*Manatee*	*0.70%*	*0.70%*
Anna Maria	*Manatee*	*1.40%*	*1.28%*
Bradenton	*Manatee*	*5.60%*	*5.48%*
Bradenton Beach	*Manatee*	*5.60%*	*5.48%*
Holmes Beach	*Manatee*	*3.50%*	*3.38%*
Palmetto	*Manatee*	*5.30%*	*5.18%*
Longboat Key	*Manatee & Sarasota*	*3.20%*	*3.08%*
MARION	*Marion*	*0.00%*	*0.00%*
Bellview	*Marion*	*0.90%*	*0.78%*
Dunnellon	*Marion*	*4.50%*	*4.38%*
McIntosh	*Marion*	*1.30%*	*1.18%*
Ocala	*Marion*	*4.80%*	*4.68%*
Reddick	*Marion*	*1.30%*	*1.18%*
MARTIN	*Martin*	*1.30%*	*1.30%*
Jupiter Island	*Martin*	*0.60%*	*0.48%*
Ocean Breeze Park	*Martin*	*2.20%*	*2.08%*
Sewalls Point	*Martin*	*2.30%*	*2.18%*
Stuart	*Martin*	*4.80%*	*4.68%*
MIAMI-DADE	*Miami-Dade*	*4.70%*	*4.48%*
Aventura	*Miami-Dade*	*5.20%*	*5.08%*
Bal Harbour	*Miami-Dade*	*4.90%*	*4.78*
Bay Harbor Islands	*Miami-Dade*	*4.80%*	*4.68%*
Biscayne Park	*Miami-Dade*	*4.40%*	*4.28%*
Coral Gables	*Miami-Dade*	*4.10%*	*3.98%*
El Portal	*Miami-Dade*	*5.60%*	*5.48%*
Florida City	*Miami-Dade*	*5.30%*	*5.18%*
Golden Beach	*Miami-Dade*	*2.00%*	*1.88%*
Hialeah	*Miami-Dade*	*5.00%*	*4.88%*
Hialeah Gardens	*Miami-Dade*	*5.10%*	*4.98%*
Homestead	*Miami-Dade*	*5.30%*	*5.18%*
Indian Creek Village	*Miami-Dade*	*0.70%*	*0.58%*
Islandia	*Miami-Dade*	*0.00%*	*0.00%*
Key Biscayne	*Miami-Dade*	*4.60%*	*4.48%*
Medley	*Miami-Dade*	*6.10%*	*5.98%*
Miami	*Miami-Dade*	*4.70%*	*4.58%*
Miami Beach	*Miami-Dade*	*4.70%*	*4.58%*
Miami Shores	*Miami-Dade*	*5.60%*	*5.48%*
Miami Springs	*Miami-Dade*	*3.00%*	*2.88%*
North Bay	*Miami-Dade*	*4.90%*	*4.78%*
North Miami	*Miami-Dade*	*4.80%*	*4.68%*
North Miami Beach	*Miami-Dade*	*5.00%*	*4.88%*
Opa-Locka	*Miami-Dade*	*3.70%*	*3.58%*
Pinecrest	*Miami-Dade*	*5.40%*	*5.28%*
South Miami	*Miami-Dade*	*4.80%*	*4.68%*
Sunny Isles Beach	*Miami-Dade*	*5.00%*	*4.88%*
Surfside	*Miami-Dade*	*4.80%*	*4.68%*
Sweetwater	*Miami-Dade*	*4.60%*	*4.48%*
Virginia Gardens	*Miami-Dade*	*0.40%*	*0.28%*
West Miami	*Miami-Dade*	*4.40%*	*4.28%*
MONROE	*Monroe*	*1.40%*	*1.40%*
Islamorada	*Monroe*	*0.40%*	*0.00%*
Key Colony Beach	*Monroe*	*2.40%*	*2.28%*
Key West	*Monroe*	*1.50%*	*1.38%*
Layton	*Monroe*	*0.00%*	*0.00%*
Marathon	*Monroe*	*1.90%*	*1.58%*
NASSAU	*Nassau*	*0.70%*	*0.70%*
Callahan	*Nassau*	*4.50%*	*4.38%*
Fernandina Beach	*Nassau*	*5.00%*	*4.88%*
Hilliard	*Nassau*	*3.20%*	*3.08%*
OKALOOSA	*Okaloosa*	*0.60%*	*0.60%*
Cinco Bayou	*Okaloosa*	*5.00%*	*4.88%*
Crestview	*Okaloosa*	*3.50%*	*3.38%*
Destin	*Okaloosa*	*1.90%*	*1.78%*
Ft. Walton Beach	*Okaloosa*	*5.50%*	*5.38%*
Laurel Hill	*Okaloosa*	*2.80%*	*2.68%*
Mary Esther	*Okaloosa*	*4.90%*	*4.78%*
Niceville	*Okaloosa*	*5.50%*	*5.38%*
Shalimar	*Okaloosa*	*5.00%*	*4.88%*
Valparaiso	*Okaloosa*	*3.80%*	*3.68%*
OKEECHOBEE	*Okeechobee*	*0.80%*	*0.80%*
Okeechobee	*Okeechobee*	*4.50%*	*4.38%*
ORANGE	*Orange*	*4.80%*	*4.58%*
Apopka	*Orange*	*6.00%*	*5.88%*
Bay Lake	*Orange*	*0.00%*	*0.00%*
Belle Isle	*Orange*	*1.60%*	*1.48%*
Eatonville	*Orange*	*4.30%*	*4.18%*
Edgewood	*Orange*	*1.00%*	*0.88%*
Lake Buena Vista	*Orange*	*0.00%*	*0.00%*
Maitland	*Orange*	*5.10%*	*4.98%*
Oakland	*Orange*	*5.00%*	*4.78%*
Ocoee	*Orange*	*4.60%*	*4.28%*
Orlando	*Orange*	*4.10%*	*3.88%*
Windermere	*Orange*	*4.30%*	*4.18%*

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
Winter Garden	*Orange*	*4.30%*	*4.18%*
Winter Park	*Orange*	*5.60%*	*5.48%*
OSCEOLA	*Osceola*	*5.00%*	*4.88%*
Kissimmee	*Osceola*	*4.50%*	*4.38%*
St. Cloud	*Osceola*	*5.10%*	*4.98%*
PALM BEACH	*Palm Beach*	*4.60%*	*4.48%*
Atlantis	*Palm Beach*	*1.10%*	*0.98%*
Belle Glade	*Palm Beach*	*5.00%*	*4.88%*
Boca Raton	*Palm Beach*	*5.30%*	*5.08%*
Boynton Beach	*Palm Beach*	*4.80%*	*4.68%*
Briny Breezes	*Palm Beach*	*3.00%*	*0.28%*
Cloud Lake	*Palm Beach*	*2.20%*	*2.08%*
Delray Beach	*Palm Beach*	*4.40%*	*4.28%*
Glen Ridge	*Palm Beach*	*1.50%*	*1.38%*
Golf Village	*Palm Beach*	*0.60%*	*0.48%*
Golfview	*Palm Beach*	*0.60%*	*0.48%*
Greenacres City	*Palm Beach*	*5.30%*	*5.18%*
Gulf Stream	*Palm Beach*	*1.00%*	*0.88%*
Haverhill	*Palm Beach*	*1.40%*	*1.18%*
Highland Beach	*Palm Beach*	*4.00%*	*3.88%*
Hypoluxo	*Palm Beach*	*5.80%*	*5.68%*
Juno Beach	*Palm Beach*	*4.70%*	*4.58%*
Jupiter	*Palm Beach*	*4.00%*	*3.88%*
Jupiter Inlet Colony	*Palm Beach*	*1.90%*	*1.78%*
Lake Clarke Shores	*Palm Beach*	*1.50%*	*1.38%*
Lake Park	*Palm Beach*	*5.20%*	*5.08%*
Lake Worth	*Palm Beach*	*4.80%*	*4.68%*
Lantana	*Palm Beach*	*5.30%*	*5.18%*
Manalapan	*Palm Beach*	*1.60%*	*1.48%*
Mangonia Park	*Palm Beach*	*5.50%*	*5.38%*
North Palm Beach	*Palm Beach*	*5.10%*	*4.88%*
Ocean Ridge	*Palm Beach*	*1.00%*	*0.88%*
Pahokee	*Palm Beach*	*4.20%*	*4.08%*
Palm Beach	*Palm Beach*	*4.50%*	*4.38%*
Palm Beach Gardens	*Palm Beach*	*1.10%*	*0.98%*
Palm Beach Shores	*Palm Beach*	*5.40%*	*5.28%*
Palm Springs	*Palm Beach*	*5.20%*	*5.08%*
Riviera Beach	*Palm Beach*	*4.50%*	*4.38%*
Royal Palm Beach	*Palm Beach*	*4.90%*	*4.78%*
South Bay	*Palm Beach*	*5.10%*	*4.98%*
South Palm Beach	*Palm Beach*	*5.60%*	*5.48%*
Tequesta Village	*Palm Beach*	*4.10%*	*3.98%*
Wellington	*Palm Beach*	*5.10%*	*4.98%*
West Palm Beach	*Palm Beach*	*5.30%*	*5.18%*
PASCO	*Pasco*	*1.50%*	*1.50%*
Dade City	*Pasco*	*4.90%*	*4.78%*
New Port Richey	*Pasco*	*5.50%*	*5.38%*
Port Richey	*Pasco*	*0.90%*	*0.78%*
Saint Leo	*Pasco*	*1.00%*	*0.88%*
San Antonio	*Pasco*	*0.80%*	*0.68%*
Zephyrhills	*Pasco*	*5.40%*	*5.28%*
PINELLAS	*Pinellas*	*1.80%*	*1.68%*
Belleair	*Pinellas*	*1.60%*	*1.48%*
Belleair Beach	*Pinellas*	*6.00%*	*5.88%*
Belleair Bluffs	*Pinellas*	*2.00%*	*1.88%*
Belleair Shore	*Pinellas*	*2.40%*	*2.28%*
Clearwater	*Pinellas*	*5.00%*	*4.88%*
Dunedin	*Pinellas*	*5.20%*	*5.08%*
Gulfport	*Pinellas*	*6.00%*	*5.88%*
Indian Rocks Beach	*Pinellas*	*2.30%*	*2.18%*
Indian Shores	*Pinellas*	*2.60%*	*2.48%*
Kenneth City	*Pinellas*	*1.30%*	*1.18%*
Largo	*Pinellas*	*5.50%*	*5.38%*
Madeira Beach	*Pinellas*	*5.60%*	*5.48%*
North Redington Beach	*Pinellas*	*1.70%*	*1.58%*
Oldsmar	*Pinellas*	*5.70%*	*5.58%*
Pinellas Park	*Pinellas*	*5.40%*	*5.28%*
Redington Beach	*Pinellas*	*5.40%*	*5.28%*
Redington Shores	*Pinellas*	*1.10%*	*0.98%*
Safety Harbor	*Pinellas*	*6.40%*	*5.88%*
St. Pete Beach	*Pinellas*	*5.70%*	*5.58%*
St. Petersburg	*Pinellas*	*5.50%*	*5.38%*
Seminole	*Pinellas*	*5.10%*	*4.98%*
South Pasadena	*Pinellas*	*5.60%*	*5.48%*
Tarpon Springs	*Pinellas*	*5.60%*	*5.48%*
Treasure Island	*Pinellas*	*2.20%*	*2.08%*
POLK	*Polk*	*2.70%*	*2.58%*
Auburndale	*Polk*	*4.30%*	*4.18%*
Bartow	*Polk*	*6.00%*	*5.28%*
Davenport	*Polk*	*3.40%*	*3.28%*
Dundee	*Polk*	*5.60%*	*5.48%*
Eagle Lake	*Polk*	*5.30%*	*5.18%*
Ft. Meade	*Polk*	*5.20%*	*4.58%*
Frostproof	*Polk*	*5.20%*	*5.08%*
Haines City	*Polk*	*5.10%*	*4.98%*
Highland Park	*Polk*	*0.00%*	*0.00%*
Hillcrest Heights	*Polk*	*1.10%*	*0.98%*
Lake Alfred	*Polk*	*4.50%*	*4.38%*
Lake Hamilton	*Polk*	*3.60%*	*3.48%*
Lake Wales	*Polk*	*4.40%*	*4.28%*
Lakeland	*Polk*	*5.20%*	*5.08%*
Mulberry	*Polk*	*3.10%*	*2.98%*
Polk City	*Polk*	*2.80%*	*2.68%*
Winter Haven	*Polk*	*6.20%*	*6.08%*
PUTNAM	*Putnam*	*1.20%*	*1.20%*
Crescent City	*Putnam*	*4.30%*	*4.18%*
Interlachen	*Putnam*	*1.60%*	*1.48%*
Palatka	*Putnam*	*5.00%*	*4.88%*
Pomona Park	*Putnam*	*2.90%*	*2.78%*
Welaka	*Putnam*	*2.50%*	*2.38%*

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
SANTA ROSA	Santa Rosa	1.50%	1.50%
Gulf Breeze	Santa Rosa	1.10%	0.98%
Jay	Santa Rosa	1.30%	1.18%
Milton	Santa Rosa	5.70%	5.58%
SARASOTA	Sarasota	4.70%	4.58%
North Port	Sarasota	5.60%	5.48%
Sarasota	Sarasota	5.20%	5.08%
Venice	Sarasota	5.00%	4.88%
SEMINOLE	Seminole	2.90%	2.68%
Altamonte Springs	Seminole	4.80%	4.68%
Casselberry	Seminole	5.30%	5.18%
Lake Mary	Seminole	4.10%	3.98%
Longwood	Seminole	5.40%	5.28%
Oviedo	Seminole	4.30%	4.18%
Sanford	Seminole	4.70%	4.58%
Winter Springs	Seminole	5.80%	5.68%
ST. JOHNS	St. Johns	1.20%	1.20%
Hastings	St. Johns	1.50%	1.38%
St. Augustine	St. Johns	4.50%	4.38%
St. Augustine Beach	St. Johns	4.50%	4.38%
ST. LUCIE	St. Lucie	1.20%	1.20%
Ft. Pierce	St. Lucie	4.50%	4.38%
Port St. Lucie	St. Lucie	1.50%	1.38%
St. Lucie Village	St. Lucie	1.60%	1.48%
SUMTER	Sumter	0.70%	0.70%
Bushnell	Sumter	5.00%	4.88%
Center Hill	Sumter	4.30%	4.18%
Coleman	Sumter	3.90%	3.78%
Webster	Sumter	3.10%	2.98%
Wildwood	Sumter	3.60%	3.48%
SUWANNEE	Suwannee	0.40%	0.40%
Branford	Suwannee	4.60%	4.48%
Live Oak	Suwannee	5.60%	5.48%
TAYLOR	Taylor	1.10%	1.10%
Perry	Taylor	5.50%	5.38%
UNION	Union	0.40%	0.40%
Lake Butler	Union	2.30%	2.18%
Raiford	Union	0.00%	0.00%
Worthington Springs	Union	0.00%	0.00%
VOLUSIA	Volusia	3.90%	3.78%
Daytona Beach	Volusia	4.60%	4.48%
Daytona Beach Shores	Volusia	5.10%	4.98%
DeBary	Volusia	4.40%	4.28%
DeLand	Volusia	4.20%	4.08%
Deltona	Volusia	6.10%	5.98%
Edgewater	Volusia	4.80%	4.68%
Holly Hill	Volusia	4.20%	4.08%
Lake Helen	Volusia	2.00%	1.88%
New Smyrna Beach	Volusia	4.00%	3.88%
Oak Hill	Volusia	3.50%	3.38%
Orange City	Volusia	4.50%	4.38%
Ormond Beach	Volusia	4.90%	4.78%
Pierson	Volusia	1.10%	0.98%
Ponce Inlet	Volusia	5.30%	5.18%
Port Orange	Volusia	4.70%	4.58%
South Daytona	Volusia	5.60%	5.48%
WAKULLA	Wakulla	0.80%	0.80%
St. Marks	Wakulla	0.00%	0.00%
Sopchoppy	Wakulla	1.20%	1.08%
WALTON	Walton	0.70%	0.70%
DeFuniak Springs	Walton	4.70%	4.58%
Freeport	Walton	1.30%	1.18%
Paxton	Walton	2.60%	2.48%
WASHINGTON	Washington	0.20%	0.20%
Caryville	Washington	1.00%	0.88%
Chipley	Washington	5.30%	5.18%
Ebro	Washington	0.60%	0.48%
Vernon	Washington	5.40%	5.28%
Wausau	Washington	1.70%	1.58%

The conversion rate displayed in the rows with the name of the county in capitalized letters assigns the conversion rate for the unincorporated area.

(c) Notwithstanding the rates provided by paragraph (b), the following local communications services tax conversion rates shall take effect upon the expiration of existing franchise agreements which provide for fees in excess of those authorized by s. 337.401. The conversion rates for local governments that have not chosen to levy permit fees do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401.

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees	Effective date of new rates
Indialantic	Brevard	5.80%	5.68%	January 1, 2014
Titusville	Brevard	5.00%	4.88%	January 1, 2014
Punta Gorda	Charlotte	4.90%	4.78%	January 1, 2009
Miami	Miami-Dade	4.30%	4.18%	August 1, 2006
Valparaiso	Okaloosa	3.20%	3.08%	August 1, 2003
Dade City	Pasco	4.50%	4.38%	January 1,2011
Palatka	Putnam	4.70%	4.58%	September 1, 2003

~~(a) On or before December 31, 2000, the Revenue Estimating Conference shall compute for each municipality and county the rate of local communications services tax which would be required to be levied under s. 202.19(1) in order for such local taxing jurisdiction to raise in calendar year 1999, through the imposition of a local communications services tax, revenues equal to the sum of:~~

~~1. The amount of revenues estimated to have been received in calendar year 1999 based on the revenues that were actually received from the replaced revenue sources in the fiscal year ending September 30, 1999, adjusted to reflect the growth reasonably estimated to have occurred in the final quarter of calendar year 1999; and~~

~~2. An amount representing the revenues the jurisdiction would have received from the replaced revenue sources during the month immediately preceding the month in which local taxing jurisdictions receive their first distributions of revenues under this chapter.~~

~~In computing the amounts in subparagraphs 1. and 2., the Revenue Estimating Conference shall consider, to the maximum extent practicable, changes in local replaced revenues, other than changes due to normal growth, and shall adjust the amounts in subparagraphs 1. and 2. accordingly.~~

~~(b) The rates computed by the Revenue Estimating Conference shall be presented to the Legislature for review and approval during the 2001 Regular Session. The rates approved by the Legislature under this subsection shall be effective in the respective local taxing jurisdictions on October 1, 2001, without any action being taken by the governing authority or voters of such local taxing jurisdictions. The rate computed and approved pursuant to this subsection shall be reduced on October 1, 2002, by that portion of the rate which was necessary to recoup the 1 month of foregone revenues addressed in subparagraph (a)2.~~

(2)(a)1.~~(c)~~ With respect to any local taxing jurisdiction, if, for the periods ending December 31, 2001; March 31, 2002; June 30, 2002; or September 30, 2002, the revenues received by that local government from the local communications services tax imposed under *subsection (1)* ~~s. 202.19(1)~~ are less than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period; plus reasonably anticipated growth in such revenues over the preceding 1-year period, based on the average growth of such revenues over the immediately preceding 5-year period; plus an amount representing the revenues from the replaced revenue sources for the 1-month period that the local taxing jurisdiction was required to forego, the governing authority may adjust the rate of the local communications services tax upward to the extent necessary to generate the entire shortfall in revenues within 1 year after the rate adjustment and by an amount necessary to generate the expected amount of revenue on an ongoing basis.

2. If complete data are not available at the time of determining whether the revenues received by a local government from the local communications services tax imposed under subsection (1) are less than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period, as set forth in subparagraph 1., the local government shall use the best data available for the corresponding 2000-2001 period in making such determination.

3. The adjustment *permitted under subparagraph 1.* may be made by emergency ordinance *or resolution* and may be made notwithstanding the maximum rate established under *s. 202.19(2)* ~~subsection (2)~~ and notwithstanding any schedules or timeframes or any other limitations contained in this chapter. The emergency ordinance *or resolution* shall specify an effective date for the adjusted rate, which shall be no less than *60* ~~90~~ days after the date of adoption of the ordinance *or resolution and shall be effective with respect to taxable services included on bills that are dated on the first day of a month subsequent to the expiration of the 60-day period*. At the end of *1* ~~that~~ year *following the effective date of such adjusted rate*, the local governing authority shall, as soon as is consistent with s. 202.21, reduce the rate by that portion of the emergency rate which was necessary to recoup the amount of revenues not received prior to the implementation of the emergency rate.

4. If, for the period October 1, 2001 through September 30, 2002, the revenues received by a local government from the local communications services tax conversion rate established under subsection (1), adjusted upward for the difference in rates between paragraphs (1)(a) and (b) or any other rate adjustments or base changes, are above the threshold of 10 percent more than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period plus reasonably anticipated growth in such revenues over the preceding 1-year period, based on the average growth of such revenues over the immediately preceding 5 year period, the governing authority must adjust the rate of the local communications services tax to the extent necessary to reduce revenues to the threshold by emergency ordinance or resolution within the time frames established in subparagraph 3. The foregoing rate adjustment requirement shall not apply to local government that adopts a local communications services tax rate by resolution or ordinance. If complete data are not available at the time of determining whether the revenues exceed the threshold, the local government shall use the best data available for the corresponding 2000-2001 period in making such determination. This subparagraph shall not be construed as establishing a right of action for any person to enforce this provision or challenge a local government's implementation of this subparagraph.

~~(2)(a) On or before December 31, 2000, the Revenue Estimating Conference shall compute, in accordance with this paragraph, the maximum rates at which local taxing jurisdictions shall be permitted to impose local communications services taxes under s. 202.19(1).~~

~~1. A single maximum rate shall apply to all municipalities and charter counties, and another single maximum rate shall apply to all other counties.~~

~~2. Each respective maximum rate, when applied to the services taxed pursuant to this chapter, shall be calculated to produce the revenues which could have been generated from the replaced revenue sources, assuming that all local taxing jurisdictions had imposed every replaced revenue source in the manner and at the rate that would have produced the greatest amount of revenues.~~

~~(b) The rates computed by the Revenue Estimating Conference shall be presented to the Legislature for review and approval during the 2001 Regular Session. The rates approved by the Legislature pursuant to this subsection shall be the maximum rates for purposes of s. 202.19(1).~~

~~(3)(a) Each person who provides communications services shall include as part of the August 2000 return due pursuant to chapter 212 on or before September 20, 2000, the information set forth in this paragraph, in a format prescribed by the department. Returns shall contain data for calendar year 1999 that may include, but are not limited to, remittances of replaced revenue sources for each local taxing jurisdiction and an estimate of the revenue from communications services that will be taxable pursuant to this chapter for each local taxing jurisdiction. Such data may also include, on an aggregated statewide basis, each person's statewide sales taxable under chapter 203, taxable sales under s. 212.05(1)(e), and estimates for sales exempt under s. 212.08(7)(j) and exempt sales to governmental and other exempt entities under chapter 212.~~

~~(b) All information furnished to the department under this subsection shall be available to all local taxing jurisdictions. Such taxpayer information shall remain subject to s. 213.053. Such data may not be disclosed or used by local taxing jurisdictions for any purpose other than to review the validity of data and the calculations made pursuant to this subsection.~~

~~(c) For each replaced revenue source, each county and each municipality shall provide the following data to the Department of Revenue on or before September 30, 2000:~~

~~1. The rate of the levy for calendar year 1999.~~

~~2. The amount of revenues received during fiscal year 1998-1999 and, if known, the 1999 calendar year.~~

~~3. A description of the revenue base or taxable services.~~

~~4. The name and federal employer identification number of each taxpayer.~~

~~5. For the purpose of assisting the Revenue Estimating Conference in the computations required by this section, any other relevant information, including, but not limited to, changes in the rate of replaced revenues or imposition of additional replaced revenues subsequent to September 30, 1999.~~

~~(d) The department shall provide technical assistance to the Revenue Estimating Conference and compile and analyze the information submitted pursuant to this subsection in the manner requested by the Revenue Estimating Conference.~~

(b)~~(4)~~ Except as otherwise provided in this subsection, "replaced revenue sources," as used in this section, means the following taxes, charges, fees, or other impositions to the extent that the respective local taxing jurisdictions were authorized to impose them prior to July 1, 2000.

1.~~(a)~~ With respect to municipalities and charter counties and the taxes authorized by s. 202.19(1):

a.~~1.~~ The public service tax on telecommunications authorized by s. 166.231(9).

b.~~2.~~ Franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

c.~~3.~~ The public service tax on prepaid calling arrangements.

d.~~4.~~ Franchise fees on dealers of communications services which use the public roads or rights-of-way, up to the limit set forth in s. 337.401. For purposes of calculating rates under this section, it is the legislative intent that charter counties be treated as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.

e.~~5.~~ Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(3)(c)1.a., such fees shall not be included as a replaced revenue source.

2.~~(b)~~ With respect to all other counties and the taxes authorized in s. 202.19(1), franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

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

County	*.5% Discretionary surtax conversion rates*	*1% Discretionary surtax conversion rates*	*1.5% Discretionary surtax conversion rates*
Alachua	*0.3%*	*0.6%*	*0.8%*
Baker	*0.3%*	*0.5%*	*0.8%*
Bay	*0.3%*	*0.5%*	*0.8%*
Bradford	*0.3%*	*0.6%*	*0.8%*
Brevard	*0.3%*	*0.6%*	*0.9%*
Broward	*0.3%*	*0.5%*	*0.8%*
Calhoun	*0.3%*	*0.5%*	*0.8%*
Charlotte	*0.3%*	*0.6%*	*0.9%*
Citrus	*0.3%*	*0.6%*	*0.9%*
Clay	*0.3%*	*0.6%*	*0.8%*
Collier	*0.4%*	*0.7%*	*1.0%*
Columbia	*0.3%*	*0.6%*	*0.9%*
Dade	*0.3%*	*0.5%*	*0.8%*
Desoto	*0.3%*	*0.6%*	*0.8%*
Dixie	*0.3%*	*0.5%*	*0.8%*
Duval	*0.3%*	*0.6%*	*0.8%*
Escambia	*0.3%*	*0.6%*	*0.9%*
Flagler	*0.4%*	*0.7%*	*1.0%*
Franklin	*0.3%*	*0.6%*	*0.9%*
Gadsden	*0.3%*	*0.5%*	*0.8%*
Gilchrist	*0.3%*	*0.5%*	*0.7%*
Glades	*0.3%*	*0.6%*	*0.8%*
Gulf	*0.3%*	*0.5%*	*0.8%*
Hamilton	*0.3%*	*0.6%*	*0.8%*
Hardee	*0.3%*	*0.5%*	*0.8%*
Hendry	*0.3%*	*0.6%*	*0.9%*
Hernando	*0.3%*	*0.6%*	*0.9%*
Highlands	*0.3%*	*0.6%*	*0.9%*
Hillsborough	*0.3%*	*0.6%*	*0.8%*
Holmes	*0.3%*	*0.6%*	*0.8%*
Indian River	*0.3%*	*0.6%*	*0.9%*
Jackson	*0.3%*	*0.5%*	*0.7%*
Jefferson	*0.3%*	*0.5%*	*0.8%*
Lafayette	*0.3%*	*0.5%*	*0.7%*
Lake	*0.3%*	*0.6%*	*0.9%*
Lee	*0.3%*	*0.6%*	*0.9%*
Leon	*0.3%*	*0.6%*	*0.8%*
Levy	*0.3%*	*0.5%*	*0.8%*
Liberty	*0.3%*	*0.6%*	*0.8%*
Madison	*0.3%*	*0.5%*	*0.8%*
Manatee	*0.3%*	*0.6%*	*0.8%*
Marion	*0.3%*	*0.5%*	*0.8%*
Martin	*0.3%*	*0.6%*	*0.8%*
Monroe	*0.3%*	*0.6%*	*0.9%*
Nassau	*0.3%*	*0.6%*	*0.8%*
Okaloosa	*0.3%*	*0.6%*	*0.8%*
Okeechobee	*0.3%*	*0.6%*	*0.9%*
Orange	*0.3%*	*0.5%*	*0.8%*
Osceola	*0.3%*	*0.5%*	*0.8%*
Palm Beach	*0.3%*	*0.6%*	*0.8%*
Pasco	*0.3%*	*0.6%*	*0.9%*
Pinellas	*0.3%*	*0.6%*	*0.9%*
Polk	*0.3%*	*0.6%*	*0.8%*
Putnam	*0.3%*	*0.6%*	*0.8%*
St. Johns	*0.3%*	*0.6%*	*0.8%*
St. Lucie	*0.3%*	*0.6%*	*0.8%*
Santa Rosa	*0.3%*	*0.6%*	*0.9%*
Sarasota	*0.3%*	*0.6%*	*0.9%*
Seminole	*0.3%*	*0.6%*	*0.8%*
Sumter	*0.3%*	*0.5%*	*0.8%*
Suwannee	*0.3%*	*0.6%*	*0.8%*
Taylor	*0.3%*	*0.6%*	*0.9%*
Union	*0.3%*	*0.5%*	*0.8%*
Volusia	*0.3%*	*0.6%*	*0.8%*
Wakulla	*0.3%*	*0.6%*	*0.9%*
Walton	*0.3%*	*0.6%*	*0.9%*
Washington	*0.3%*	*0.5%*	*0.8%*

The discretionary surtax conversion rate with respect to communications services reflected on bills dated on or after October 1, 2001 shall take effect without any further action by a county or school board that has levied a surtax on or before October 1, 2001. For a county or school board that levies a surtax subsequent to October 1, 2001, the discretionary surtax conversion rate with respect to communications services shall take effect upon the effective date of the surtax as provided in s.212.054. The discretionary sales surtax rate on communications services for a county or school board levying a combined rate which is not listed in the table provided by this subsection shall be calculated by averaging or adding the appropriate rates from the table and rounding up to the nearest tenth of a percent. ~~multiplied by a factor to determine the applicable rate of tax under s. 202.19(5). The Revenue Estimating Conference shall compute the factor on or before December 31, 2000. The factor shall be calculated such that any rate applied under s. 202.19(5) will produce substantially the same tax revenues as the corresponding rate levied on telecommunication services under s. 212.055 during the year ending September 30, 1999. The factor shall be calculated to three decimal places, and the tax rates calculated by applying the factor for purposes of s. 202.19(5) shall be rounded up to the nearest one-tenth percent. The factor shall be presented to the Legislature for review and approval during the 2001 Regular Session.~~

~~(6) For purposes of calculating the appropriate value of the replaced revenue under subparagraph (4)(a)2. and paragraph (4)(b), and in~~

~~conjunction with the study required by this act, the Revenue Estimating Conference may include in its computation any adjustment necessary to include the value of any in-kind requirements, institutional networks, and contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law.~~

~~(7)(a) The provisions of this subsection shall apply only with respect to the initial tax rate of a local taxing jurisdiction which on October 1, 2001, is entitled to receive from any dealer of communications services fees in excess of the applicable limitation set forth in s. 337.401, as such section existed prior to the effective date of this section, pursuant to an agreement with such dealer of communications services in effect on such date.~~

~~(b) Immediately upon the expiration of an agreement described in paragraph (a), the rate determined under subsection (1), as it applies to such local taxing jurisdiction, shall automatically be reduced by the portion of such rate representing the difference between the fees actually received by the taxing jurisdiction pursuant to the agreement described in paragraph (a) for the fiscal year ending September 30, 1999, and the fees that such jurisdiction would have received for such period under the applicable limitation set forth in s. 337.401, as such section existed prior to the effective date of this section.~~

Section 13. *(1) Notwithstanding any provision of chapter 202, Florida Statutes, to the contrary, any municipality or county that has a local communications services tax conversion rate established under s. 202.20, Florida Statutes, which is less than the maximum rate established under s. 202.19, Florida Statutes, may by resolution or ordinance increase its rate up to the maximum rate established under s. 202.19, Florida Statutes, with such increased rate to be effective October 1, 2001. For purposes of this section, during the period beginning on October 1, 2001, and ending September 30, 2002, the maximum rate established under s. 202.19, Florida Statutes, shall be deemed to be the sum of such maximum rate plus the difference between the conversion rates set forth in paragraphs (a) and (b) of s. 202.20(1), Florida Statutes. The municipality or county shall notify the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

(2) This section shall take effect upon this act becoming a law.

Section 14. Section 202.21, Florida Statutes, is amended to read:

202.21 Effective dates; procedures for informing dealers of communications services of tax levies and rate changes.—Any adoption, repeal, or change in the rate of a local communications services tax imposed under s. 202.19 is effective with respect to taxable services included on bills that are dated on or after the January 1 subsequent to such adoption, repeal, or change. A municipality or county adopting, repealing, or changing the rate of such tax must notify the department of the adoption, repeal, or change by September 1 immediately preceding such January 1. Notification must be furnished on a form prescribed by the department and must specify the rate of tax; the effective date of the adoption, repeal, or change thereof; and the name, mailing address, and telephone number of a person designated by the municipality or county to respond to inquiries concerning the tax. The department shall provide notice of such adoption, repeal, or change to all affected dealers of communications services at least 90 days before the effective date of the tax. Any local government that adjusts the rate of its local communications services tax by emergency ordinance *or resolution* pursuant to s. 202.20*(2)*~~(1)(c)~~ shall notify the department of the new tax rate immediately upon its adoption. The department shall provide written notice of the adoption of the new rate to all affected dealers within 30 days after receiving such notice. In any notice to providers or publication of local tax rates for purposes of this chapter, the department shall express the rate for a municipality or charter county as the sum of the tax rates levied within such jurisdiction pursuant to s. 202.19(2)(a) and (5), and shall express the rate for any other county as the sum of the tax rates levied pursuant to s. 202.19(2)(b) and (5). The department is not liable for any loss of or decrease in revenue by reason of any error, omission, or untimely action that results in the nonpayment of a tax imposed under s. 202.19.

Section 15. Paragraph (c) of subsection (1), paragraph (b) of subsection (2), and paragraphs (b) and (c) of subsection (3) of section 202.22, Florida Statutes, are amended, paragraph (g) is added to subsection (3), and paragraph (b) of subsection (4) and paragraph (b) of subsection (6) of said section are amended, to read:

202.22 Determination of local tax situs.—

(1) A dealer of communications services who is obligated to collect and remit a local communications services tax imposed under s. 202.19 shall be held harmless from any liability, including tax, interest, and penalties, which would otherwise be due solely as a result of an assignment of a service address to an incorrect local taxing jurisdiction, if the dealer of communications services exercises due diligence in applying one or more of the following methods for determining the local taxing jurisdiction in which a service address is located:

(c)*1.* Employing enhanced zip codes to assign each street address, address range, post office box, or post office box range in the dealer's service area to a specific local taxing jurisdiction.

2. If an enhanced zip code overlaps boundaries of municipalities or counties, or if an enhanced zip code cannot be assigned to the service address because the service address is in a rural area or a location without postal delivery, the dealer of communications services or its database vendor shall assign the affected service addresses to one specific local taxing jurisdiction within such zip code based on a reasonable methodology. A methodology satisfies this *subparagraph* ~~paragraph~~ if the information used to assign service addresses is obtained by the dealer or its database vendor from:

a.~~1.~~ A database provided by the department;

b.~~2.~~ A database certified by the department under subsection (3);

c.~~3.~~ Responsible representatives of the relevant local taxing jurisdictions; or

d.~~4.~~ The United States Census Bureau or the United States Postal Service.

(2)

(b)1. Each local taxing jurisdiction shall furnish to the department all information needed to create and update the electronic database, including changes in service addresses, annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries. The information furnished to the department must specify an effective date, which must be the next ensuing January 1 or July 1, and such information must be furnished to the department at least 120 days prior to the effective date. However, the requirement that counties submit information pursuant to this paragraph shall be subject to appropriation.

2. The department shall update the electronic database in accordance with the information furnished by local taxing jurisdictions under subparagraph 1. Each update must specify the effective date as the next ensuing January 1 or July 1 and must be posted by the department on a website not less than 90 days prior to the effective date. *A substantially affected person may provide notice to the database administrator of an objection to information contained in the electronic database. If an objection is supported by competent evidence, the department shall forward the evidence to the affected local taxing jurisdictions and update the electronic database in accordance with the determination furnished by local taxing jurisdictions to the department.* The department shall also furnish the update on magnetic or electronic media to any dealer of communications services or vendor who requests the update on such media. However, the department may collect a fee from the dealer of communications services which does not exceed the actual cost of furnishing the update on magnetic or electronic media. *Information contained in the electronic database is conclusive for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability.*

3. Each update must identify the additions, deletions, and other changes to the preceding version of the database. Each dealer of

communications services shall *be required to* collect and remit local communications services taxes imposed under this chapter only for those service addresses that are contained in the database and for which all of the elements required by this subsection are included in the database.

(3) For purposes of this section, a database must be certified by the department pursuant to rules that implement the following criteria and procedures:

(b) Upon receipt of an application for certification or recertification of a database, *the provisions of s. 120.60 shall apply, except that* the department shall examine the application and, within 90 days after receipt, notify the applicant of any apparent errors or omissions and request any additional information~~, conduct any inspection, or perform any testing~~ determined necessary. The applicant shall designate an individual responsible for providing access to all records, facilities, and processes the department determines are reasonably necessary to review*, inspect, or test to* ~~and~~ make a determination regarding the application. Such access must be provided within 10 working days after notification.

(c) The application must be in the form prescribed by rule and must include the applicant's name, federal employer identification number, mailing address, business address, and any other information required by the department. The application *may request that the applicant identify* ~~must identify, among other elements required by the department,~~ the applicant's proposal for testing the database.

(g) Notwithstanding any provision of law to the contrary, if a dealer submits an application for certification on or before the later of October 1, 2001, or the date which is 30 days after the date on which the applicable department rule becomes effective, and such application is neither approved nor denied within the time period set forth in paragraph (d):

1. For purposes of computing the amount of the deduction to which such dealer is entitled under s. 202.28, the dealer shall be deemed to have used a certified database pursuant to paragraph (1)(b), until such time as the application for certification is denied.

2. In the event that such application is approved, such approval shall be deemed to have been effective on the date of the application or October 1, 2001, whichever is later.

(4)

(b) Notwithstanding any law to the contrary, a dealer of communications services is exercising due diligence in applying one or more of the methods set forth in subsection (1) if the dealer:

1. Expends reasonable resources to accurately and reliably implement such method. However, the employment of enhanced zip codes pursuant to paragraph (1)(c) satisfies the requirements of this subparagraph; and

2. Maintains adequate internal controls in assigning street addresses, address ranges, post offices boxes, and post office box ranges to taxing jurisdictions. Internal controls are adequate if the dealer of communications services:

a. Maintains and follows procedures to obtain and implement periodic and consistent updates to the database *at least once every 6 months*; and

b. Corrects errors in the assignments of service addresses to local taxing jurisdictions within 120 days after the dealer discovers such errors.

(6)

(b) Notwithstanding s. 202.28, if a dealer of communications services employs a method of assigning service addresses other than as set forth in paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c), the deduction allowed to the dealer of communications services as compensation under s. 202.28 shall be 0.25 percent of *that portion of* the tax due and accounted for and remitted to the department *which is attributable to such method of assigning service addresses other than as set forth in paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c).*

Section 16. Subsection (8) is added to section 202.23, Florida Statutes, to read:

202.23 Procedure on purchaser's request for refund or credit of communications services taxes.—

(8)(a) Subject to the provisions of s. 213.756, if it appears, upon examination of a communications services tax return made under this chapter, or upon proof submitted to the department by the dealer, that an amount of communications services tax has been paid in excess of the amount due, the department may refund the amount of the overpayment to the dealer. The department may refund the overpayment without regard to whether the dealer has filed a written claim for refund; however, the department may require the dealer to file a statement affirming that the dealer made the overpayment. Prior to issuing a refund pursuant to this subsection, the department shall notify the dealer of its intent to issue such refund, the amount of such refund, and the reason for such refund.

(b) Notwithstanding the provisions of paragraph (a), a refund of communications services tax shall not be made, and no action for a refund may be brought by a dealer or other person, after the applicable period set forth in s. 215.26(2) has elapsed.

(c) If, after the issuance of a refund by the department pursuant to this subsection, the department determines that the amount of such refund exceeds the amount legally due to the dealer, the provisions of s. 202.35 concerning penalties and interest shall not apply if, within 60 days of receiving notice of such determination, the dealer reimburses the department the amount of such excess.

Section 17. Section 202.231, Florida Statutes, is created to read:

202.231 Provision of information to local taxing jurisdictions.—

(1) The department shall provide a monthly report to each jurisdiction imposing the tax authorized by s. 202.19. Each report shall contain the following information for the jurisdiction which is receiving the report: the name and other information necessary to identify each dealer providing service in the jurisdiction, including each dealer's federal employer identification number; the gross taxable sales reported by each dealer; the amount of the dealer's collection allowance; and any adjustments specified on the return, including audit assessments or refunds, and interest or penalties, affecting the net tax from each dealer which is being remitted to the jurisdiction. The report shall total the net amount transferred to the jurisdiction, showing the net taxes remitted by dealers less the administrative fees deducted by the department.

(2) Monthly reports shall be transmitted by the department to each municipality and county through a secure electronic mail system or by other suitable written or electronic means.

Section 18. Paragraph (c) of subsection (2) of section 202.24, Florida Statutes, is amended to read:

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

(2)(a) Except as provided in paragraph (c), each public body is prohibited from:

1. Levying on or collecting from dealers or purchasers of communications services any tax, charge, fee, or other imposition on or with respect to the provision or purchase of communications services.

2. Requiring any dealer of communications services to enter into or extend the term of a franchise or other agreement that requires the payment of a tax, charge, fee, or other imposition.

3. Adopting or enforcing any provision of any ordinance or agreement to the extent that such provision obligates a dealer of communications services to charge, collect, or pay to the public body a tax, charge, fee, or other imposition.

Each municipality and county retains authority to negotiate all terms and conditions of a cable service franchise allowed by federal and state law except those terms and conditions related to franchise fees and the definition of gross revenues or other definitions or methodologies related to the payment or assessment of franchise fees on providers of cable services.

(b) For purposes of this subsection, a tax, charge, fee, or other imposition includes any amount or in-kind payment of property or services which is required by ordinance or agreement to be paid or furnished to a public body by or through a dealer of communications services in its capacity as a dealer of communications services, regardless of whether such amount or in-kind payment of property or services is:

1. Designated as a sales tax, excise tax, subscriber charge, franchise fee, user fee, privilege fee, occupancy fee, rental fee, license fee, pole fee, tower fee, base-station fee, or other tax or fee;

2. Measured by the amounts charged or received for services, regardless of whether such amount is permitted or required to be separately stated on the customer's bill, by the type or amount of equipment or facilities deployed, or by other means; or

3. Intended as compensation for the use of public roads or rights-of-way, for the right to conduct business, or for other purposes.

(c) This subsection does not apply to:

1. Local communications services taxes levied under this chapter.

2. Ad valorem taxes levied pursuant to chapter 200.

3. Occupational license taxes levied under chapter 205.

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

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

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

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

8. Any in-kind requirements, institutional networks, or contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law and imposed on providers of cable service pursuant to any ordinance or agreement. Nothing in this subparagraph shall prohibit the ability of providers of cable service to recover such expenses as allowed under federal law. ~~This subparagraph shall be reviewed by the Legislature during the 2001 legislative session in conjunction with the study required by this act.~~

9. Special assessments and impact fees.

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

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

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

Section 19. *Paragraph (i) of subsection (3) of section 202.26, Florida Statutes, is repealed.*

Section 20. Subsection (3) of section 202.27, Florida Statutes, is amended to read:

202.27 Return filing; rules for self-accrual.—

(3) The department shall accept returns, except those required to be initiated through an electronic data interchange, as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns are timely if postmarked on the next succeeding workday. ~~Any dealer who makes sales of any nature in two or more locations for which returns are required to be filed with the department and who maintains records for such locations in a central office or place may, on each reporting date, file one return for all such places of business in lieu of separate returns for each location; however, the return must clearly indicate the amounts collected within each location.~~ Each dealer shall file a return for each tax period even though no tax is due for such period.

Section 21. Subsection (1) of section 202.28, Florida Statutes, is amended to read:

202.28 Credit for collecting tax; penalties.—

(1) Except as otherwise provided in s. 202.22, for the purpose of compensating persons providing communications services for the keeping of prescribed records, the filing of timely tax returns, and the proper accounting and remitting of taxes, persons collecting taxes imposed under this chapter *and under s. 203.01(1)(a)2.* shall be allowed to deduct 0.75 percent of the amount of the tax due and accounted for and remitted to the department.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the required tax return or tax is delinquent at the time of payment.

(b) The department may deny the collection allowance if a taxpayer files an incomplete return.

1. For the purposes of this chapter, a return is incomplete if it is lacking such uniformity, completeness, and arrangement that the physical handling, verification, review of the return, or determination of other taxes and fees reported on the return can not be readily accomplished.

2. The department shall adopt rules requiring the information that it considers necessary to ensure that the taxes levied or administered under this chapter are properly collected, reviewed, compiled, reported, and enforced, including, but not limited to, rules requiring the reporting of the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; and the amount due with the return.

(c) The collection allowance and other credits or deductions provided in this chapter shall be applied to the taxes reported for the jurisdiction previously credited with the tax paid.

Section 22. Paragraph (a) of subsection (1) of section 202.37, Florida Statues, is amended, and paragraph (c) is added to that subsection, to read:

202.37 Special rules for administration of local communications services tax.—

(1)(a) Except as otherwise provided in this section, all statutory provisions and administrative rules applicable to the communications services tax imposed by s. 202.12 apply to any local communications services tax imposed under s. 202.19, and the department shall administer, collect, and enforce all taxes imposed under s. 202.19, including interest and penalties attributable thereto, in accordance with the same procedures used in the administration, collection, and enforcement of the communications services tax imposed by s. 202.12. *Audits performed by the department shall include a determination of the dealer's compliance with the jurisdictional situsing of its customers' service addresses and a determination of whether the rate collected for the local tax pursuant to ss. 202.19 and 202.20 is correct. The person or entity designated by a local government pursuant to s. 213.053(7)(u) may provide evidence to the department demonstrating a specific person's failure to fully or correctly report taxable communications services sales within the jurisdiction. The department may request additional information from the designee to assist in any review. The department*

shall inform the designee of what action, if any, the department intends to take regarding the person.

(c) Notwithstanding any other provision of law to the contrary, if a dealer of communications services provides communications services solely within a single county, that county or any municipality located therein may perform an audit of such dealer with respect to communications services provided by such dealer within such county, including both the state and local components of the communications services tax imposed and any other tax administered pursuant to this chapter.

1. Prior to the exercise of such authority, and for purposes of determining whether a dealer operates solely within one county, a local government may presume such localized operation if the dealer reports sales in a single county. Upon notice by the local government to the department of an intent to audit a dealer, the department shall notify the local government within 60 days if the department has issued a notice of intent to audit the dealer, or it shall notify the dealer of the local government's request to audit.

2. The dealer may, within 30 days, rebut the single-county operation presumption by providing evidence to the department that it provides communication services in more than one county in the State of Florida or that it is part of an affiliated group, members of which provide communications services in more than one county in the State of Florida. An affiliated group is defined as one or more chains of includable corporations or partnerships connected through ownership with a common parent corporation or other partnership which is an includable corporation or partnership when the common parent corporation or partnership has ownership in at least one other includable corporation or partnership which generally satisfy the requirements of Internal Revenue Code s. 267 or Internal Revenue Code s. 707. If a dealer or a member of an affiliated group provides communications services in more than one county in the State of Florida, the department will notify the local government that no audit may be performed.

3. If during the course of an audit conducted pursuant to this paragraph a local government determines that a dealer provided communications services in more that one county during the period under audit, the local government shall terminate the audit and notify the department of its findings.

4. Local governments conducting audits shall be bound by department rules and technical assistance advisement issued during the course of an audit conducted pursuant to this paragraph. Local governments conducting communications service tax audits pursuant to this subparagraph, or taxpayers being audited pursuant to this subparagraph, may request and the Department may issue technical assistance advisements pursuant to s.213.22 regarding a pending audit issue. When the department is requested to issue a technical assistance advisement hereunder, it shall notify the affected local government or taxpayer of the request.

5. Any Audit performed hereunder shall obligate the local government to extend situsing work performed during such audit to include all addresses within the county. Such audit results shall be performed on behalf of an computed for each local government and unincorporated county area inside the subject county and they shall be bound thereby.

6. The review, protest and collection of amounts due as the results of audit performed hereunder shall be the responsibility of the local jurisdiction and shall be governed by s. 166.234 to the extent not inconsistent with this chapter.

7. No fee or any portion of a fee for audits conducted on behalf of a municipality or county pursuant to this paragraph shall be based upon the amount assessed or collected as a result of the audit, and no determination based upon an audit conducted in violation of this prohibition shall be valid.

8. All audits performed pursuant to this paragraph shall be in accordance with standards promulgated by either the American Institute of Certified Public Accountants, the Institute of Internal Auditors, or the Comptroller General of the United States insofar as those standards are not inconsistent with Department of Revenue Rules.

9. Results of audits performed pursuant to this paragraph shall be valid for all jurisdictions within the subject county. The assessment, review and collection of any amounts ultimately determined to be due as the result of such an audit will be the responsibility of the auditing jurisdiction, and any such collections from the dealer shall be remitted to the Department of Revenue along with appropriate instructions for distribution of such amounts. No entity subject to audit hereunder can be audited by any local jurisdiction for compliance with this chapter more frequently than once every three years.

10. The department may adopt rules for the notification and determination processes established herein as well as for the information to be provided by a local government conducting an audit.

Section 23. Section 202.38, Florida Statutes, is created to read:

202.38 Special rules for bad debts and adjustments under previous taxes.—

(1)(a)1. Any dealer who has paid the tax imposed by chapter 212 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, may take a credit or obtain a refund of the state communications services tax imposed under this chapter on unpaid balances due on worthless accounts within 12 months following the last day of the calendar year for which the bad debt was charged off on the taxpayer's federal income tax return.

2. Any dealer who has paid a local public service tax levied pursuant to chapter 166 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, may take a credit or obtain a refund of the local communications services tax imposed by such jurisdiction on unpaid balances due on worthless accounts within 12 months following the last day of the calendar year for which the bad debt was charged off on the taxpayer's federal income tax return.

(b) If any account for which a credit or refund has been received under this section is then in whole or in part paid to the dealer, the amount paid must be included in the first communications services tax return filed after such receipt and the applicable state and local communications services tax paid accordingly.

(c) Bad debts associated with accounts receivable which have been assigned or sold with recourse are eligible upon reassignment for inclusion by the dealer in the credit or refund authorized by this section.

(2)(a) If any dealer would have been entitled to an adjustment of the tax imposed by chapter 212 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, such dealer may take a credit or obtain a refund of the state communications services tax imposed under this chapter.

(b) If any dealer would have been entitled to an adjustment of a local public service tax levied pursuant to chapter 166 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, such dealer may take a credit or obtain a refund of the local communications services tax imposed by such jurisdiction pursuant to this chapter.

(3) Credits and refunds of the tax imposed by chapter 203 attributable to bad debts or adjustments with respect to telecommunications services billed prior to October 1, 2001, shall be governed by the applicable provisions of this chapter.

(4) Notwithstanding any provision of law to the contrary, the refunds and credits allowed by this section shall be subject to audit by the state and the respective local taxing jurisdictions in any audit of the taxes to which such refunds and credits relate.

Section 24. Section 202.381, Florida Statutes, is created to read:

202.381 Transition from previous taxes.—The department is directed to implement the tax changes contained in this act, and in chapter 2000-260, Laws of Florida, in a manner that ensures that any request or action under existing statutes and rules, including, but not limited to, a claim

for a credit or refund of an overpayment of tax, audits in progress, and protests of tax, penalty, or interest initiated before October 1, 2001, shall apply, to the fullest extent possible, to any tax that replaces an existing tax that is repealed effective October 1, 2001. It is the intent of the Legislature that a person not be subject to an adverse administrative action solely due to the tax changes that take effect October 1, 2001.

Section 25. Paragraph (b) of subsection (1) of section 203.01, Florida Statutes, as amended by chapter 2000-260, Laws of Florida, is amended to read:

203.01 Tax on gross receipts for utility and communications services.—

(1)(a)1. Every person that receives payment for any utility service shall report by the last day of each month to the Department of Revenue, under oath of the secretary or some other officer of such person, the total amount of gross receipts derived from business done within this state, or between points within this state, for the preceding month and, at the same time, shall pay into the State Treasury an amount equal to a percentage of such gross receipts at the rate set forth in paragraph (b). Such collections shall be certified by the Comptroller upon the request of the State Board of Education.

2. A tax is levied on communications services as defined in s. 202.11(3). Such tax shall be applied to the same services and transactions as are subject to taxation under chapter 202, and to communications services that are subject to the exemption provided in s. 202.125(1). Such tax shall be applied to the sales price of communications services when sold at retail and to the actual cost of operating substitute communications systems, as such terms are defined in s. 202.11, shall be due and payable at the same time as the taxes imposed pursuant to chapter 202, and shall be administered and collected pursuant to the provisions of chapter 202.

(b) The rate applied to utility services shall be 2.5 percent. The rate applied to communications services shall be *2.37 percent* ~~the rate calculated pursuant to s. 44, chapter 2000-260, Laws of Florida~~.

Section 26. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Lease or rental of or license in real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or *provider of communications services, as defined by s. 202.11,* ~~franchised cable television company~~ for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. This subparagraph applies only to that portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price.

13. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

Section 27. Effective July 1, 2003, paragraph (a) of subsection (1) of section 212.031, Florida Statutes, as amended by chapter 2000-345, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or *provider of communications services, as defined by s. 202.11,* ~~franchised cable television company~~ for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight

business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

Section 28. Paragraph (a) of subsection (2) of section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter *and communications services as defined for purposes of chapter 202*. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

Section 29. Subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(a) Proceeds from the convention development taxes authorized under s. 212.0305 shall be reallocated to the Convention Development Tax Clearing Trust Fund.

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055 shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

~~(c) Proceeds from the tax imposed pursuant to s. 212.06(5)(a)2. shall be reallocated to the Mail Order Sales Tax Clearing Trust Fund.~~

(c)~~(d)~~ Proceeds from the fees imposed under ss. 212.05(1)(i)3. and 212.18(3) shall remain with the General Revenue Fund.

(d)~~(e)~~ The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a “facility for a new professional sports franchise” or a “facility for a retained professional sports franchise” pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a “facility for a retained spring training franchise” pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s.

288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

8. All other proceeds shall remain with the General Revenue Fund.

Section 30. Paragraph (b) of subsection (3) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)

(b) The Legislative Auditing Committee shall direct the Auditor General to make a financial audit of any municipality whenever petitioned to do so by at least 20 percent of the electors of that municipality. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the distribution pursuant to s. 212.20(6)*(d)6.*~~(f)5.~~ which is distributable to such municipality a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

Section 31. Subsections (5) and (6) of section 218.65, Florida Statutes, are amended to read:

218.65 Emergency distribution.—

(5) At the beginning of each fiscal year, the Department of Revenue shall calculate a base allocation for each eligible county equal to the difference between the current per capita limitation times the county's population, minus prior year ordinary distributions to the county pursuant to ss. 212.20(6)*(d)*~~(e)~~3., 218.61, and 218.62. If moneys deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(6)*(d)*~~(e)~~4., excluding moneys appropriated for supplemental distributions pursuant to subsection (7), for the current year are less than or equal to the sum of the base allocations, each eligible county shall receive a share of the appropriated amount proportional to its base allocation. If the deposited amount exceeds the sum of the base allocations, each county shall receive its base allocation, and the excess appropriated amount shall be distributed equally on a per capita basis among the eligible counties.

(6) There is hereby annually appropriated from the Local Government Half-cent Sales Tax Clearing Trust Fund the distribution provided in s. 212.20(6)*(d)*~~(e)~~4. to be used for emergency and supplemental distributions pursuant to this section.

Section 32. Subsection (6) of section 288.1169, Florida Statutes, is amended to read:

288.1169 International Game Fish Association World Center facility; department duties.—

(6) The Department of Commerce must recertify every 10 years that the facility is open, that the International Game Fish Association World Center continues to be the only international administrative headquarters, fishing museum, and Hall of Fame in the United States recognized by the International Game Fish Association, and that the project is meeting the minimum projections for attendance or sales tax revenues as required at the time of original certification. If the facility is not recertified during this 10-year review as meeting the minimum projections, then funding will be abated until certification criteria are met. If the project fails to generate $1 million of annual revenues pursuant to paragraph (2)(e), the distribution of revenues pursuant to s. 212.20(6)*(d)7.d.*~~(e)6.e.~~ shall be reduced to an amount equal to $83,333 multiplied by a fraction, the numerator of which is the actual revenues generated and the denominator of which is $1 million. Such reduction shall remain in effect until revenues generated by the project in a 12-month period equal or exceed $1 million.

Section 33. Section 212.202, Florida Statutes, is amended to read:

212.202 Renaming, creation, and continuation of certain funds.—The Local Government Infrastructure Tax Trust Fund is hereby retitled the Discretionary Sales Surtax Clearing Trust Fund. The Mail Order Sales Tax Clearing Trust Fund is *retitled the Communications Services Tax Clearing Trust Fund* ~~hereby created in the State Treasury~~. Notwithstanding the repeal of s. 212.237 by s. 45, chapter 89-356, the Solid Waste Management Trust Fund shall continue to exist.

Section 34. Effective upon this act becoming a law, paragraph (c) of subsection (3) of section 337.401, Florida Statutes, as amended by section 50 of chapter 2000-260, Laws of Florida, is amended and subsection (5) is added to that section to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(3)

(c)1. It is the intention of the state to treat all providers of communications services that use or occupy municipal or charter county roads or rights-of-way for the provision of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees. Certain providers of communications services have been granted by general law the authority to offset permit fees against franchise or other fees while other providers of communications services have not been granted this authority. In order to treat all providers of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees, each municipality and charter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and must inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a.(I) The municipality or charter county may require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

(II) To ensure competitive neutrality among providers of communications services, for any municipality or charter county that elects to exercise its authority to require and collect permit fees under this sub-subparagraph, the rate of the local communications services tax imposed by such jurisdiction, as computed under s. 202.20(1) and (2), shall automatically be reduced by a rate of 0.12 percent.

b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a municipality or

charter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20(1) and (2) for that municipality or charter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.12 percent. *If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A municipality or charter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

2. Each noncharter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and shall inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a noncharter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

b. Alternatively, the noncharter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies noncharter county roads or rights-of-way for the provision of communications services; however, each noncharter county that elects to operate under this sub-subparagraph shall retain all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a noncharter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20(1) and (2) for that noncharter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.24 percent, to replace the revenue the noncharter county would otherwise have received from permit fees for providers of communications services. *If a noncharter county elects to increase its rate effective October 1, 2001, the noncharter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A noncharter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

3. Except as provided in this paragraph, municipalities and counties retain all existing authority to require and collect permit fees from users or occupants of municipal or county roads or rights-of-way and to set appropriate permit fee amounts.

(5) If a municipality or county imposes any amount on a person or entity other than a provider of communications services in connection with the placement or maintenance by such person or entity of a communication facility in municipal or county roads or rights-of-way, such amounts, if any, shall not exceed the highest amount, if any, the municipality or county is imposing in such context as of the effective date of this section. If a municipality or county is not imposing any amount in such context as of the effective date of this section, any amount, if any, imposed thereafter, shall not be less than $500 per linear mile, payable annually, of any cable, fiber optic, or other pathway that makes physical use of the municipal or county rights-of-way. Any excess of $500 shall be applied in a nondiscriminatory manner and shall not exceed the sum of:

1. Costs directly related to the inconvenience or impairment solely caused by the disturbance to the municipal or county rights-of-way;

2. The reasonable cost of the regulatory activity of the municipality or county; and

3. The proportionate share of cost of land for such street, alley, or other public way attributable to utilization of the rights-of-way by such person or entity other than a provider of communications services.

Section 35. Paragraphs (f) and (g) of subsection (3) of section 337.401, Florida Statutes, as amended by section 51 of chapter 2000-260, Laws of Florida, are repealed, paragraphs (a), (b), (c), (e), and (h) of said subsection are amended, new paragraphs (j) and (k) are added to said subsection, subsections (4) and (5) of said section are amended, and subsection (6) is added to that section, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(3)(a)*1.* Because of the unique circumstances applicable to providers of communications services, including, but not limited to, the circumstances described in paragraph (e) and the fact that federal and state law require the nondiscriminatory treatment of providers of telecommunications services, and because of the desire to promote competition among providers of communications services, it is the intent of the Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way. Rules or regulations imposed by a municipality or county relating to providers of communications services placing or maintaining communications facilities in its roads or rights-of-way must be generally applicable to all providers of communications services and, notwithstanding any other law, may not require a provider of communications services, except as otherwise provided in *subparagraph 2.* ~~paragraph (f)~~, to apply for or enter into an individual license, franchise, or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way. In addition to other reasonable rules or regulations that a municipality or county may adopt relating to the placement or maintenance of communications facilities in its roads or rights-of-way under this subsection, a municipality or county may require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county and to provide the name of the registrant; the name, address, and telephone number of a contact person for the registrant; the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission or the Federal Communications Commission; and proof of insurance or self-insuring status adequate to defend and cover claims. *Nothing in this subparagraph is intended to limit or expand any existing zoning or land use authority of a municipality or county; however, no such zoning or land use authority may require an individual license, franchise, or other agreement as prohibited by this subparagraph.*

2. Notwithstanding the provisions of subparagraph 1., a municipality or county may, as provided by 47 U.S.C. s. 541, award one or more franchises within its jurisdiction for the provision of cable service, and a provider of cable service shall not provide cable service without such franchise. Each municipality and county retains authority to negotiate all terms and conditions of a cable service franchise allowed by federal law and s. 166.046, except those terms and conditions related to franchise fees and the definition of gross revenues or other definitions or methodologies related to the payment or assessment of franchise fees and permit fees as provided in paragraph (c) on providers of cable services. A municipality or county may exercise its right to require from providers of cable service in-kind requirements, including, but not

limited to, institutional networks, and contributions for, or in support of, the use or construction of public, educational, or governmental access facilities to the extent permitted by federal law. A provider of cable service may exercise its right to recover any such expenses associated with such in-kind requirements, to the extent permitted by federal law.

(b) *Registration described in subparagraph (a)1. does not establish a right to place or maintain, or priority for the placement or maintenance of, a communications facility in roads or rights-of-way of a municipality or county.* Each municipality and county retains the authority to regulate and manage municipal and county roads or rights-of-way in exercising its police power. Any rules or regulations adopted by a municipality or county which govern the occupation of its roads or rights-of-way by providers of communications services must be related to the placement or maintenance of facilities in such roads or rights-of-way, must be reasonable and nondiscriminatory, and may include only those matters necessary to manage the roads or rights-of-way of the municipality or county.

(c)1. It is the intention of the state to treat all providers of communications services that use or occupy municipal or charter county roads or rights-of-way for the provision of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees. Certain providers of communications services have been granted by general law the authority to offset permit fees against franchise or other fees while other providers of communications services have not been granted this authority. In order to treat all providers of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees, each municipality and charter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and must inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a.(I) The municipality or charter county may require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

(II) To ensure competitive neutrality among providers of communications services, for any municipality or charter county that elects to exercise its authority to require and collect permit fees under this sub-subparagraph, the rate of the local communications services tax imposed by such jurisdiction, as computed under s. 202.20~~(1) and (2)~~, shall automatically be reduced by a rate of 0.12 percent.

b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a municipality or charter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20~~(1) and (2)~~ for that municipality or charter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.12 percent. *If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A municipality or charter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

2. Each noncharter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and shall inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a noncharter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

b. Alternatively, the noncharter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies noncharter county roads or rights-of-way for the provision of communications services; however, each noncharter county that elects to operate under this sub-subparagraph shall retain all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a noncharter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20~~(1) and (2)~~ for that noncharter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.24 percent, to replace the revenue the noncharter county would otherwise have received from permit fees for providers of communications services. *If a noncharter county elects to increase its rate effective October 1, 2001, the noncharter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A noncharter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

3. Except as provided in this paragraph, municipalities and counties retain all existing authority to require and collect permit fees from users or occupants of municipal or county roads or rights-of-way and to set appropriate permit fee amounts.

(e) The authority of municipalities and counties to require franchise fees from providers of communications services, with respect to the provision of communications services, is specifically preempted by the state, except as otherwise provided in *subparagraph (a)2.* ~~paragraph (f)~~, because of unique circumstances applicable to providers of communications services when compared to other utilities occupying

municipal or county roads or rights-of-way. Providers of communications services may provide similar services in a manner that requires the placement of facilities in municipal or county roads or rights-of-way or in a manner that does not require the placement of facilities in such roads or rights-of-way. Although similar communications services may be provided by different means, the state desires to treat providers of communications services in a nondiscriminatory manner and to have the taxes, franchise fees, and other fees paid by providers of communications services be competitively neutral. Municipalities and counties retain all existing authority, if any, to collect franchise fees from users or occupants of municipal or county roads or rights-of-way other than providers of communications services, and the provisions of this subsection shall have no effect upon this authority. The provisions of this subsection do not restrict the authority, if any, of municipalities or counties or other governmental entities to receive reasonable rental fees based on fair market value for the use of public lands and buildings on property outside the public roads or rights-of-way for the placement of communications antennas and towers.

(f)~~(h)~~ Except as expressly allowed or authorized by general law and except for the rights-of-way permit fees subject to paragraph (c), a municipality or county may not levy on a provider of communications services a tax, fee, or other charge or imposition for operating as a provider of communications services within the jurisdiction of the municipality or county which is in any way related to using its roads or rights-of-way. A municipality or county may not require or solicit in-kind compensation, except as otherwise provided in *subparagraph (a)2.* ~~paragraph (f)~~. Nothing in this paragraph shall impair any ordinance or agreement in effect on May 22, 1998, or any voluntary agreement entered into subsequent to that date, which provides for or allows in-kind compensation by a telecommunications company.

(j) Pursuant to this paragraph, any county or municipality may by ordinance change either its election made on or before July 16, 2001, under paragraph (c) or an election made under this paragraph.

1.a. If a municipality or charter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the sum of 0.12 percent plus the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)1.b.

b. If a municipality or charter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

2.a. If a noncharter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)2.b.

b. If a noncharter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

3.a. Any change of election pursuant to this paragraph and any tax rate change resulting from such change of election shall be subject to the notice requirements of s. 202.21; however, no such change of election shall become effective prior to January 1, 2003.

b. Any county or municipality changing its election under this paragraph in order to exercise its authority to require and collect permit fees shall, in addition to complying with the notice requirements under s. 202.21, provide to all dealers providing communications services in such jurisdiction written notice of such change of election by July 1 immediately preceding the January 1 on which such change of election becomes effective. For purposes of this sub-subparagraph, dealers providing communications services in such jurisdiction shall include every dealer reporting tax to such jurisdiction pursuant to s. 202.37 on the return required under s. 202.27 to be filed on or before the 20th day of May immediately preceding the January 1 on which such change of election becomes effective.

(k) Notwithstanding the provisions of s. 202.19, when a local communications services tax rate is changed as a result of an election made or changed under this subsection, such rate shall not be rounded to tenths.

(4) As used in this section, “communications services” *has* ~~and “cable services” have~~ the same *meaning* ~~meanings~~ ascribed in chapter 202*, and “cable service” has the same meaning ascribed in 47 U.S.C. s. 522, as amended*.

(5) This section, except subsections (1) and (2) and paragraph (3)*(g)*~~(i)~~, does not apply to the provision of pay telephone service on public, municipal, or county roads or rights-of-way.

(6) If a municipality or county imposes any amount on a person or entity other than a provider of communications services in connection with the placement or maintenance by such person or entity of a communication facility in municipal or county roads or rights-of-way, such amounts, if any, shall not exceed the highest amount, if any, the municipality or county is imposing in such context as of the effective date of this section. If a municipality or county is not imposing any amount in such context as of the effective date of this section, any amount, if any, imposed thereafter, shall not be less than $500 per linear mile, payable annually, of any cable, fiber optic, or other pathway that makes physical use of the municipal or county rights-of-way. Any excess of $500 shall be applied in a nondiscriminatory manner and shall not exceed the sum of:

1. Costs directly related to the inconvenience or impairment solely caused by the disturbance to the municipal or county rights-of-way;

2. The reasonable cost of the regulatory activity of the municipality or county; and

3. The proportionate share of cost of land for such street, alley, or other public way attributable to utilization of the rights-of-way by such person or entity other than a provider of communications services.

Section 36. *Notwithstanding any provision of law to the contrary, the provisions of s. 166.234, Florida Statutes, shall continue to apply with respect to all public service taxes imposed on telecommunications services under s. 166.231(9), Florida Statutes, prior to its amendment by chapter 2000-260, Laws of Florida.*

Section 37. *(1) Notwithstanding any law or ordinance to the contrary, and regardless of the payment schedule contained in any license, franchise, ordinance, or other arrangement that provides for payment after December 31, 2001, all franchise fees required to be paid by cable or telecommunications service providers with respect to cable or telecommunications services provided prior to October 1, 2001, shall be paid on or before December 31, 2001.*

(2) For services provided prior to October 1, 2001, all franchise fees required to be paid prior to October 1, 2001, under any license, franchise, ordinance, or other arrangement shall be paid as provided in such license, franchise, ordinance, or other arrangement. Cable and telecommunications services providers shall be obligated to remit franchise fees collected from subscribers for services billed prior to October 1, 2001, regardless of their actual collection date.

(3) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

Section 38. *Effective upon this act becoming a law, section 52, subsections (1) and (2) of section 58, and section 59 of chapter 2000-260, Laws of Florida, are repealed.*

Section 39. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page ,
remove from the title of the bill:

and insert in lieu thereof: A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of said tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer's place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming language; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer's duty to update a database and to the amount of dealer's credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting language relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer's credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming language; amending s. 212.054, F.S.; clarifying that a discretionary sales surtax applies to transactions taxed under ch. 202, F.S.; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on communications services providers may increase its local tax rate by resolution; requiring notice to the department; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under said section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunication services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunication service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida,

which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates

Rep. Ritter moved the adoption of the amendment.

Representative(s) Ritter offered the following:

(Amendment Bar Code: 815317)

Amendment 1 to Amendment 1—On page 122, between lines 23 and 24 and on page 133, after line 31 of the amendment

insert:

For purposes of this subsection, the term communications facility shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes. Except as specifically provided herein, municipalities and counties retain all existing authority, if any, to collect fees relating to public roads and rights-of-way from electric utilities or regional transmission organizations, and nothing in this subsection shall alter this authority.

Rep. Ritter moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1** as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1891—A bill to be entitled An act relating to public records; amending s. 213.053, F.S.; providing an exemption from public records requirements for information contained in specified documents received by the Department of Revenue in connection with ch. 202, F.S., the Communications Services Tax Simplification Law; authorizing the department to provide certain information relative to said chapter to local governments imposing a local communications services tax; providing for application of confidentiality and penalty provisions to such local governments; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1893—A bill to be entitled An act relating to trust funds; creating s. 202.193, F.S.; creating the Local Communications Services Tax Clearing Trust Fund within the Department of Revenue; providing for sources of moneys and purposes; providing for annual carryforward of fund balances; providing that the trust fund is exempt from constitutional termination; providing a contingent effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1919—A bill to be entitled An act relating to trust funds; creating s. 282.23, F.S.; creating the Technology Enterprise Trust Fund within the Department of Management Services; providing for sources of funds and purposes; providing for creation of a reserve account; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1943—A bill to be entitled An act relating to the deduction and collection of a bargaining agent's dues and uniform assessments; amending s. 447.303, F.S.; eliminating a right of certain bargaining agents to have certain dues and assessments deducted and collected by an employer from certain employees; providing legislative findings and intent; providing that the deduction and collection of certain dues and assessments is a proper subject of collective bargaining; providing requirements and limitations; providing for accounting of funds; providing for enforcement; providing an effective date.

—was read the second time by title.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 170395)

Amendment 1—On page 2, line 9 through page 3, line 10, remove from the bill: all of said lines

and insert in lieu thereof: *(2)(a) The Legislature acknowledges that Florida is a right to work state as guaranteed by s. 6, Art. I of the State Constitution, which provides employees the right to bargain collectively. However, the State Constitution does not require an employer to deduct and collect a bargaining agent's dues and uniform assessments from an employee's salary. Furthermore, the Legislature in implementing s. 6, Art. I of the State Constitution, has declared that it is the public policy of this state to neither encourage nor discourage participation in a certified employee organization. The current statutory right of a collective bargaining agent to have its dues and uniform assessments deducted from an employee's salary is inconsistent with this policy because it assumes a non-neutral position regarding membership in a certified employee organization. By statutorily requiring an employer to deduct a collective bargaining agent's dues and assessments, the state facilitates the financial support of that organization not only for its collective bargaining functions but for whatever political or social causes that organization chooses to support. The payroll deduction process does not require the identification of how the money deducted will be utilized. Other voluntary payroll deductions are clear on their face as to the amount and purpose of the deductions. In addition, other payroll deductions are not encumbered with the legal complexities surrounding collective bargaining rights and this state's policy of neutrality regarding membership in a certified employee organization. Morever, the First Amendment to the United States Constitution guarantees a person freedom of association, and included in that right a person may not be compelled to financially support a social cause or a political candidate or cause. To the extent members of a certified employee organization are uninformed regarding the use of their payroll deducted dues and assessments, unaware of their rights to be refunded any portion of such dues or assessments used for political or social purposes to which they do not agree, or are prevented or inhibited from exercising their associational rights, directly or indirectly, for whatever reason and from whatever source, then the state's participation in their payroll deduction impinges on those employees' First Amendment rights.*

The Legislature finds that instructional personnel represent the largest collective bargaining unit in this state. Furthermore, the Legislature recognizes and finds that teacher shortages in this state have reached critical proportions and anticipates that Florida will need an additional 162,000 teachers over the next 10 years to meet the challenges of this state's growing student population. Attracting new teachers as well as retaining existing teachers is a priority for this Legislature. Furthermore, the Legislature finds that this state has a substantial and compelling interest in protecting the First Amendment rights of instructional personnel, and that the state's ability to recruit and retain instructional personnel should be enhanced by empowering instructional personnel to pursue their First Amendment rights and to make informed decisions regarding their political and social participation within the context of exercising their collective bargaining rights. The Legislature also finds that, as a result of the recent merger and industry consolidation of the collective bargaining agents that represented instructional personnel as defined in s. 228.041, a monopoly in such services has been created in this state. Accordingly, this state must redouble its efforts to remain neutral and thereby not empower or detract from that collective bargaining agent's representational role, or from the employees' ability to be represented in the collective bargaining process by whomever they so choose.

Because of these facts and trends, the Legislature finds that the current status of instructional personnel constitutes a set of circumstances distinct and unique from any other area of public employment within this state. Therefore, the Legislature finds that with regard to instructional personnel, the deduction and collection of the certified

bargaining agent's dues and uniform assessments should not be mandated by the Legislature but should be a permissive subject of collective bargaining, as otherwise restricted by this act. The Legislature further finds that the restrictions imposed by this act do not interfere with the ability of instructional personnel to be a member of a certified labor organization or to contribute directly to that organization in support of its non-collective bargaining activities.

Rep. Brummer moved the adoption of the amendment, which failed of adoption.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 102093)

Amendment 2—On page 16, line 11,
remove from the bill: all of said line

and insert in lieu thereof:

Section 13. This act shall take effect July 1, 2001.

Rep. Brummer moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Consideration of **HB 201** was temporarily postponed under Rule 11.10.

CS/HB 427 was taken up. On motion by Rep. Fiorentino, the rules were waived and CS for CS for CS for SB 446 was substituted for CS/HB 427. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for CS for SB 446—A bill to be entitled An act relating to homelessness; amending s. 228.041, F.S.; redefining the term "homeless child"; amending ss. 232.03, 232.0315, 232.032, F.S.; revising the deadline for submission of documents for school registration; amending s. 420.5087, F.S.; relating to the State Apartment Incentive Loan Program; revising the requirements for qualifying to participate in the program; adding the homeless to the list of eligible tenant groups; amending s. 420.5092, F.S.; increasing the amount of revenue bonds the Florida Housing Finance Corporation may issue for the corporation's guarantee fund; amending s. 420.511, F.S.; revising reporting requirements of the Florida Housing Finance Corporation; amending s. 420.609, F.S.; relating to the Affordable Housing Study Commission; revising the membership of the commission; requiring the commission to analyze how to address the acute need for housing for the homeless; amending s. 420.621, F.S.; redefining the term "homeless"; creating s. 420.622, F.S.; creating the State Office on Homelessness within the Department of Children and Family Services; authorizing the Governor to appoint an executive director for the State Office on Homelessness; creating the Council on Homelessness; providing for council membership; providing for council members to be reimbursed for travel expenses; providing for grants for homeless assistance continuums of care; providing grants for homeless housing assistance; prescribing duties and responsibilities of the State Office of Homelessness; requiring the Department of Children and Family Services to adopt rules with input from the Council on Homelessness; requiring an annual report; amending s. 420.623, F.S.; revising the list of organizations that may participate in local homeless coalitions; revising the functions of local homeless coalitions; creating s. 420.624, F.S.; establishing guidelines for local homeless continuum of care; creating s. 420.626, F.S.; establishing guidelines for discharging persons at risk for homelessness from facilities serving persons with mental illness or substance abuse; amending s. 420.9075, F.S.; expanding the list of partners that counties and cities are encouraged to involve in developing housing assistance plans; amending s. 445.009, F.S.; revising regional workforce boards' one-stop delivery system; requiring the Office of Program, Policy Analysis, and Government Accountability to report on homelessness; dedicating December 21 as the Homeless Persons' Memorial Day; providing an appropriation for Challenge Grants; providing an appropriation for positions in local homeless coalitions; providing appropriations for the Department of Children and Family Services; providing an effective date.

—was read the second time by title.

Representative(s) Fiorentino offered the following:

(Amendment Bar Code: 760819)

Amendment 1—On page 31, line 13, through page 32, line 13,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 18. *(1) Implementation of the challenge grants created in s. 420.622, Florida Statutes, and associated administrative costs incurred by the State Office on Homelessness and the Council on Homelessness is contingent on available appropriations in the annual General Appropriation Act for such purpose.*

(2) Implementation of the grant-in-aid program specified in s. 420.625, Florida Statutes, within the Department of Children and Family Services to support one position in each of the 25 local homeless coalitions in Florida is contingent on available appropriations in the annual General Appropriation Act for such purpose.

(3) Increase in funding for the grant-in-aid program specified in s. 420.625, Florida Statutes, within the Department of Children and Family Services, is contingent on available appropriations in the annual General Appropriation Act for such purpose.

(4) The sum of $5 million is transferred for fiscal year 2001-2002 from the Local Government Housing Trust Fund in the Florida Housing Finance Corporation to the Administrative Trust Fund within the Department of Children and Family Services. The sum of $5 million in fixed capital outlay is hereby appropriated to the State Office on Homelessness within the Department of Children and Family Services from the Administrative Trust Fund for fiscal year 2001-2002 to fund homeless housing assistance grants.

Rep. Fiorentino moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1943—A bill to be entitled An act relating to the deduction and collection of a bargaining agent's dues and uniform assessments; amending s. 447.303, F.S.; eliminating a right of certain bargaining agents to have certain dues and assessments deducted and collected by an employer from certain employees; providing legislative findings and intent; providing that the deduction and collection of certain dues and assessments is a proper subject of collective bargaining; providing requirements and limitations; providing for accounting of funds; providing for enforcement; providing an effective date.

—was taken up, having been read the second time, and amended, earlier today.

Reconsideration

On motion by Rep. Melvin, the House agreed to reconsider the vote by which **Amendment 1** failed of adoption.

The vote was:

Session Vote Sequence: 201

Yeas—64

Alexander	Bilirakis	Dockery	Harrington
Allen	Bowen	Farkas	Hart
Argenziano	Brown	Fasano	Hogan
Arza	Brummer	Fiorentino	Johnson
Attkisson	Byrd	Flanagan	Jordan
Atwater	Cantens	Garcia	Kallinger
Ball	Carassas	Gardiner	Kilmer
Baxley	Clarke	Gibson	Kottkamp
Bense	Davis	Green	Lacasa
Benson	Diaz de la Portilla	Haridopolos	Littlefield
Berfield	Diaz-Balart	Harrell	Lynn

Mack	Melvin	Paul	Russell
Mahon	Miller	Pickens	Simmons
Mayfield	Murman	Prieguez	Spratt
Maygarden	Needelman	Ross	Wallace
Mealor	Negron	Rubio	Waters

Nays—49

Ausley	Frankel	Kosmas	Siplin
Baker	Gannon	Kravitz	Slosberg
Barreiro	Gelber	Lee	Smith
Bean	Gottlieb	Lerner	Sobel
Bendross-Mindingall	Greenstein	Machek	Sorensen
Bennett	Harper	McGriff	Stansel
Betancourt	Henriquez	Meadows	Weissman
Brutus	Heyman	Rich	Wiles
Bucher	Holloway	Richardson	Wilson
Bullard	Jennings	Ritter	Wishner
Cusack	Joyner	Romeo	
Detert	Justice	Ryan	
Fields	Kendrick	Seiler	

Votes after roll call:
Yeas—Kyle

The question recurred on the adoption of **Amendment 1**.

Rep. Kosmas suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 202].

The question recurred on the adoption of **Amendment 1**, which was adopted.

The vote was:

Session Vote Sequence: 203

Yeas—59

The Chair	Brown	Harrell	Miller
Andrews	Brummer	Harrington	Murman
Arza	Byrd	Hart	Needelman
Attkisson	Cantens	Johnson	Negron
Atwater	Carassas	Kallinger	Paul
Baker	Clarke	Kilmer	Prieguez
Ball	Diaz de la Portilla	Kottkamp	Ross
Baxley	Farkas	Kyle	Rubio
Bean	Fasano	Littlefield	Russell
Bennett	Fiorentino	Lynn	Simmons
Bense	Flanagan	Mack	Spratt
Benson	Gardiner	Mahon	Trovillion
Berfield	Gibson	Maygarden	Wallace
Bilirakis	Green	Mealor	Waters
Bowen	Haridopolos	Melvin	

Nays—53

Alexander	Gannon	Kendrick	Seiler
Allen	Garcia	Kosmas	Siplin
Ausley	Gelber	Kravitz	Slosberg
Barreiro	Gottlieb	Lee	Smith
Bendross-Mindingall	Greenstein	Lerner	Sobel
Betancourt	Harper	Machek	Sorensen
Brutus	Henriquez	McGriff	Stansel
Bucher	Heyman	Meadows	Weissman
Bullard	Hogan	Pickens	Wiles
Cusack	Holloway	Rich	Wilson
Davis	Jennings	Richardson	Wishner
Detert	Jordan	Ritter	
Fields	Joyner	Romeo	
Frankel	Justice	Ryan	

Votes after roll call:
Nays—Mayfield

On motion by Rep. Brummer, the House reconsidered the vote by which **Amendment 2** was adopted.

The question recurred on the adoption of **Amendment 2**.

Further consideration of **Amendment 2** was temporarily postponed under Rule 11.10.

Amendment 2 was abandoned.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 1661 was taken up. On motion by Rep. Mealor, the rules were waived and CS for CS for SB 1180 was substituted for CS/CS/HB 1661. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 1180—A bill to be entitled An act relating to scholarships for students with disabilities; amending s. 229.05371, F.S.; creating the scholarship program for students with disabilities; providing for eligibility; establishing obligations of school districts; establishing criteria for private school eligibility; establishing obligations for program participants; providing for funding; authorizing the State Board of Education to adopt rules; providing an effective date.

—was read the second time by title.

Representative(s) Mealor and Melvin offered the following:

(Amendment Bar Code: 965965)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 229.05371, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 229.05371, F.S., for present text.)

229.05371 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program, pursuant to this section.

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.—The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the Commissioner of Education or the State Board of Education. Students with disabilities include K-12 students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic.

(2) SCHOLARSHIP ELIGIBILITY.—The parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a Florida public school. Prior school year in attendance means that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12; and

(b) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (4) and has notified, in writing, the school district of the request for a scholarship at least 60 days prior to the date of the first scholarship payment.

This section does not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school or graduates from high school. However, at any time, the student's parent may remove the student from the private school and place the student in another private school that is eligible for the program under subsection (4) or in a public school as provided in subsection (3).

(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION OBLIGATIONS.—

(a) A school district shall timely notify the parent of the student of all options available pursuant to this section and offer that student's parent an opportunity to enroll the student in another public school within the district. The parent is not required to accept this offer in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student may continue attending a public school chosen by the parent until the student graduates from high school. If the parent chooses a public school consistent with the school board's choice plan under s. 228.057, the school district will provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not consistent with the school board's choice plan under s. 228.057.

(b) For a student with disabilities who does not have a matrix of services under s. 236.025, the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year. The school district must complete the matrix of services for any student who is participating in the John M. McKay Scholarships for Students with Disabilities Program and must notify the Department of Education of the student's matrix level within 30 days after receiving notification by the student's parent of intent to participate in the scholarship program. The Department of Education shall notify the private school of the amount of the scholarship within 10 days after receiving the school district's notification of the student's matrix level.

(c) If the parent chooses the private school option and the student is accepted by the private school pending the availability of a space for the student, the parent of the student must notify the school district 60 days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available for the student in the private school.

(d) The parent of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with the services agreed to in the student's individual education plan already in place, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(e) For a student in the district who participates in the John M. McKay Scholarships for Students with Disabilities Program whose parent requests that the student take the statewide assessments under s. 229.57, the district shall provide locations and times to take all statewide assessments.

(f) A school district must notify the Department of Education within 10 days after it receives notification of a parent's intent to apply for a scholarship for a student with a disability.

(4) PRIVATE SCHOOL ELIGIBILITY.—To be eligible to participate in the John M. McKay Scholarships for Students with Disabilities Program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.

(b) Notify the Department of Education of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice must specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Be academically accountable to the parent for meeting the educational needs of the student.

(f) Employ or contract with teachers who hold baccalaureate or higher degrees, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(g) Comply with all state laws relating to general regulation of private schools.

(h) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

(5) OBLIGATION OF PROGRAM PARTICIPANTS.—

(a) A parent who applies for a John M. McKay Scholarship is exercising his or her parental option to place his or her child in a private school. The parent must select the private school and apply for the admission of his or her child.

(b) The parent must have requested the scholarship at least 60 days prior to the date of the first scholarship payment.

(c) Any student participating in the scholarship program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(d) The parent of each student participating in the scholarship program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(e) If the parent requests that the student participating in the scholarship program take all statewide assessments required pursuant to s. 229.57, the parent is responsible for transporting the student to the assessment site designated by the school district.

(f) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school.

(g) A participant who fails to comply with this subsection forfeits the scholarship.

(6) SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. The calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of

services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of Supplemental Academic Instruction funds, instructional materials funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

(c) If the participating private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the Department of Education prior to the first quarterly payment of the year in which the John M. McKay Scholarship is awarded, up to a maximum of $1,000, and deducted from subsequent scholarship payments. If a student decides not to attend the participating private school, the partial reservation payment must be returned to the Department of Education by the participating private school. There is a limit of one reservation payment per student per year.

(d) The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

(e) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the Department of Education shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. When a student enters the scholarship program, the Department of Education must receive all documentation required for the student's participation, including the private school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student. The Department of Education may not make any retroactive payments.

(f) Upon proper documentation reviewed and approved by the Department of Education, the Comptroller shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 15 of each academic year in which the scholarship is in force. The initial payment shall be made after Department of Education verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(7) LIABILITY.—No liability shall arise on the part of the state based on the award or use of a John M. McKay Scholarship.

(8) RULES.—The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from the title of the bill:

and insert in lieu thereof: An act relating to scholarships for students with disabilities; amending s. 229.05371, F.S.; creating the John M. McKay Scholarships for Students with Disabilities Program; providing for eligibility; establishing obligations of school districts and the Department of Education; establishing criteria for private school eligibility; establishing obligations of program participants; providing for funding and payment; limiting liability of the state; authorizing the State Board of Education to adopt rules; providing an effective date.

Rep. Mealor moved the adoption of the amendment.

Representative(s) Rich and Kravitz offered the following:

(Amendment Bar Code: 490887)

Amendment 1 to Amendment 1—On page 2, between lines 13 and 14

insert: *(a) The student's academic progress in at least two areas has not met expected levels for the previous year, as determined by the student's individual education plan.*

Rep. Rich moved the adoption of the amendment to the amendment, which failed of adoption.

Representative(s) Rich and Kravitz offered the following:

(Amendment Bar Code: 873999)

Amendment 2 to Amendment 1—On page 5, between lines 4 and 5

insert: *(a) Accept the responsibility to develop and maintain the student's individual education plan and hold harmless the local school district for administration and implementation of the individual education plan.*

Rep. Rich moved the adoption of the amendment to the amendment, which failed of adoption.

The question recurred on the adoption of **Amendment 1**, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 201 was taken up. On motion by Rep. Rubio, the rules were waived and CS for SB 800 was substituted for HB 201. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 800—A bill to be entitled An act relating to the disposition of traffic fines; amending s. 318.21, F.S.; revising requirements for the use of funds collected from moving traffic violations; requiring that such funds be used to fund automation for law enforcement agencies in certain counties in which a municipality has been declared to be in a state of financial emergency; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Motions Relating to Committee or Council References

On motion by Rep. Harrell, agreed to by two-thirds vote, CS/HB 1015 was withdrawn from the Committee on Education Appropriations and the Council for Lifelong Learning and placed on the Calendar of the House.

On motion by Rep. Harrell, the House moved to the consideration of CS/HB 1015.

CS/HB 1015 was taken up. On motion by Rep. Harrell, the rules were waived and CS for SB 1018 was substituted for CS/HB 1015. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1018—A bill to be entitled An act relating to prevention and amelioration of learning problems and learning disabilities in young children; authorizing a 3-year demonstration program to be called Learning Gateway; creating a steering committee; providing for

membership and appointment of steering committee members; establishing duties of the steering committee; authorizing demonstration projects in three counties; authorizing designated agencies to share confidential information with Learning Gateway programs; amending s. 228.093, F.S.; providing access to student records by Learning Gateway programs and the Learning Gateway steering committee; providing for funding; providing an effective date.

—was read the second time by title.

Representative(s) Fiorentino, Harrell, Byrd, Melvin, Farkas, Bean, and Meadows offered the following:

(Amendment Bar Code: 374349)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 240.5311, Florida Statutes, is created to read:

240.5311 Learning Gateway Project.—

(1) There is created the Learning Gateway Project to provide grants to eligible universities to establish an integrated approach for health care providers and parents to lessen the effects of learning disabilities for children through prevention, early identification, early education, and appropriate intervention. Parental consent shall be required for all services provided pursuant to the Learning Gateway Project, including initial contact and further referral for evaluation and services. The selected universities shall form a statewide consortium and shall select a university with a medical program to serve as lead university for the consortium.

(2) The Learning Gateway Project shall:

(a) Be administered by the Department of Education to provide grants to eligible state universities for the purpose of developing a statewide catalog of programs, resources, and funds that assist children with learning disabilities. The state universities identified in the Learning Gateway Project shall work collaboratively to develop this project and use the expertise, resources, faculty, and students within the universities to develop the project. Under the direction of the Learning Gateway Project, the participating universities may use their students to design brochures, perform research, collect data on community resources and programs, and develop and maintain a website, through coordination with the State Technology Office, to give parents, teachers, and practitioners information about early warning signs of learning disabilities, Learning Gateway Centers, and community-based programs.

(b) Work collaboratively with representatives of state and local agencies and private programs to develop a comprehensive list of regional providers.

(c) Identify the factors that interfere with or inhibit normal development and learning. The Learning Gateway Project shall bring together research that integrates the disciplines relevant to the diagnosis, causes, treatment, and intervention of early learning disabilities.

(d) Provide physicians, health care personnel, and school personnel with medical and nonmedical intervention strategies that help identify such factors as diet, noise, environmental contaminants and allergies which inhibit learning. Such information shall be prepared so that it can be appropriately presented as part of routine clinic sessions for immunization visits and visits under the "Special Supplemental Nutrition Program for Women, Infants, and Children" (WIC) under s. 383.011 and other well-child appointments.

(e) Identify the elements of an effective research-based curriculum for each learning disability.

(f) Develop a model system of care, through the establishment of regional Learning Gateway Centers, that builds upon, integrates, and identifies the gaps in existing services.

(g) Develop two brochures and a website, in coordination with the State Technology Office, to distribute information.

1. One brochure shall be designed to educate parents and caretakers about the importance of prenatal care and nutrition and shall identify the early warning signs of disabilities that may lead to learning disabilities and developmental delays. This brochure shall be distributed to parents through early childhood programs administered by the Department of Education, the Department of Health, the Florida Partnership for School Readiness, the Agency for Workforce Innovation, the Department of Children and Family Services, the Agency for Health Care Administration, the Department of Juvenile Justice, the Department of Corrections, and the Learning Development and Evaluation Center of Florida Agricultural and Mechanical University.

2. One brochure shall be developed to provide physicians, parents, and teachers information on the Learning Gateway Project and the Learning Gateway Centers, as well as all the programs, facilities, resources, and services available within each identified service area.

3. The website shall provide ready access for parents, physicians, teachers, and caretakers to information regarding the Learning Gateway Project and the Learning Gateway Centers for the purpose of referral and information on the learning disabilities addressed by the project. It shall itemize the resources available for intervention, diagnosis, and treatment, as well as regional listings of available related services and providers, indexed by learning disability.

(3)(a) The Learning Gateway Centers shall develop a network of all available services within each identified service area and submit the list and description to the Learning Gateway Project for inclusion in the website for the programs available to parents, physicians, and other health care providers. The Learning Gateway Centers shall use the list to refer parents to programs or facilities appropriate to meet their child's needs. For the purpose of serving areas of the state where no services currently exist or where the private providers lack the expertise to diagnose and provide strategies for improved learning, each participating university may use Learning Gateway Project funds to expand the current services provided through the university to set up clinics on site or at other locations to diagnose learning disabilities while providing students an opportunity to intern. Participating universities with comprehensive schools that can diagnose difficult problems may expand existing clinics to serve as a resource for children with specialized problems and their parents when services are not available from public or private local providers within the regional Learning Gateway Center. The regional Learning Gateway Centers may provide services to parents, physicians, and other health care providers where there is a gap in the service available from public and private providers. The Learning Gateway Centers may provide direct service to children who do not receive coverage under state, federal, or private insurance or may contract for specialty services. Centers may also provide for services to children whose parents are dissatisfied with their present services.

(b) Learning Gateway Centers shall be the single point of access for screening, assessment, integration of services, linkages of providers, referrals, and services required to address the needs of the children and families, using faculty, graduate students, and other professionals as needed. The Learning Gateway Centers shall provide to parents and physicians a one-stop referral center to provide accurate information on public and private professionals who can assist in determining the physical, emotional, nutritional, environmental, and mental factors that may be interfering with learning and normal development.

(c) Staff of the Learning Gateway Centers must be knowledgeable about child development, early identification of learning disabilities, access to needed health care services and health insurance coverage for such services, and state and federal funds available for services in the local area. If the following services are not provided by existing service systems, with the permission of the parent, the Learning Gateway Centers shall:

1. Conduct appropriate screening or refer for such services.

2. Develop family resource plans.

3. Make referrals for needed services and assist families in the application process.

4. Provide educational and training classes for parents, teachers, and caretakers.

(d) The specific services and supports provided by the Learning Gateway Centers may include:

1. Speech and language therapy that is appropriate.

2. Comprehensive medical screening and referral.

3. Referral as needed for family therapy, other mental health services, and treatment programs.

4. Therapy for learning differences in reading and math, and attention to subject material for children in grades K-3.

5. Referral for services pursuant to Part B or Part C of the Individuals with Disabilities Education Act, as required.

(e) The Learning Gateway Centers shall designate a central information and referral access phone number for each center, to be used to improve access to local supports and services for children and their families.

(f) When results of screening suggest developmental problems, potential learning problems, or learning disabilities, the intervention program, with permission of the parent, shall refer the child to the regional Learning Gateway Center for coordination of further assessment. The Learning Gateway Center shall make referrals to the appropriate entities within the service system.

(g) The Learning Gateway Centers shall provide regional training and updates concerning effective instructional and behavioral practices and interventions based on advances in the field and for encouraging researchers to regularly guide practitioners in designing and implementing research-based practices.

(4) By January 2003, the Learning Gateway Project shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education on the progress, success, and integration of services; the number, types, and outcomes of children served by the Learning Gateway Centers; and the number and types of referrals made through the project.

(5) The Learning Gateway Project must develop a comprehensive list of services and funding sources available to provide services for children. Relevant state agencies shall assist the Learning Gateway Project in securing state and federal waivers as appropriate.

(6) This project shall be implemented subject to the General Appropriations Act.

Section 2. *By October 15, 2001, the Florida Department of Education shall finalize all administrative rule revisions necessary to properly implement the 1997 amendments to the Individuals with Disabilities Education Act.*

Section 3. *By October 15, 2001, the Florida Department of Education shall report to the Governor, the Speaker of the House of Representatives, and the President of the Senate the additional rule authority it needs, if any, to implement the Individuals with Disabilities Education Act.*

Section 4. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2
remove the entire title from the bill

and insert in lieu thereof: An act relating to learning disabilities in young children; creating s. 240.5311, F.S.; creating the Learning Gateway Project to provide grants to universities to establish a statewide consortium to address learning disabilities; providing for administration of the project; providing project functions; providing for regional Learning Gateway Centers and specifying services of the centers; requiring a report; requiring an appropriation; requiring the Department of Education to finalize all rules by a date certain to implement the Individuals with Disabilities Education Act; requiring the Department of Education to report by a specific date on needed rule authority to implement the Individuals with Disabilities Education Act; providing an effective date.

Rep. Harrell moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 1193—A bill to be entitled An act relating to education; amending s. 121.091, F.S.; eliminating the requirement that certain instructional personnel make an election to participate in the Deferred Retirement Option Program within 12 months after reaching normal retirement date; amending s. 228.041, F.S.; revising the definition of “other instructional staff” to include adjunct educators; amending s. 230.23, F.S.; authorizing a review by a principal prior to reassigning a teacher; deleting provisions relating to salary supplements provided to teachers selected to teach at certain low-performing schools; amending s. 231.095, F.S.; revising provisions relating to assignment of teaching duties out-of-field; amending s. 231.096, F.S.; requiring assistance in accessing resources for teachers teaching out-of-field; amending s. 231.15, F.S.; deleting provision of part-time certificate for athletic coach; creating an athletic coaching certificate; amending s. 231.17, F.S.; authorizing continued employment under specified circumstances; authorizing the use of an approved alternative certification program by a school district other than the school district that developed the program, upon notification to the department and approval of any modifications; creating s. 231.1726, F.S.; providing for certification of adjunct educators; amending s. 231.262, F.S.; requiring each district school board to develop policies and procedures relating to the reporting of complaints against teachers and administrators; providing criteria for policies and procedures; charging the superintendent of schools with knowledge of such policies and procedures; specifying conditions for penalty against superintendent; authorizing the temporary suspension of a teaching certificateholder pending the completion of proceedings in order to protect the health, safety, and welfare of students; correcting cross references to conform; amending s. 231.36, F.S.; including adjunct educators in provisions relating to contracts with instructional staff; requiring a school board to recognize and accept years of satisfactory performance for purposes of pay; providing an exemption; amending s. 231.6135, F.S.; exempting regional educational consortia from certain requirements to become eligible for grants to create professional development academies; amending s. 231.625, F.S.; requiring the Department of Education to develop and implement a system for posting teaching vacancies, establish a database of teacher applicants, develop a long-range plan for educator recruitment and retention, and identify best practices for retaining high-quality teachers; deleting requirements that the department develop standardized resumes for teacher applicant data and review and recommend to the Legislature and school districts incentives for attracting teachers to Florida; amending s. 231.700, F.S.; revising the Florida Mentor Teacher School Pilot Program to conform terminology; clarifying requirements for mentor teachers; amending s. 236.08106, F.S.; clarifying requirements relating to the amount of required mentoring or related services for receipt of an Excellent Teaching Program bonus; amending s. 231.261, F.S.; correcting a cross reference; amending ss. 230.2305, 231.045, 231.1725, 231.471, and 232.435, F.S., relating to standards for staff of prekindergarten early intervention programs, periodic criminal history record checks, and employment of specified teachers, part-time teachers, and athletic trainers; revising provisions to include adjunct educators; amending s. 240.529, F.S.; establishing teacher education pilot programs for high-achieving students; providing an effective date.

—was read the second time by title.

Representative(s) Andrews offered the following:

(Amendment Bar Code: 610273)

Amendment 1—On page 12, line 20
remove from the bill: all said lines

and insert in lieu thereof: *resources that may assist teachers who are teaching*

Rep. Andrews moved the adoption of the amendment, which was adopted.

Representative(s) Arza offered the following:

(Amendment Bar Code: 305543)

Amendment 2—On page 16, lines 11 through 14,
remove from the bill: all of said lines

and insert in lieu thereof:

used for part-time teaching positions. The intent of this provision is to allow school districts to tap the wealth of talent and expertise represented in Florida's citizens who may wish to teach part-time in a Florida public school by permitting school districts to issue adjunct certificates. Adjunct certificateholders should be used as a strategy to reduce the teacher shortage, thus, adjunct certificateholders should supplement a school's instructional staff, not supplant it. Each school principal shall assign an experienced peer mentor to assist the adjunct teaching certificateholder during the certificateholder's first year of teaching and an adjunct certificateholder may participate in a district's new teacher training program. District school boards shall provide the adjunct

Rep. Arza moved the adoption of the amendment, which was adopted.

Representative(s) Andrews offered the following:

(Amendment Bar Code: 294871)

Amendment 3 (with title amendment)—On page 23, between lines 22 and 23, of the bill

insert: *(l) Develop, in consultation with Workforce Florida, Inc., and the Agency for Workforce Innovation, created pursuant to ss. 445.004 and 20.50, respectively, a plan for accessing and identifying available resources in the state's workforce system for the purpose of enhancing teacher recruitment and retention. The plan shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and each school district no later than August 1, 2001.*

And the title is amended as follows:

On page 2, lines 28-30
remove from the title of the bill: all of said lines

and insert in lieu thereof: educator recruitment and retention, identify best practices for retaining high quality teachers, and develop a plan in consultation with Workforce Florida, Inc., and the Agency for Workforce Innovation for teacher recruitment and retention;

Rep. Andrews moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Consideration of **HB 1535** was temporarily postponed under Rule 11.10.

HB 1655—A bill to be entitled An act relating to transferring and reassigning divisions, functions, and responsibilities of the Department of Labor and Employment Security; providing for a type two transfer of the Division of Workers' Compensation and the Office of the Judges of Compensation Claims to the Department of Insurance; providing for a type two transfer of workers' compensation medical services to the Agency for Health Care Administration; providing for a type two transfer of workers' compensation rehabilitation and reemployment services to the Department of Education; providing for a type two transfer of the administration of child labor laws to the Department of Business and Professional Regulation; providing for a type two transfer of certain functions of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security relating to labor organizations and migrant and farm labor registration to the Department of Business and Professional Regulation; providing for a type two transfer of other workplace regulation functions to the Department of Business and Professional Regulation; providing for the transfer of the Unemployment Appeals Commission to the Agency for Workforce Innovation by a type two transfer; providing for the transfer of the Public Employees Relations Commission to the Department of Management Services by a type two transfer; providing for the transfer of the Office of Information Systems to the State Technology Office by a type two transfer; authorizing the Department of Banking and Finance, in conjunction with the Office of the Attorney General, to use unexpended funds to settle certain claims; providing for the continuation of contracts or agreements of the Department of Labor and Employment Security; providing for a successor department, agency, or entity to be substituted for the Department of Labor and Employment Security as a party in interest in pending proceedings; exempting specified state agencies, on a temporary basis, from provisions relating to procurement of property and services and leasing of space; authorizing specified state agencies to develop temporary emergency rules relating to the implementation of this act; amending s. 20.13, F.S.; providing for a Division of Workers' Compensation in the Department of Insurance; amending s. 440.02, F.S.; providing a definition for the term "agency"; conforming definitions of "department" and "division" to the transfer of the Division of Workers' Compensation to the Department of Insurance; amending ss. 440.102 and 440.125, F.S.; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.13, F.S., relating to medical services and supplies under the workers' compensation law; reassigning certain functions from the Division of Workers' Compensation to the Agency for Health Care Administration; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.15, F.S.; providing for the agency to participate in the establishment and use of a uniform permanent impairment rating schedule; correcting a cross reference; amending s. 440.207, F.S.; conforming a departmental reference; amending s. 440.25, F.S.; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.385, F.S.; deleting obsolete provisions; conforming departmental references relating to the Florida Self-Insurance Guaranty Association, Inc.; correcting a cross reference; amending s. 440.44, F.S.; conforming provisions; amending s. 440.4416, F.S.; reassigning the Workers' Compensation Oversight Board to the Department of Insurance; amending s. 440.45, F.S.; reassigning the Office of the Judges of Compensation Claims to the Department of Insurance; amending s. 440.49, F.S.; reassigning responsibility for a report on the Special Disability Trust Fund to the Department of Insurance; amending s. 440.491, F.S.; conforming references based on the transfer of rehabilitation and reemployment services to the Department of Education; amending ss. 440.525 and 440.59, F.S.; conforming agency references to reflect the transfer of programs from the Department of Labor and Employment Security to the Department of Insurance; amending s. 443.012, F.S.; providing for the Unemployment Appeals Commission to be created within the Agency for Workforce Innovation rather than the Department of Labor and Employment Security; conforming provisions; amending s. 443.036, F.S.; conforming the definition of "commission" to the transfer of the Unemployment Appeals Commission to the Agency for Workforce Innovation; amending s. 447.02, F.S.; conforming the definition of "department" to the transfer of the regulation of labor organizations to the Department of Business and Professional Regulation; amending s. 447.203, F.S.; clarifying the definition of professional employee; amending s. 447.205, F.S.; conforming provisions to reflect the transfer of the Public Employees Relations Commission to the Department of Management Services and deleting obsolete provisions; amending s. 447.208, F.S.; clarifying the procedure for appeals, charges, and petitions; amending s. 447.305, F.S., relating to the registration of employee organizations; providing for the Public Employees Relations Commission to share registration information with the Department of Insurance; amending s. 447.307, F.S.; authorizing the commission to modify existing bargaining units; amending s. 447.503, F.S.; specifying procedures when a party fails to appear for a hearing; amending s. 447.504, F.S.; authorizing the commission to stay certain procedures; amending s. 450.012, F.S.; conforming the definition of "department" to the transfer of the regulation of child labor to the Department of Business and Professional

Regulation; amending s. 450.191, F.S., relating to the duties of the Executive Office of the Governor with respect to migrant labor; conforming provisions to changes made by the act; amending s. 450.28, F.S.; conforming the definition of “department” to the transfer of the regulation of farm labor to the Department of Business and Professional Regulation; amending s. 627.0915, F.S.; conforming departmental references to changes made by the act; amending ss. 110.205, 112.19, 112.191, 121.125, 122.03, 238.06, 440.10, 440.104, and 440.14, F.S., to conform; repealing s. 20.171, F.S., relating to establishment and the authority and organizational structure of the Department of Labor and Employment Security; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on State Administration offered the following:

(Amendment Bar Code: 173793)

Amendment 1 (with directory language amendment)—On page 15, between lines 24 and 25

insert:

(3) The division may share any confidential and exempt information received under this chapter with the Agency for Health Care Administration in furtherance of the agency's official duties under 440.13 and 440.134, F.S. The agency shall maintain the confidential and exempt status of the information.

And the directory language is amended as follows:

On page 15, lines 13 and 14,
remove all said lines:

and insert in lieu thereof:

Section 5. Subsection (1) of section 440.125, Florida Statues, is amended and subsection (3) is added to read:

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 480209)

Amendment 2—On page 18, line 16 through page 19 line 17
remove from the bill: all of said lines

and insert in lieu thereof:

(4) NOTICE OF TREATMENT TO CARRIER; FILING WITH DIVISION.—

(a) Any health care provider providing necessary remedial treatment, care, or attendance to any injured worker shall submit treatment reports to the carrier in a format *and on forms* prescribed by the division *in consultation with the agency*. A claim for medical or surgical treatment is not valid or enforceable against such employer or employee, unless, by the close of the third business day following the first treatment, the physician providing the treatment furnishes to the employer or carrier a preliminary notice of the injury and treatment on forms prescribed by the division and, within 15 days thereafter, furnishes to the employer or carrier a complete report, and subsequent thereto furnishes progress reports, if requested by the employer or insurance carrier, at intervals of not less than 3 weeks apart or at less frequent intervals if requested on forms prescribed by the 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 *in consultation with the agency*. 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 *agency or the* division any additional information about the remedial treatment, care, and attendance that the *agency or 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. 456.057 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).

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 282129)

Amendment 3—On page 25, line 30 through page 26, line 15
remove from the bill: all of said lines

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 041035)

Amendment 4 (with directory language and title amendments)—On page 52, between lines 5 and 6

insert:

440.591 Administrative procedure; rulemaking authority.—

(1) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it *except as otherwise specified in this section*.

(2) The agency shall have the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of sections 440.13 and 440.134, F.S.

And the directory language is amended as follows:

On page 52, line 6

insert:

Section 18. Section 440.591, Florida Statues, is amended to read:

And the title is amended as follows:

On page 4, line 7,

insert after the semicolon: amending s. 440.591, F.S.; providing rulemaking authority;

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 490363)

Amendment 5 (with directory language amendment)—On page 72, between lines 11 and 12

insert:

All rules promulgated by the Department of Labor and Employment Security and authority thereof relating to the regulation of workers' compensation medical services are transferred to the Agency for Health Care Administration.

And the directory language is amended as follows:

On page 72, line 12

insert:

Section 41. is created to read:

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 313317)

Amendment 6 (with directory language amendment)—On page 57, line 5, through page 58, line 19,
remove from the bill: all of said lines,

And the directory language is amended as follows:

On page 56, lines 18 and 19,
remove: all of said lines,

and insert in lieu thereof:

Section 23. Subsection (1) of section 447.208, Florida Statutes, is amended to read:

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 325659)

Amendment 7 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *(1) The Division of Workers' Compensation of the Department of Labor and Employment Security is transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Department of Insurance, except as otherwise provided in this section. The transfers to the Department of Insurance shall include all resources, data, records, property, and unexpended balances of appropriations, allocations, or other funds. No personnel are transferred to the Department of Insurance. The employees of the Department of Labor and Employment Security's Division of Workers' Compensation, Office of the Secretary, Office of Administrative Services, and Office of General Counsel employed by the Department of Labor and Employment Security as of March 1, 2001 may be given hiring priority by the Department of Insurance, and at least 300 of these employees shall be offered employment by the Department of Insurance, effective October 1, 2001. To the extent feasible, the positions established by the Department of Insurance will be at pay grades comparable to the positions established by the Department of Labor and Employment Security based on the classification code and specifications of the positions for work to be performed at the Department of Insurance. Offers of employment to the 300 employees must be tendered no later than August 15, 2001. The Department of Labor and Employment Security shall offer, and if accepted provide, job placement assistance to those employees not offered employment by the Department of Insurance. After October 1, 2001, such assistance, upon request, shall be provided to these employees by the Agency for Workforce Innovation. The Department of Insurance shall determine the number of positions needed to administer the provisions of chapter 440, Florida Statutes. The number of positions the department determines is needed may not exceed the number of authorized positions and salary and benefits that was authorized for the Division of Workers' Compensation within the Department of Labor and Employment Security prior to the transfer. Upon transfer of the Division of Workers' Compensation, the number of required positions as determined by the department shall be authorized within the agency. The Department of Insurance is further authorized to reassign, reorganize, or otherwise transfer positions to appropriate administrative subdivisions within the department and to establish such regional offices as are necessary to properly enforce and administer its responsibilities under the Florida Insurance Code and chapter 440, Florida Statutes. The department may also enter into contracts with public or private entities to administer its duties and responsibilities associated with the transfer of the Division of Workers' Compensation. All existing contracts related to those functions that are transferred to the Department of Insurance are subject to cancellation or renewal upon review by the Department of Insurance.*

(2) Three senior attorney positions and one administrative assistant III position, and the related property and unexpended balances of appropriations, allocations, and other funds, are transferred from the Office of General Counsel of the Department of Labor and Employment Security to the Department of Insurance by a type two transfer, as defined in section 20.06(2), Florida Statutes.

(3) The Office of the Judges of Compensation Claims is transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Division of Administrative Hearings of the Department of Management Services.

(4) Four positions within the Division of Workers' Compensation of the Department of Labor and Employment Security responsible for coding or entering data contained within final orders issued by the judges of compensation claims are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Office of the Judges of Compensation Claims within the Division of Administrative Hearings of the Department of Management Services.

(5) Ten positions within the Division of Workers' Compensation of the Department of Labor and Employment Security responsible for receiving and preparing docketing orders for the petitions for benefits and for receiving and entering data related to the petitions for benefits are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Office of the Judges of Compensation Claims within the Division of Administrative Hearings of the Department of Management Services.

(6) Four positions within the Division of Workers' Compensation of the Department of Labor and Employment Security responsible for financial management, accounting, and budgeting for the Office of the Judges of Compensation Claims are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Office of the Judges of Compensation Claims within the Division of Administrative Hearings of the Department of Management Services.

(7) Twenty-nine full-time equivalent positions from the Division of Workers' Compensation of the Department of Labor and Employment Security and the records, property, and unexpended balances of appropriations, allocations, and other funds related to oversight of medical services in workers' compensation provider relations, dispute and complaint resolution, program evaluation, and data management are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Agency for Health Care Administration. However, the claims review functions and three-member panel shall not be so transferred and shall be retained by the Department of Insurance.

(8) All statutory powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Division of Workers' Compensation, Office of Medical Services and Rehabilitation, related to reemployment, training and education, obligations to rehire, and preferred worker requirements, consisting of 98 full-time equivalent positions, are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Education.

(9) Except as provided in this section, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which

support the activities and functions of the Division of Workers' Compensation are transferred by a type two transfer as defined in section 20.06(2), Florida Statutes, to the Department of Insurance. The Department of Insurance, in consultation with the Department of Labor and Employment Security, shall determine the number of positions needed for administrative support of the programs within the Division of Workers' Compensation as transferred to the Department of Insurance. The number of administrative support positions that the Department of Insurance determines is needed may not exceed the number of administrative support positions that was authorized for the Department of Labor and Employment Security for this purpose prior to the transfer. Upon transfer of the Division of Workers' Compensation, the number of required administrative support positions as determined by the Department of Insurance shall be authorized within the Department of Insurance.

(10) All the personnel, records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsections (7) and (8) to the Department of Education are transferred by a type two transfer as defined in section 20.06(2), Florida Statutes, to the Department of Education.

(11) The records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (7) to the Agency for Health Care Administration are transferred by a type two transfer as defined in section 20.06(2), Florida Statutes, to the Agency for Health Care Administration.

(12) Effective July 1, 2001, all powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Unemployment Appeals Commission relating to the commission's specified authority, powers, duties, and responsibilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Agency for Workforce Innovation.

(13) Effective July 1, 2001, all powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Public Employees Relations Commission relating to the commission's specified authority, powers, duties, and responsibilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Management Services.

(14) Effective July 1, 2001, the Office of Information Systems is transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the State Technology Office.

(15)(a) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (12) to the Agency for Workforce Innovation are transferred as provided in s. 20.06(2), Florida Statutes, to the Agency for Workforce Innovation.

(b) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (13) to the Department of Management Services are transferred as provided in s. 20.06(2), Florida Statutes, to the Department of Management Services.

(c) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (14) to the State Technology Office are transferred as provided in s. 20.06(2), Florida Statutes, to the State Technology Office.

(16) This act does not affect the validity of any judicial or administrative proceeding involving the Department of Labor and Employment Security, which is pending as of the effective date of any transfer under this act. The successor department, agency, or entity responsible for the program, activity, or function relative to the proceeding shall be substituted, as of the effective date of the applicable transfer under this act, for the Department of Labor and Employment Security as a party in interest in any such proceedings.

(17) Effective July 1, 2001, eleven full-time equivalent positions from the Division of Workers' Compensation of the Department of Labor and Employment Security, and the powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds related to the administration of child labor laws under chapter 450, Florida Statutes, are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Business and Professional Regulation.

(18) Effective July 1, 2001, thirty full-time equivalent positions from the Compliance and Enforcement Program in the Office of the Secretary and Administrative Services and one senior attorney and one administrative secretary from the Office of General Counsel in the Office of the Secretary and Administrative Services, and the powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Office of the Secretary and Administrative Services of the Department of Labor and Employment Security related to the regulation of labor organizations under chapter 447, Florida Statutes, and the administration of migrant labor and farm labor laws under chapter 450, Florida Statutes, are transferred by a type two transfer, as defined in section 20.06 (2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Business and Professional Regulation.

(19) Effective July 1, 2001, any other powers, duties, functions, rules, records, property, and unexpended balances of appropriations, allocations, and other funds of the Department of Labor and Employment Security not otherwise transferred by this act, relating to workplace regulation and enforcement, including, but not limited to, those under chapter 448, Florida Statutes, are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Business and Professional Regulation.

(20) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsections (17), (18), and (19) to the Department of Business and Professional Regulation are transferred as provided in section 20.06(2), Florida Statutes, to the Department of Business and Professional Regulation.

(21) Notwithstanding any other provision of law, any binding contract or interagency agreement existing on or before October 1, 2001, between the Department of Labor and Employment Security, or an entity or agent of the department, and any other agency, entity, or person shall continue as a binding contract or agreement for the remainder of the term of such contract or agreement with the successor department, agency, or entity responsible for the program, activity, or functions relative to the contract or agreement.

Section 2. Paragraph (k) is added to subsection (2) of section 20.13, Florida Statutes, to read:

20.13 Department of Insurance.—There is created a Department of Insurance.

(2) The following divisions of the Department of Insurance are established:

(k) Division of Workers' Compensation.

Section 3. *Section 20.171, Florida Statutes, is repealed.*

Section 4. Paragraph (1) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, the Department of Children and Family Services, and the Department of Corrections that are assigned primary duties of serving as the superintendent or assistant superintendent, or warden or assistant warden, of an institution; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; ~~those positions described in s. 20.171 as included in the Senior Management Service;~~ and positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 5. Section 440.015, Florida Statutes, is amended to read:

440.015 Legislative intent.—It is the intent of the Legislature that the Workers' Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful reemployment at a reasonable cost to the employer. It is the specific intent of the Legislature that workers' compensation cases shall be decided on their merits. The workers' compensation system in Florida is based on a mutual renunciation of common-law rights and defenses by employers and employees alike. In addition, it is the intent of the Legislature that the facts in a workers' compensation case are not to be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Additionally, the Legislature hereby declares that disputes concerning the facts in workers' compensation cases are not to be given a broad liberal construction in favor of the employee on the one hand or of the employer on the other hand, and the laws pertaining to workers' compensation are to be construed in accordance with the basic principles of statutory construction and not liberally in favor of either employee or employer. It is the intent of the Legislature to ensure the prompt delivery of benefits to the injured worker. Therefore, an efficient and self-executing system must be created which is not an economic or administrative burden. The Division of Workers' Compensation *of the Department of Insurance, the Department of Education, and the Agency for Health Care Administration* shall administer the Workers' Compensation Law in a manner *that* ~~which~~ facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments.

Section 6. Subsections (11), (13), and (14) of section 440.02, Florida Statutes, are amended, and subsection (40) is added to that section, to read:

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

(11) "Department" means the Department of *Insurance* ~~Labor and Employment Security~~.

(13) "Division" means the Division of Workers' Compensation of the Department of *Insurance* ~~Labor and Employment Security~~.

(14)(a) "Employee" means any person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(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 *department* ~~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 *department* ~~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 *department* ~~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 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 *department* ~~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 *department* ~~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 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 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 *department* ~~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.

(40) "Agency" means the Agency for Health Care Administration.

Section 7. Section 440.021, Florida Statutes, is amended to read:

440.021 Exemption of workers' compensation from chapter 120.—Workers' compensation adjudications by judges of compensation claims are exempt from chapter 120, and no judge of compensation claims shall be considered an agency or a part thereof. Communications of the result of investigations by the *department* ~~division~~ pursuant to s. 440.185(4) are exempt from chapter 120. In all instances in which the *department* ~~division~~ institutes action to collect a penalty or interest which may be due pursuant to this chapter, the penalty or interest shall be assessed without hearing, and the party against which such penalty or interest is assessed shall be given written notice of such assessment and shall have the right to protest within 20 days of such notice. Upon receipt of a timely notice of protest and after such investigation as may be necessary, the *department* ~~division~~ shall, if it agrees with such protest, notify the protesting party that the assessment has been revoked. If the *department* ~~division~~ does not agree with the protest, it shall refer the matter to the judge of compensation claims for determination pursuant to s. 440.25(2)-(5). Such action of the *department* ~~division~~ is exempt from the provisions of chapter 120.

Section 8. Section 440.05, Florida Statutes, is amended to read:

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

(1) Each corporate officer who elects not to accept the provisions of this chapter or who, after electing such exemption, revokes that exemption shall mail to the *department* ~~division~~ in Tallahassee notice to such effect in accordance with a form to be prescribed by the *department* ~~division~~.

(2) Each sole proprietor or partner who elects to be included in the definition of "employee" or who, after such election, revokes that election must mail to the *department* ~~division~~ in Tallahassee notice to such effect, in accordance with a form to be prescribed by the *department* ~~division~~.

(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 *department* ~~division~~ on a form prescribed by the *department* ~~division~~ notice of election to be exempt from the provisions of this chapter must be notarized and under oath. The notice of election to be exempt which is submitted to the *department* ~~division~~ by the sole proprietor, partner, or officer of a corporation must list the name, federal tax identification number, social security number, all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption, a copy of relevant documentation as to employment status filed with the Internal Revenue Service as specified by the *department* ~~division~~, a copy of the relevant occupational license in the primary jurisdiction of the business, and, for corporate officers and partners, the registration number of the corporation or partnership filed with the Division of Corporations of the Department of State. The notice of election to be exempt 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 and the additional documentation required by this section. In addition, the notice of election to be exempt 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, receipt of all application fees, and a determination by the *department* ~~division~~ that the notice meets the requirements of this subsection, the *department* ~~division~~ shall issue a certification of the election to the sole proprietor, partner, or officer, unless the *department* ~~division~~ determines that the information contained in the notice is invalid. The *department* ~~division~~ shall revoke a certificate of election to be exempt from coverage upon a determination by the *department* ~~division~~ that the person does not meet the requirements for exemption or that the information contained in the notice of election to be exempt is invalid. 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. Upon filing a notice of revocation of election, a sole proprietor, partner, or officer who is a subcontractor must notify her or his contractor. Upon revocation of a certificate of election of exemption by the *department* ~~division~~, the *department* ~~division~~ shall notify the workers' compensation carriers identified in the request for exemption.

(4) The notice of election to be exempt from the provisions of this chapter must contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive the *department* ~~division~~ or any employer or employee, insurance company, or purposes program, files a notice of election to be exempt containing any false or misleading information is guilty of a felony of the third degree." Each person filing a notice of election to be exempt shall personally sign the notice and attest that he or she has reviewed, understands, and acknowledges the foregoing notice.

(5) A notice given under subsection (1), subsection (2), or subsection (3) shall become effective when issued by the *department* ~~division~~ or 30 days after an application for an exemption is received by the *department* ~~division~~, whichever occurs first. However, if an accident or occupational disease occurs less than 30 days after the effective date of the insurance policy under which the payment of compensation is secured or the date the employer qualified as a self-insurer, such notice is effective as of 12:01 a.m. of the day following the date it is mailed to the *department* ~~division~~ in Tallahassee.

(6) A construction industry certificate of election to be exempt which is issued in accordance with this section shall be valid for 2 years after the effective date stated thereon. Both the effective date and the expiration date must be listed on the face of the certificate by the *department* ~~division~~. The construction industry certificate must expire at midnight, 2 years from its issue date, as noted on the face of the exemption certificate. Any person who has received from the *department* ~~division~~ a construction industry certificate of election to be exempt which is in effect on December 31, 1998, shall file a new notice of election to be exempt by the last day in his or her birth month following December 1, 1998. A construction industry certificate of election to be exempt may be revoked before its expiration by the sole proprietor, partner, or officer for whom it was issued or by the *department* ~~division~~ for the reasons stated in this section. At least 60 days prior to the expiration date of a construction industry certificate of exemption issued after December 1, 1998, the *department* ~~division~~ shall send notice of the expiration date and an application for renewal to the certificateholder at the address on the certificate.

(7) Any contractor responsible for compensation under s. 440.10 may register in writing with the workers' compensation carrier for any subcontractor and shall thereafter be entitled to receive written notice from the carrier of any cancellation or nonrenewal of the policy.

(8)(a) The *department* ~~division~~ must assess a fee of $50 with each request for a construction industry certificate of election to be exempt or renewal of election to be exempt under this section.

(b) The funds collected by the *department* ~~division~~ shall be used to administer this section, to audit the businesses that pay the fee for compliance with any requirements of this chapter, and to enforce compliance with the provisions of this chapter.

(9) The *department* ~~division~~ may by rule prescribe forms and procedures for filing an election of exemption, revocation of election to be exempt, and notice of election of coverage for all employers and require specified forms to be submitted by all employers in filing for the election of exemption. The *department* ~~division~~ may by rule prescribe forms and procedures for issuing a certificate of the election of exemption.

Section 9. Paragraph (d) of subsection (7) of section 440.09, Florida Statutes, is amended to read:

440.09 Coverage.—

(7)

(d) The *department* ~~division~~ shall provide by rule for the authorization and regulation of drug-testing policies, procedures, and methods. Testing of injured employees shall not commence until such rules are adopted.

Section 10. Paragraphs (f) and (g) of subsection (1) of section 440.10, Florida Statutes, are amended to read:

440.10 Liability for compensation.—

(1)

(f) If an employer willfully fails to secure compensation as required by this chapter, the *department* ~~division~~ may assess against the employer a penalty not to exceed $5,000 for each employee of that employer who is classified by the employer as an independent contractor but who is found by the *department* ~~division~~ to not meet the criteria for an independent contractor that are set forth in s. 440.02.

(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(14)(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 *department* ~~division~~.

A sole proprietor, 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. An independent contractor who provides the general contractor with both an affidavit stating that he or she meets the requirements of s. 440.02(14)(d) and a certificate of exemption is not an employee under s. 440.02(14)(c) and may not recover benefits under this chapter. For purposes of determining the appropriate premium for workers' compensation coverage, carriers may not consider any person who meets the requirements of this paragraph to be an employee.

Section 11. Subsection (2), paragraph (a) of subsection (3), and paragraph (g) of subsection (7) of section 440.102, Florida Statutes, 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:

(2) DRUG TESTING.—An employer may test an employee or job applicant for any drug described in paragraph (1)(c). In order to qualify as having established a drug-free workplace program which affords an employer the ability to qualify for the discounts provided under s. 627.0915 and deny medical and indemnity benefits, under this chapter all drug testing conducted by employers shall be in conformity with the standards and procedures established in this section and all applicable rules adopted pursuant to this section. However, an employer does not have a legal duty under this section to request an employee or job applicant to undergo drug testing. If an employer fails to maintain a drug-free workplace program in accordance with the standards and procedures established in this section and in applicable rules, the

employer shall not be eligible for discounts under s. 627.0915. All employers qualifying for and receiving discounts provided under s. 627.0915 must be reported annually by the insurer to the *department* ~~division~~.

(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.

(7) EMPLOYER PROTECTION.—

(g) This section does not prohibit an employer from conducting medical screening or other tests required, permitted, or not disallowed by any statute, rule, or regulation for the purpose of monitoring exposure of employees to toxic or other unhealthy substances in the workplace or in the performance of job responsibilities. Such screening or testing is limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests. Such screening or testing need not be in compliance with the rules adopted by the Agency for Health Care Administration under this chapter or under s. 112.0455. A public employer may, through the use of an unbiased selection procedure, conduct random drug tests of employees occupying safety-sensitive or special-risk positions if the testing is performed in accordance with drug-testing rules adopted by the Agency for Health Care Administration and the Department of *Insurance* ~~Labor and Employment Security~~. If applicable, random drug testing must be specified in a collective bargaining agreement as negotiated by the appropriate certified bargaining agent before such testing is implemented.

Section 12. Section 440.103, Florida Statutes, is amended to read:

440.103 Building permits; identification of minimum premium policy.—Except as otherwise provided in this chapter, every employer shall, as a condition to receiving a building permit, show proof that it has secured compensation for its employees under this chapter as provided in ss. 440.10 and 440.38. Such proof of compensation must be evidenced by a certificate of coverage issued by the carrier, a valid exemption certificate approved by the division *or the department*, or a copy of the employer's authority to self-insure and shall be presented each time the employer applies for a building permit. As provided in s. 627.413(5), each certificate of coverage must show, on its face, whether or not coverage is secured under the minimum premium provisions of rules adopted by rating organizations licensed by the Department of Insurance. The words "minimum premium policy" or equivalent language shall be typed, printed, stamped, or legibly handwritten.

Section 13. Paragraph (a) of subsection (2) of section 440.105, Florida Statutes, is amended to read:

440.105 Prohibited activities; reports; penalties; limitations.—

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

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

1. Coerce or attempt to coerce, as a precondition to employment or otherwise, an employee to obtain a certificate of election of exemption pursuant to s. 440.05.

2. Discharge or refuse to hire an employee or job applicant because the employee or applicant has filed a claim for benefits under this chapter.

3. Discharge, discipline, or take any other adverse personnel action against any employee for disclosing information to the *department* ~~division~~ or any law enforcement agency relating to any violation or suspected violation of any of the provisions of this chapter or rules promulgated hereunder.

4. Violate a stop-work order issued by the *department* ~~division~~ pursuant to s. 440.107.

Section 14. Subsections (3) and (4) of section 440.106, Florida Statutes, are amended to read:

440.106 Civil remedies; administrative penalties.—

(3) Whenever any group or individual self-insurer, carrier, rating bureau, or agent or other representative of any carrier or rating bureau is determined to have violated s. 440.105, the department ~~of Insurance~~ may revoke or suspend the authority or certification of any group or individual self-insurer, carrier, agent, or broker.

(4) The *department* ~~division~~ shall report any contractor determined in violation of requirements of this chapter to the appropriate state licensing board for disciplinary action.

Section 15. Section 440.107, Florida Statutes, is amended to read:

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

(1) The Legislature finds that the failure of an employer to comply with the workers' compensation coverage requirements under this chapter poses an immediate danger to public health, safety, and welfare. The Legislature authorizes the *department* ~~division~~ to secure employer compliance with the workers' compensation coverage requirements and authorizes the *department* ~~division~~ to conduct investigations for the purpose of ensuring employer compliance.

(2) The *department* ~~division~~ and its authorized representatives may enter and inspect any place of business at any reasonable time for the limited purpose of investigating compliance with workers' compensation coverage requirements under this chapter. Each employer shall keep true and accurate business records that contain such information as the *department* ~~division~~ prescribes by rule. The business records must contain information necessary for the *department* ~~division~~ to determine compliance with workers' compensation coverage requirements and must be maintained within this state by the business, in such a manner as to be accessible within a reasonable time upon request by the *department* ~~division~~. The business records must be open to inspection and be available for copying by the *department* ~~division~~ at any reasonable time and place and as often as necessary. The *department* ~~division~~ may require from any employer any sworn or unsworn reports, pertaining to persons employed by that employer, deemed necessary for the effective administration of the workers' compensation coverage requirements.

(3) In discharging its duties, the *department* ~~division~~ may administer oaths and affirmations, certify to official acts, issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary by the *department* ~~division~~ as evidence in order to ensure proper compliance with the coverage provisions of this chapter.

(4) If a person has refused to obey a subpoena to appear before the *department* ~~division~~ or its authorized representative and produce evidence requested by the *department* ~~division~~ or to give testimony about the matter that is under investigation, a court has jurisdiction to issue an order requiring compliance with the subpoena if the court has jurisdiction in the geographical area where the inquiry is being carried on or in the area where the person who has refused the subpoena is found, resides, or transacts business. Failure to obey such a court order may be punished by the court as contempt.

(5) Whenever the *department* ~~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 *department* ~~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 *department* ~~division~~ of having secured any necessary insurance or self-insurance and pays a civil penalty to the *department* ~~division~~, to be deposited by the *department* ~~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.

(6) The *department* ~~division~~ may file a complaint in the circuit court in and for Leon County to enjoin any employer, who has failed to secure compensation as required by this chapter, from employing individuals and from conducting business until the employer presents evidence satisfactory to the *department* ~~division~~ of having secured payment for compensation and pays a civil penalty to the *department* ~~division~~, to be deposited by the *department* ~~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.

(7) In addition to any penalty, stop-work order, or injunction, the *department* ~~division~~ may assess against any employer, who has failed to secure the payment of compensation as required by this chapter, a penalty in the amount of:

(a) Twice the amount the employer would have paid during periods it illegally failed to secure payment of compensation in the preceding 3-year period based on the employer's payroll during the preceding 3-year period; or

(b) One thousand dollars, whichever is greater.

Any penalty assessed under this subsection is due within 30 days after the date on which the employer is notified, except that, if the *department* ~~division~~ has posted a stop-work order or obtained injunctive relief against the employer, payment is due, in addition to those conditions set forth in this section, as a condition to relief from a stop-work order or an injunction. Interest shall accrue on amounts not paid when due at the rate of 1 percent per month.

(8) The *department* ~~division~~ may bring an action in circuit court to recover penalties assessed under this section, including any interest owed to the *department* ~~division~~ pursuant to this section. In any action brought by the *department* ~~division~~ pursuant to this section in which it prevails, the circuit court shall award costs, including the reasonable costs of investigation and a reasonable attorney's fee.

(9) Any judgment obtained by the *department* ~~division~~ and any penalty due pursuant to the service of a stop-work order or otherwise due under this section shall, until collected, constitute a lien upon the entire interest of the employer, legal or equitable, in any property, real or personal, tangible or intangible; however, such lien is subordinate to claims for unpaid wages and any prior recorded liens, and a lien created by this section is not valid against any person who, subsequent to such lien and in good faith and for value, purchases real or personal property from such employer or becomes the mortgagee on real or personal property of such employer, or against a subsequent attaching creditor, unless, with respect to real estate of the employer, a notice of the lien is recorded in the public records of the county where the real estate is located, and with respect to personal property of the employer, the notice is recorded with the Secretary of State.

(10) Any law enforcement agency in the state may, at the request of the *department* ~~division~~, render any assistance necessary to carry out the provisions of this section, including, but not limited to, preventing any employee or other person from remaining at a place of employment or job site after a stop-work order or injunction has taken effect.

(11) Actions by the *department* ~~division~~ under this section must be contested as provided in chapter 120. All civil penalties assessed by the *department* ~~division~~ must be paid into the Workers' Compensation Administration Trust Fund. The *department* ~~division~~ shall return any sums previously paid, upon conclusion of an action, if the *department* ~~division~~ fails to prevail and if so directed by an order of court or an administrative hearing officer. The requirements of this subsection may be met by posting a bond in an amount equal to twice the penalty and in a form approved by the *department* ~~division~~.

Section 16. Subsection (1) of section 440.108, Florida Statutes, is amended to read:

440.108 Investigatory records relating to workers' compensation employer compliance; confidentiality.—

(1) All investigatory records of the *department* ~~Division of Workers' Compensation~~ made or received pursuant to s. 440.107 and any records necessary to complete an investigation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or ceases to be active. For purposes of this section, an investigation is considered "active" while such investigation is being conducted by the *department* ~~division~~ with a reasonable, *good-faith* ~~good faith~~ belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the agency is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the agency or other administrative or law enforcement agency. After an investigation is completed or ceases to be active, records relating to the investigation remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution if disclosure would:

(a) Jeopardize the integrity of another active investigation;

(b) Reveal a trade secret, as defined in s. 688.002;

(c) Reveal business or personal financial information;

(d) Reveal the identity of a confidential source;

(e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or

(f) Reveal investigative techniques or procedures.

Section 17. Section 440.125, Florida Statutes, is amended to read:

440.125 Medical records and reports; identifying information in employee medical bills; confidentiality.—

(1) Any medical records and medical reports of an injured employee and any information identifying an injured employee in medical bills which are provided to the *department, agency, or Department of Education* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ pursuant to s. 440.13 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided by this chapter.

(2) The Legislature finds that it is a public necessity that an injured employee's medical records and medical reports and information identifying the employee in medical bills held by the *department, agency, or Department of Education* ~~Division of Workers' Compensation~~ pursuant to s. 440.13 be confidential and exempt from the public records law. Public access to such information is an invasion of the injured employee's right to privacy in that personal, sensitive information would be revealed, and public knowledge of such information could lead to discrimination against the employee by coworkers and others. Additionally, there is little utility in providing public access to such information in that the effectiveness and efficiency of the workers' compensation program can be otherwise adequately monitored and evaluated.

(3) The department may share any confidential and exempt information received pursuant to s. 440.13 with the Agency for Health Care Administration in furtherance of the agency's official duties under ss. 440.13 and 440.134. The agency shall maintain the confidential and exempt status of the information.

Section 18. Section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

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

(a) "Alternate medical care" means a change in treatment or health care provider.

(b) "Attendant care" means care rendered by trained professional attendants which is beyond the scope of household duties. Family members may provide nonprofessional attendant care, but may not be compensated under this chapter for care that falls within the scope of household duties and other services normally and gratuitously provided by family members. "Family member" means a spouse, father, mother, brother, sister, child, grandchild, father-in-law, mother-in-law, aunt, or uncle.

(c) "Carrier" means, for purposes of this section, insurance carrier, self-insurance fund or individually self-insured employer, or assessable mutual insurer.

(d) "Catastrophic injury" means an injury as defined in s. 440.02.

(e) "Certified health care provider" means a health care provider who has been certified by the *agency* ~~division~~ or who has entered an agreement with a licensed managed care organization to provide treatment to injured workers under this section. Certification of such health care provider must include documentation that the health care provider has read and is familiar with the portions of the statute, impairment guides, and rules which govern the provision of remedial treatment, care, and attendance.

(f) "Compensable" means a determination by a carrier or judge of compensation claims that a condition suffered by an employee results from an injury arising out of and in the course of employment.

(g) "Emergency services and care" means emergency services and care as defined in s. 395.002.

(h) "Health care facility" means any hospital licensed under chapter 395 and any health care institution licensed under chapter 400.

(i) "Health care provider" means a physician or any recognized practitioner who provides skilled services pursuant to a prescription or under the supervision or direction of a physician and who has been certified by the *agency* ~~division~~ as a health care provider. The term "health care provider" includes a health care facility.

(j) "Independent medical examiner" means a physician selected by either an employee or a carrier to render one or more independent medical examinations in connection with a dispute arising under this chapter.

(k) "Independent medical examination" means an objective evaluation of the injured employee's medical condition, including, but not limited to, impairment or work status, performed by a physician or an expert medical advisor at the request of a party, a judge of compensation claims, or the *agency* ~~division~~ to assist in the resolution of a dispute arising under this chapter.

(l) "Instance of overutilization" means a specific inappropriate service or level of service provided to an injured employee.

(m) "Medically necessary" means any medical service or medical supply which is used to identify or treat an illness or injury, is appropriate to the patient's diagnosis and status of recovery, and is consistent with the location of service, the level of care provided, and applicable practice parameters. The service should be widely accepted among practicing health care providers, based on scientific criteria, and determined to be reasonably safe. The service must not be of an experimental, investigative, or research nature, except in those instances in which prior approval of the Agency for Health Care Administration has been obtained. The Agency for Health Care Administration shall adopt rules providing for such approval on a case-by-case basis when the service or supply is shown to have significant benefits to the recovery and well-being of the patient.

(n) "Medicine" means a drug prescribed by an authorized health care provider and includes only generic drugs or single-source patented drugs for which there is no generic equivalent, unless the authorized health care provider writes or states that the brand-name drug as defined in s. 465.025 is medically necessary, or is a drug appearing on the schedule of drugs created pursuant to s. 465.025(6), or is available at a cost lower than its generic equivalent.

(o) "Palliative care" means noncurative medical services that mitigate the conditions, effects, or pain of an injury.

(p) "Pattern or practice of overutilization" means repetition of instances of overutilization within a specific medical case or multiple cases by a single health care provider.

(q) "Peer review" means an evaluation by two or more physicians licensed under the same authority and with the same or similar specialty as the physician under review, of the appropriateness, quality, and cost of health care and health services provided to a patient, based on medically accepted standards.

(r) "Physician" or "doctor" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, each of whom must be certified by the *agency* ~~division~~ as a health care provider.

(s) "Reimbursement dispute" means any disagreement between a health care provider or health care facility and carrier concerning payment for medical treatment.

(t) "Utilization control" means a systematic process of implementing measures that assure overall management and cost containment of services delivered.

(u) "Utilization review" means the evaluation of the appropriateness of both the level and the quality of health care and health services provided to a patient, including, but not limited to, evaluation of the appropriateness of treatment, hospitalization, or office visits based on medically accepted standards. Such evaluation must be accomplished by means of a system that identifies the utilization of medical services based on medically accepted standards as established by medical consultants with qualifications similar to those providing the care under review, and that refers patterns and practices of overutilization to the *agency* ~~division~~.

(2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

(a) Subject to the limitations specified elsewhere in this chapter, the employer shall furnish to the employee such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require, including medicines, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus. Remedial treatment, care, and attendance, including work-hardening programs or pain-management programs accredited by the Commission on Accreditation of Rehabilitation Facilities or Joint Commission on the Accreditation of Health Organizations or pain-management programs affiliated with medical schools, shall be considered as covered treatment only when such care is given based on a referral by a physician as defined in this chapter. Each facility shall maintain outcome data, including work status at discharges, total program charges, total number of visits, and length of stay. ~~The department shall utilize such data and report to the President of the Senate and the Speaker of the House of Representatives regarding the efficacy and cost-effectiveness of such program, no later than October 1, 1994.~~ Medically necessary treatment, care, and attendance does not include chiropractic services in excess of 18 treatments or rendered 8 weeks beyond the date of the initial chiropractic treatment, whichever comes first, unless the carrier authorizes additional treatment or the employee is catastrophically injured.

(b) The employer shall provide appropriate professional or nonprofessional attendant care performed only at the direction and control of a physician when such care is medically necessary. The value of nonprofessional attendant care provided by a family member must be determined as follows:

1. If the family member is not employed, the per-hour value equals the federal minimum hourly wage.

2. If the family member is employed and elects to leave that employment to provide attendant or custodial care, the per-hour value of that care equals the per-hour value of the family member's former employment, not to exceed the per-hour value of such care available in the community at large. A family member or a combination of family members providing nonprofessional attendant care under this paragraph may not be compensated for more than a total of 12 hours per day.

(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.

(d) The carrier has the right to transfer the care of an injured employee from the attending health care provider if an independent medical examination determines that the employee is not making appropriate progress in recuperation.

(e) Except in emergency situations and for treatment rendered by a managed care arrangement, after any initial examination and diagnosis by a physician providing remedial treatment, care, and attendance, and before a proposed course of medical treatment begins, each insurer shall review, in accordance with the requirements of this chapter, the proposed course of treatment, to determine whether such treatment would be recognized as reasonably prudent. The review must be in accordance with all applicable workers' compensation practice parameters. The insurer must accept any such proposed course of treatment unless the insurer notifies the physician of its specific objections to the proposed course of treatment by the close of the tenth business day after notification by the physician, or a supervised designee of the physician, of the proposed course of treatment.

(3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

(a) As a condition to eligibility for payment under this chapter, a health care provider who renders services must be a certified health care provider and must receive authorization from the carrier before providing treatment. This paragraph does not apply to emergency care. The *agency* ~~division~~ shall adopt rules to implement the certification of health care providers. As a one-time prerequisite to obtaining certification, the *agency* ~~division~~ shall require each physician to demonstrate proof of completion of a minimum 5-hour course that covers the subject areas of cost containment, utilization control, ergonomics, and the practice parameters adopted by the *agency* ~~division~~ governing the physician's field of practice. The *agency* ~~division~~ shall coordinate with ~~the Agency for Health Care Administration,~~ the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Podiatric Medical Association, the Florida Optometric Association, the Florida Dental Association, and other health professional organizations and their respective boards as deemed necessary by the Agency for Health Care Administration in complying with this subsection. ~~No later than October 1, 1994, the division shall adopt rules regarding the criteria and procedures for approval of courses and the filing of proof of completion by the physicians.~~

(b) A health care provider who renders emergency care must notify the carrier by the close of the third business day after it has rendered such care. If the emergency care results in admission of the employee to a health care facility, the health care provider must notify the carrier by telephone within 24 hours after initial treatment. Emergency care is not compensable under this chapter unless the injury requiring emergency care arose as a result of a work-related accident. Pursuant to chapter 395, all licensed physicians and health care providers in this state shall be required to make their services available for emergency treatment of any employee eligible for workers' compensation benefits. To refuse to make such treatment available is cause for revocation of a license.

(c) A health care provider may not refer the employee to another health care provider, diagnostic facility, therapy center, or other facility without prior authorization from the carrier, except when emergency care is rendered. Any referral must be to a health care provider that has been certified by the *agency* ~~division~~, unless the referral is for emergency treatment.

(d) A carrier must respond, by telephone or in writing, to a request for authorization by the close of the third business day after receipt of the request. A carrier who fails to respond to a written request for authorization for referral for medical treatment by the close of the third business day after receipt of the request consents to the medical necessity for such treatment. All such requests must be made to the carrier. Notice to the carrier does not include notice to the employer.

(e) Carriers shall adopt procedures for receiving, reviewing, documenting, and responding to requests for authorization. Such procedures shall be for a health care provider certified under this section.

(f) By accepting payment under this chapter for treatment rendered to an injured employee, a health care provider consents to the jurisdiction of the *agency* ~~division~~ as set forth in subsection (11) and to the submission of all records and other information concerning such treatment to the *agency* ~~division~~ in connection with a reimbursement dispute, audit, or review as provided by this section. The health care provider must further agree to comply with any decision of the *agency* ~~division~~ rendered under this section.

(g) The employee is not liable for payment for medical treatment or services provided pursuant to this section except as otherwise provided in this section.

(h) The provisions of s. 456.053 are applicable to referrals among health care providers, as defined in subsection (1), treating injured workers.

(i) Notwithstanding paragraph (d), a claim for specialist consultations, surgical operations, physiotherapeutic or occupational therapy procedures, X-ray examinations, or special diagnostic laboratory tests that cost more than $1,000 and other specialty services that the *agency* ~~division~~ identifies by rule is not valid and reimbursable unless the services have been expressly authorized by the carrier, or unless the carrier has failed to respond within 10 days to a written request for authorization, or unless emergency care is required. The insurer shall not refuse to authorize such consultation or procedure unless the health care provider or facility is not authorized or certified or unless an expert medical advisor has determined that the consultation or procedure is not medically necessary or otherwise compensable under this chapter. Authorization of a treatment plan does not constitute express authorization for purposes of this section, except to the extent the carrier provides otherwise in its authorization procedures. This paragraph does not limit the carrier's obligation to identify and disallow overutilization or billing errors.

(j) Notwithstanding anything in this chapter to the contrary, a sick or injured employee shall be entitled, at all times, to free, full, and absolute choice in the selection of the pharmacy or pharmacist dispensing and filling prescriptions for medicines required under this chapter. It is expressly forbidden for the *agency* ~~division~~, an employer, or a carrier, or any agent or representative of the *agency* ~~division~~, an employer, or a carrier to select the pharmacy or pharmacist which the sick or injured employee must use; condition coverage or payment on the basis of the pharmacy or pharmacist utilized; or to otherwise interfere in the selection by the sick or injured employee of a pharmacy or pharmacist.

(4) NOTICE OF TREATMENT TO CARRIER; FILING WITH *DEPARTMENT* ~~DIVISION~~.—

(a) Any health care provider providing necessary remedial treatment, care, or attendance to any injured worker shall submit treatment reports to the carrier in a format prescribed by the *department in consultation with the agency* ~~division~~. A claim for medical or surgical treatment is not valid or enforceable against such employer or employee, unless, by the close of the third business day following the first treatment, the physician providing the treatment furnishes to the employer or carrier a preliminary notice of the injury and treatment on forms prescribed by the *department in consultation with the agency* ~~division~~ and, within 15 days thereafter, furnishes to the employer or carrier a complete report, and subsequent thereto furnishes progress reports, if requested by the employer or insurance carrier, at intervals of not less than 3 weeks apart or at less frequent intervals if requested on forms prescribed by the *department* ~~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 *department* ~~Division of Workers' Compensation~~ pursuant to rules adopted by the *department in consultation with the agency* ~~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 *department* ~~division~~ for the copies. Each such health care provider shall provide to the *agency or department* ~~division~~ any additional information about the remedial treatment, care, and attendance that the *agency or department* ~~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. 456.057 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 *agency* ~~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 *an agency* ~~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).

(c) The carrier may, at its election, contact the claimant directly to schedule a reasonable time for an independent medical examination. The carrier must confirm the scheduling agreement in writing within 5 days and notify claimant's counsel, if any, at least 7 days before the date upon which the independent medical examination is scheduled to occur. An attorney representing a claimant is not authorized to schedule independent medical evaluations under this subsection.

(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.

(e) No medical opinion other than the opinion of a medical advisor appointed by the judge of compensation claims or *agency* ~~division~~, an

independent medical examiner, or an authorized treating provider is admissible in proceedings before the judges of compensation claims.

(f) Attorney's fees incurred by an injured employee in connection with delay of or opposition to an independent medical examination, including, but not limited to, motions for protective orders, are not recoverable under this chapter.

(6) UTILIZATION REVIEW.—Carriers shall review all bills, invoices, and other claims for payment submitted by health care providers in order to identify overutilization and billing errors, and may hire peer review consultants or conduct independent medical evaluations. Such consultants, including peer review organizations, are immune from liability in the execution of their functions under this subsection to the extent provided in s. 766.101. If a carrier finds that overutilization of medical services or a billing error has occurred, it must disallow or adjust payment for such services or error without order of a judge of compensation claims or the *agency* ~~division~~, if the carrier, in making its determination, has complied with this section and rules adopted by the *agency* ~~division~~.

(7) UTILIZATION AND REIMBURSEMENT DISPUTES.—

(a) Any health care provider, carrier, or employer who elects to contest the disallowance or adjustment of payment by a carrier under subsection (6) must, within 30 days after receipt of notice of disallowance or adjustment of payment, petition the *agency* ~~division~~ to resolve the dispute. The petitioner must serve a copy of the petition on the carrier and on all affected parties by certified mail. The petition must be accompanied by all documents and records that support the allegations contained in the petition. Failure of a petitioner to submit such documentation to the *agency* ~~division~~ results in dismissal of the petition.

(b) The carrier must submit to the *agency* ~~division~~ within 10 days after receipt of the petition all documentation substantiating the carrier's disallowance or adjustment. Failure of the carrier to submit the requested documentation to the *agency* ~~division~~ within 10 days constitutes a waiver of all objections to the petition.

(c) Within 60 days after receipt of all documentation, the *agency* ~~division~~ must provide to the petitioner, the carrier, and the affected parties a written determination of whether the carrier properly adjusted or disallowed payment. The *agency* ~~division~~ must be guided by standards and policies set forth in this chapter, including all applicable reimbursement schedules, in rendering its determination.

(d) If the *agency* ~~division~~ finds an improper disallowance or improper adjustment of payment by an insurer, the insurer shall reimburse the health care provider, facility, insurer, or employer within 30 days, subject to the penalties provided in this subsection.

(e) The *agency* ~~division~~ shall adopt rules to carry out this subsection. The rules may include provisions for consolidating petitions filed by a petitioner and expanding the timetable for rendering a determination upon a consolidated petition.

(f) Any carrier that engages in a pattern or practice of arbitrarily or unreasonably disallowing or reducing payments to health care providers may be subject to one or more of the following penalties imposed by the *agency* ~~division~~:

1. Repayment of the appropriate amount to the health care provider.

2. An administrative fine assessed by the *agency* ~~division~~ in an amount not to exceed $5,000 per instance of improperly disallowing or reducing payments.

3. Award of the health care provider's costs, including a reasonable attorney's fee, for prosecuting the petition.

(8) PATTERN OR PRACTICE OF OVERUTILIZATION.—

(a) Carriers must report to the *agency* ~~division~~ all instances of overutilization including, but not limited to, all instances in which the carrier disallows or adjusts payment. The *agency* ~~division~~ shall determine whether a pattern or practice of overutilization exists.

(b) If the *agency* ~~division~~ determines that a health care provider has engaged in a pattern or practice of overutilization or a violation of this chapter or rules adopted by the *agency* ~~division~~, it may impose one or more of the following penalties:

1. An order of the *agency* ~~division~~ barring the provider from payment under this chapter;

2. Deauthorization of care under review;

3. Denial of payment for care rendered in the future;

4. Decertification of a health care provider certified as an expert medical advisor under subsection (9) or of a rehabilitation provider certified under s. 440.49;

5. An administrative fine assessed by the *agency* ~~division~~ in an amount not to exceed $5,000 per instance of overutilization or violation; and

6. Notification of and review by the appropriate licensing authority pursuant to s. 440.106(3).

(9) EXPERT MEDICAL ADVISORS.—

(a) The *agency* ~~division~~ shall certify expert medical advisors in each specialty to assist the *agency* ~~division~~ and the judges of compensation claims within the advisor's area of expertise as provided in this section. The *agency* ~~division~~ shall, in a manner prescribed by rule, in certifying, recertifying, or decertifying an expert medical advisor, consider the qualifications, training, impartiality, and commitment of the health care provider to the provision of quality medical care at a reasonable cost. As a prerequisite for certification or recertification, the *agency* ~~division~~ shall require, at a minimum, that an expert medical advisor have specialized workers' compensation training or experience under the workers' compensation system of this state and board certification or board eligibility.

(b) The *agency* ~~division~~ shall contract with or employ expert medical advisors to provide peer review or medical consultation to the *agency* ~~division~~ or to a judge of compensation claims in connection with resolving disputes relating to reimbursement, differing opinions of health care providers, and health care and physician services rendered under this chapter. Expert medical advisors contracting with the *agency* ~~division~~ shall, as a term of such contract, agree to provide consultation or services in accordance with the timetables set forth in this chapter and to abide by rules adopted by the *agency* ~~division~~, including, but not limited to, rules pertaining to procedures for review of the services rendered by health care providers and preparation of reports and recommendations for submission to the *agency* ~~division~~.

(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 *agency* ~~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 *agency* ~~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.

(e) An expert medical advisor is not liable under any theory of recovery for evaluations performed under this section without a showing

of fraud or malice. The protections of s. 766.101 apply to any officer, employee, or agent of the *agency* ~~division~~ and to any officer, employee, or agent of any entity with which the *agency* ~~division~~ has contracted under this subsection.

(f) If the *agency* ~~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 *agency* ~~division~~. The *agency* ~~division~~ may assess a penalty not to exceed $500 against any carrier that fails to timely compensate an advisor in accordance with this section.

(10) WITNESS FEES.—Any health care provider who gives a deposition shall be allowed a witness fee. The amount charged by the witness may not exceed $200 per hour. An expert witness who has never provided direct professional services to a party but has merely reviewed medical records and provided an expert opinion or has provided only direct professional services that were unrelated to the workers' compensation case may not be allowed a witness fee in excess of $200 per day.

(11) AUDITS BY *AGENCY FOR HEALTH CARE ADMINISTRATION* ~~DIVISION~~; JURISDICTION.—

(a) The *Agency for Health Care Administration* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ may investigate health care providers to determine whether providers are complying with this chapter and with rules adopted by the *agency* ~~division~~, whether the providers are engaging in overutilization, and whether providers are engaging in improper billing practices. If the *agency* ~~division~~ finds that a health care provider has improperly billed, overutilized, or failed to comply with *agency* ~~division~~ rules or the requirements of this chapter it must notify the provider of its findings and may determine that the health care provider may not receive payment from the carrier or may impose penalties as set forth in subsection (8) or other sections of this chapter. If the health care provider has received payment from a carrier for services that were improperly billed or for overutilization, it must return those payments to the carrier. The *agency* ~~division~~ may assess a penalty not to exceed $500 for each overpayment that is not refunded within 30 days after notification of overpayment by the *agency* ~~division~~ or carrier.

(b) The *department* ~~division~~ shall monitor and audit carriers*, as provided in s. 624.3161,* to determine if medical bills are paid in accordance with this section and *department* ~~division~~ rules. ~~Any employer, if self-insured, or carrier found by the division not to be within 90 percent compliance as to the payment of medical bills after July 1, 1994, must be assessed a fine not to exceed 1 percent of the prior year's assessment levied against such entity under s. 440.51 for every quarter in which the entity fails to attain 90-percent compliance.~~ The *department* ~~division~~ shall fine *or otherwise discipline* an employer or carrier, pursuant to *this chapter, the insurance code, or* rules adopted by the *department* ~~division, for each late payment of compensation that is below the minimum 90-percent performance standard. Any carrier that is found to be not in compliance in subsequent consecutive quarters must implement a medical-bill review program approved by the division, and the carrier is subject to disciplinary action by the Department of Insurance~~.

(c) The *agency* ~~division~~ has exclusive jurisdiction to decide any matters concerning reimbursement, to resolve any overutilization dispute under subsection (7), and to decide any question concerning overutilization under subsection (8), which question or dispute arises after January 1, 1994.

(d) The following *agency* ~~division~~ actions do not constitute agency action subject to review under ss. 120.569 and 120.57 and do not constitute actions subject to s. 120.56: referral by the entity responsible for utilization review; a decision by the *agency* ~~division~~ to refer a matter to a peer review committee; establishment by a health care provider or entity of procedures by which a peer review committee reviews the rendering of health care services; and the review proceedings, report, and recommendation of the peer review committee.

(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 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 *agency* ~~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, *the per diem rate for hospital inpatient stay,* or the maximum reimbursement allowance in the appropriate schedule, whichever is less.

(b) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price times 1.2 plus $4.18 for the dispensing fee, except where the carrier has contracted for a lower amount. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount. Where the employer or carrier has contracted for such services and the employee elects to obtain them through a provider not a party to the contract, the carrier shall reimburse at the schedule, negotiated, or contract price, whichever is lower.

(c) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. Until the three-member panel approves a uniform schedule of maximum reimbursement allowances and it becomes effective, all compensable charges for treatment, care, and attendance provided by physicians, ambulatory surgical centers, work-hardening programs, or pain programs shall be reimbursed at the lowest maximum reimbursement allowance across all 1992 schedules of maximum reimbursement allowances for the services provided regardless of the place of service. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers;

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; and

4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.

(13) REMOVAL OF PHYSICIANS FROM LISTS OF THOSE AUTHORIZED TO RENDER MEDICAL CARE.—The *agency* ~~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:

(a) Engaged in professional or other misconduct or incompetency in connection with medical services rendered under this chapter;

(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 *agency* ~~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;

(f) Self-referred in violation of this chapter or other laws of this state; or

(g) Engaged in a pattern of practice of overutilization or a violation of this chapter or rules adopted by the *agency* ~~division~~.

(14) PAYMENT OF MEDICAL FEES.—

(a) Except for emergency care treatment, fees for medical services are payable only to a health care provider certified and authorized to render remedial treatment, care, or attendance under this chapter. A health care provider may not collect or receive a fee from an injured employee within this state, except as otherwise provided by this chapter. Such providers have recourse against the employer or carrier for payment for services rendered in accordance with this chapter.

(b) Fees charged for remedial treatment, care, and attendance may not exceed the applicable fee schedules adopted under this chapter.

(c) Notwithstanding any other provision of this chapter, following overall maximum medical improvement from an injury compensable under this chapter, the employee is obligated to pay a copayment of $10 per visit for medical services. The copayment shall not apply to emergency care provided to the employee.

(15) PRACTICE PARAMETERS.—

(a) The Agency for Health Care Administration, in conjunction with the *department* ~~division~~ and appropriate health professional associations and health-related organizations shall develop and may adopt by rule scientifically sound practice parameters for medical procedures relevant to workers' compensation claimants. Practice parameters developed under this section must focus on identifying effective remedial treatments and promoting the appropriate utilization of health care resources. Priority must be given to those procedures that involve the greatest utilization of resources either because they are the most costly or because they are the most frequently performed. Practice parameters for treatment of the 10 top procedures associated with workers' compensation injuries including the remedial treatment of lower-back injuries must be developed by December 31, 1994.

(b) The guidelines may be initially based on guidelines prepared by nationally recognized health care institutions and professional organizations but should be tailored to meet the workers' compensation goal of returning employees to full employment as quickly as medically possible, taking into consideration outcomes data collected from managed care providers and any other inpatient and outpatient facilities serving workers' compensation claimants.

(c) Procedures must be instituted which provide for the periodic review and revision of practice parameters based on the latest outcomes data, research findings, technological advancements, and clinical experiences, at least once every 3 years.

(d) Practice parameters developed under this section must be used by carriers and the *agency* ~~division~~ in evaluating the appropriateness and overutilization of medical services provided to injured employees.

Section 19. Subsection (23) of section 440.134, Florida Statutes, is amended to read:

440.134 Workers' compensation managed care arrangement.—

(23) The agency shall immediately notify the Department of Insurance ~~and the Department of Labor and Employment Security~~ whenever it issues an administrative complaint or an order or otherwise initiates legal proceedings resulting in, or which may result in, suspension or revocation of an insurer's authorization.

Section 20. Subsection (3) of section 440.14, Florida Statutes, is amended to read:

440.14 Determination of pay.—

(3) The *department* ~~division~~ shall establish by rule a form which shall contain a simplified checklist of those items which may be included as "wage" for determining the average weekly wage.

Section 21. Subsections (11), (13), and (14) of section 440.02, Florida Statutes, are amended, and subsection (40) is added to that section, to read:

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

(11) "Department" means the Department of *Insurance* ~~Labor and Employment Security~~.

(13) "Division" means the Division of Workers' Compensation of the Department of *Insurance* ~~Labor and Employment Security~~.

(14)(a) "Employee" means any person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(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 *department* ~~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 *department* ~~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 *department* ~~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 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 *department* ~~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 *department* ~~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 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 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 *department* ~~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.

(40) "Agency" means the Agency for Health Care Administration.

Section 22. Section 440.15, Florida Statutes, is 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.—

(a) In case of total disability adjudged to be permanent, 66⅔ percent of the average weekly wages shall be paid to the employee during the continuance of such total disability.

(b) Only a catastrophic injury as defined in s. 440.02 shall, in the absence of conclusive proof of a substantial earning capacity, constitute

permanent total disability. Only claimants with catastrophic injuries are eligible for permanent total benefits. In no other case may permanent total disability be awarded.

(c) In cases of permanent total disability resulting from injuries that occurred prior to July 1, 1955, such payments shall not be made in excess of 700 weeks.

(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 shall be paid, instead of the compensation provided in paragraph (a), benefits pursuant to subsection (3). The *department* ~~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.

(e)1. The employer's or carrier's right to conduct vocational evaluations or testing pursuant to s. 440.491 continues even after the employee has been accepted or adjudicated as entitled to compensation under this chapter. This right includes, but is not limited to, instances in which such evaluations or tests are recommended by a treating physician or independent medical-examination physician, instances warranted by a change in the employee's medical condition, or instances in which the employee appears to be making appropriate progress in recuperation. This right may not be exercised more than once every calendar year.

2. The carrier must confirm the scheduling of the vocational evaluation or testing in writing, and must notify employee's counsel, if any, at least 7 days before the date on which vocational evaluation or testing is scheduled to occur.

3. Pursuant to an order of the judge of compensation claims, the employer or carrier may withhold payment of benefits for permanent total disability or supplements for any period during which the employee willfully fails or refuses to appear without good cause for the scheduled vocational evaluation or testing.

(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(11), 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 *department* ~~division~~ shall provide by rule for the periodic reporting to the *department* ~~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 *department* ~~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 *department* ~~division~~ in the manner prescribed by such rules.

b. The *department* ~~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.—

(a) In case of disability total in character but temporary in quality, 66⅔ percent of the average weekly wages shall be paid to the employee during the continuance thereof, not to exceed 104 weeks except as provided in this subsection, s. 440.12(1), and s. 440.14(3). Once the employee reaches the maximum number of weeks allowed, or the employee reaches the date of maximum medical improvement, whichever occurs earlier, temporary disability benefits shall cease and the injured worker's permanent impairment shall be determined.

(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).

(c) Temporary total disability benefits paid pursuant to this subsection shall include such period as may be reasonably necessary for training in the use of artificial members and appliances, and shall include such period as the employee may be receiving training and education under a program pursuant to s. 440.49(1). Notwithstanding s. 440.02(9), the date of maximum medical improvement for purposes of paragraph (3)(b) shall be no earlier than the last day for which such temporary disability benefits are paid.

(d) The *department* ~~division~~ shall, by rule, provide for the periodic reporting to the *department* ~~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.

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(a) Impairment benefits.—

1. Once the employee has reached the date of maximum medical improvement, impairment benefits are due and payable within 20 days after the carrier has knowledge of the impairment.

2. The three-member panel, in cooperation with the *department* ~~division~~, shall establish and use a uniform permanent impairment rating schedule. This schedule must be based on medically or scientifically demonstrable findings as well as the systems and criteria set forth in the American Medical Association's Guides to the Evaluation of Permanent Impairment; the Snellen Charts, published by American Medical Association Committee for Eye Injuries; and the

Minnesota Department of Labor and Industry Disability Schedules. The schedule should be based upon objective findings. The schedule shall be more comprehensive than the AMA Guides to the Evaluation of Permanent Impairment and shall expand the areas already addressed and address additional areas not currently contained in the guides. On August 1, 1979, and pending the adoption, by rule, of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971, 1988, by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof. For injuries after July 1, 1990, pending the adoption by *department* ~~division~~ rule of a uniform disability rating schedule, the Minnesota Department of Labor and Industry Disability Schedule shall be used unless that schedule does not address an injury. In such case, the Guides to the Evaluation of Permanent Impairment by the American Medical Association shall be used. Determination of permanent impairment under this schedule must be made by a physician licensed under chapter 458, a doctor of osteopathic medicine licensed under chapters 458 and 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, as appropriate considering the nature of the injury. No other persons are authorized to render opinions regarding the existence of or the extent of permanent impairment.

3. All impairment income benefits shall be based on an impairment rating using the impairment schedule referred to in subparagraph 2. Impairment income benefits are paid weekly at the rate of 50 percent of the employee's average weekly temporary total disability benefit not to exceed the maximum weekly benefit under s. 440.12. An employee's entitlement to impairment income benefits begins the day after the employee reaches maximum medical improvement or the expiration of temporary benefits, whichever occurs earlier, and continues until the earlier of:

a. The expiration of a period computed at the rate of 3 weeks for each percentage point of impairment; or

b. The death of the employee.

4. After the employee has been certified by a doctor as having reached maximum medical improvement or 6 weeks before the expiration of temporary benefits, whichever occurs earlier, the certifying doctor shall evaluate the condition of the employee and assign an impairment rating, using the impairment schedule referred to in subparagraph 2. Compensation is not payable for the mental, psychological, or emotional injury arising out of depression from being out of work. If the certification and evaluation are performed by a doctor other than the employee's treating doctor, the certification and evaluation must be submitted to the treating doctor, and the treating doctor must indicate agreement or disagreement with the certification and evaluation. The certifying doctor shall issue a written report to the *department* ~~division~~, the employee, and the carrier certifying that maximum medical improvement has been reached, stating the impairment rating, and providing any other information required by the *department by rule* ~~division~~. If the employee has not been certified as having reached maximum medical improvement before the expiration of 102 weeks after the date temporary total disability benefits begin to accrue, the carrier shall notify the treating doctor of the requirements of this section.

5. The carrier shall pay the employee impairment income benefits for a period based on the impairment rating.

6. The *department* ~~division~~ may by rule specify forms and procedures governing the method of payment of wage loss and impairment benefits for dates of accidents before January 1, 1994, and for dates of accidents on or after January 1, 1994.

(b) Supplemental benefits.—

1. All supplemental benefits must be paid in accordance with this subsection. An employee is entitled to supplemental benefits as provided in this paragraph as of the expiration of the impairment period, if:

a. The employee has an impairment rating from the compensable injury of 20 percent or more as determined pursuant to this chapter;

b. The employee has not returned to work or has returned to work earning less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment; and

c. The employee has in good faith attempted to obtain employment commensurate with the employee's ability to work.

2. If an employee is not entitled to supplemental benefits at the time of payment of the final weekly impairment income benefit because the employee is earning at least 80 percent of the employee's average weekly wage, the employee may become entitled to supplemental benefits at any time within 1 year after the impairment income benefit period ends if:

a. The employee earns wages that are less than 80 percent of the employee's average weekly wage for a period of at least 90 days;

b. The employee meets the other requirements of subparagraph 1.; and

c. The employee's decrease in earnings is a direct result of the employee's impairment from the compensable injury.

3. If an employee earns wages that are at least 80 percent of the employee's average weekly wage for a period of at least 90 days during which the employee is receiving supplemental benefits, the employee ceases to be entitled to supplemental benefits for the filing period. Supplemental benefits that have been terminated shall be reinstated when the employee satisfies the conditions enumerated in subparagraph 2. and files the statement required under subparagraph 5. Notwithstanding any other provision, if an employee is not entitled to supplemental benefits for 12 consecutive months, the employee ceases to be entitled to any additional income benefits for the compensable injury. If the employee is discharged within 12 months after losing entitlement under this subsection, benefits may be reinstated if the employee was discharged at that time with the intent to deprive the employee of supplemental benefits.

~~4. During the period that impairment income benefits or supplemental income benefits are being paid, the carrier has the affirmative duty to determine at least annually whether any extended unemployment or underemployment is a direct result of the employee's impairment. To accomplish this purpose, the division may require periodic reports from the employee and the carrier, and it may, at the carrier's expense, require any physical or other examinations, vocational assessments, or other tests or diagnoses necessary to verify that the carrier is performing its duty. Not more than once in each 12 calendar months, the employee and the carrier may each request that the division review the status of the employee and determine whether the carrier has performed its duty with respect to whether the employee's unemployment or underemployment is a direct result of impairment from the compensable injury.~~

4.~~5.~~ After the initial determination of supplemental benefits, the employee must file a statement with the carrier stating that the employee has earned less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment, stating the amount of wages the employee earned in the filing period, and stating that the employee has in good faith sought employment commensurate with the employee's ability to work. The statement must be filed quarterly on a form and in the manner prescribed by the *department* ~~division~~. The *department* ~~division~~ may modify the filing period as appropriate to an individual case. Failure to file a statement relieves the carrier of liability for supplemental benefits for the period during which a statement is not filed.

5.~~6.~~ The carrier shall begin payment of supplemental benefits not later than the seventh day after the expiration date of the impairment income benefit period and shall continue to timely pay those benefits. The carrier may request a mediation conference for the purpose of contesting the employee's entitlement to or the amount of supplemental income benefits.

6.~~7.~~ Supplemental benefits are calculated quarterly and paid monthly. For purposes of calculating supplemental benefits, 80 percent of the employee's average weekly wage and the average wages the

employee has earned per week are compared quarterly. For purposes of this paragraph, if the employee is offered a bona fide position of employment that the employee is capable of performing, given the physical condition of the employee and the geographic accessibility of the position, the employee's weekly wages are considered equivalent to the weekly wages for the position offered to the employee.

7.~~8.~~ Supplemental benefits are payable at the rate of 80 percent of the difference between 80 percent of the employee's average weekly wage determined pursuant to s. 440.14 and the weekly wages the employee has earned during the reporting period, not to exceed the maximum weekly income benefit under s. 440.12.

8.~~9.~~ The *department* ~~division~~ may by rule define terms that are necessary for the administration of this section and forms and procedures governing the method of payment of supplemental benefits for dates of accidents before January 1, 1994, and for dates of accidents on or after January 1, 1994.

(c) Duration of temporary impairment and supplemental income benefits.—The employee's eligibility for temporary benefits, impairment income benefits, and supplemental benefits terminates on the expiration of 401 weeks after the date of injury.

(4) TEMPORARY PARTIAL DISABILITY.—

(a) In case of temporary partial disability, compensation shall be equal to 80 percent of the difference between 80 percent of the employee's average weekly wage and the salary, wages, and other remuneration the employee is able to earn, as compared weekly; however, the weekly benefits may not exceed an amount equal to $66\frac{2}{3}$ percent of the employee's average weekly wage at the time of injury. In order to simplify the comparison of the preinjury average weekly wage with the salary, wages, and other remuneration the employee is able to earn, the *department* ~~division~~ may by rule provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods. The amount determined to be the salary, wages, and other remuneration the employee is able to earn shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment.

(b) Such benefits shall be paid during the continuance of such disability, not to exceed a period of 104 weeks, as provided by this subsection and subsection (2). Once the injured employee reaches the maximum number of weeks, temporary disability benefits cease and the injured worker's permanent impairment must be determined. The *department* ~~division~~ may by rule specify forms and procedures governing the method of payment of temporary disability benefits for dates of accidents before January 1, 1994, and for dates of accidents on or after January 1, 1994.

(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.

(b) If a compensable permanent impairment, or any portion thereof, is a result of aggravation or acceleration of a preexisting condition, or is the result of merger with a preexisting impairment, an employee eligible to receive impairment benefits under paragraph (3)(a) shall receive such benefits for the total impairment found to result, excluding the degree of impairment existing at the time of the subject accident or injury or which would have existed by the time of the impairment rating without the intervention of the compensable accident or injury. The degree of permanent impairment attributable to the accident or injury shall be compensated in accordance with paragraph (3)(a). As used in this paragraph, "merger" means the combining of a preexisting permanent impairment with a subsequent compensable permanent impairment which, when the effects of both are considered together, result in a permanent impairment rating which is greater than the sum of the two permanent impairment ratings when each impairment is considered individually.

(6) OBLIGATION TO REHIRE.—If the employer has not in good faith made available to the employee, within a 100-mile radius of the employee's residence, work appropriate to the employee's physical limitations within 30 days after the carrier notifies the employer of maximum medical improvement and the employee's physical limitations, the employer shall pay to the *department* ~~division~~ for deposit into the Workers' Compensation Administration Trust Fund a fine of $250 for every $5,000 of the employer's workers' compensation premium or payroll, not to exceed $2,000 per violation, as the *department* ~~division~~ requires by rule. The employer is not subject to this subsection if the employee is receiving permanent total disability benefits or if the employer has 50 or fewer employees.

(7) EMPLOYEE REFUSES EMPLOYMENT.—If an injured employee refuses employment suitable to the capacity thereof, offered to or procured therefor, such employee shall not be entitled to any compensation at any time during the continuance of such refusal unless at any time in the opinion of the judge of compensation claims such refusal is justifiable.

(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 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 dependents, 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.

(b) If the provisions of 42 U.S.C. s. 424(a) are amended to provide for a reduction or increase of the percentage of average current earnings that the sum of compensation benefits payable under this chapter and the benefits payable under 42 U.S.C. ss. 402 and 423 can equal, the amount of the reduction of benefits provided in this subsection shall be reduced or increased accordingly. The *department* ~~division~~ may by rule specify forms and procedures governing the method for calculating and administering the offset of benefits payable under this chapter and benefits payable under 42 U.S.C. ss. 402 and 423. The *department* ~~division~~ shall have first priority in taking any available social security offsets on dates of accidents occurring before July 1, 1984.

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (1)(f), 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 *department* ~~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 *department* ~~division~~ prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the *department* ~~division~~ nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (1)(f) 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 *department* ~~division~~ may prescribe by rule.

(d) If compensation benefits are reduced pursuant to this subsection, the minimum compensation provisions of s. 440.12(2) do not apply.

(11) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED OR IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION.—

(a) No compensation benefits shall be payable for temporary total disability or permanent total disability under this chapter for any week in which the injured employee has received, or is receiving, unemployment compensation benefits.

(b) If an employee is entitled to temporary partial benefits pursuant to subsection (4) and unemployment compensation benefits, such unemployment compensation benefits shall be primary and the temporary partial benefits shall be supplemental only, the sum of the two benefits not to exceed the amount of temporary partial benefits which would otherwise be payable.

(12) FULL-PAY STATUS FOR CERTAIN LAW ENFORCEMENT OFFICERS.—Any law enforcement officer as defined in s. 943.10(1), (2), or (3) who, while acting within the course of employment as provided by s. 440.091, is maliciously or intentionally injured and who thereby sustains a job-connected disability compensable under this chapter shall be carried in full-pay status rather than being required to use sick, annual, or other leave. Full-pay status shall be granted only after submission to the employing agency's head of a medical report which gives a current diagnosis of the employee's recovery and ability to return to work. In no case shall the employee's salary and workers' compensation benefits exceed the amount of the employee's regular salary requirements.

(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 23. Section 440.17, Florida Statutes, is amended to read:

440.17 Guardian for minor or incompetent.—Prior to the filing of a claim, the *department* ~~division~~, and after the filing of a claim, a judge of compensation claims, may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive compensation payable to such person under this chapter and to exercise the powers granted to or to perform the duties required of such person under this chapter; however, the judge of compensation claims, in the judge of compensation claims' discretion, may designate in the compensation award a person to whom payment of compensation may be paid for a minor or incompetent, in which event payment to such designated person shall discharge all liability for such compensation.

Section 24. Section 440.185, Florida Statutes, is 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 *department* ~~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 *department* ~~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 *department* ~~division~~ in Tallahassee. However, the *department* ~~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 job immediately after treatment and resume regular work.

(3) In addition to the requirements of subsection (2), the employer shall notify the *department* ~~division~~ within 24 hours by telephone or telegraph of any injury resulting in death. However, this special notice shall not be required when death results subsequent to the submission

to the *department* ~~division~~ of a previous report of the injury pursuant to subsection (2).

(4) Within 3 days after the employer or the employee informs the carrier of an injury the carrier shall mail to the injured worker an informational brochure approved by the *department* ~~division~~ which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. Annually, the carrier or its third-party administrator shall mail to the employer an informational brochure approved by the *department* ~~division~~ which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. All such informational brochures 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 commits a felony of the third degree."

(5) Additional reports with respect to such injury and of the condition of such employee, including copies of medical reports, funeral expenses, and wage statements, shall be filed by the employer or carrier to the *department* ~~division~~ at such times and in such manner as the *department* ~~division~~ may prescribe by rule. In carrying out ~~its~~ responsibilities under this chapter, the *department and agency* ~~division~~ may by rule provide for the obtaining of any medical records relating to medical treatment provided pursuant to this chapter, notwithstanding the provisions of ss. 90.503 and 395.3025(4).

(6) In the absence of a stipulation by the parties, reports provided for in subsection (2), subsection (4), or subsection (5) shall not be evidence of any fact stated in such report in any proceeding relating thereto, except for medical reports which, if otherwise qualified, may be admitted at the discretion of the judge of compensation claims.

(7) Every carrier shall file with the *department* ~~division~~ within 21 days after the issuance of a policy or contract of insurance such policy information as the *department* ~~division~~ may require, including notice of whether the policy is a minimum premium policy. Notice of cancellation or expiration of a policy as set out in s. 440.42(3) shall be mailed to the *department* ~~division~~ in accordance with rules *adopted* ~~promulgated~~ by the *department* ~~division~~ under chapter 120.

(8) When a claimant, employer, or carrier has the right, or is required, to mail a report or notice with required copies within the times prescribed in subsection (2), subsection (4), or subsection (5), such mailing will be completed and in compliance with this section if it is postmarked and mailed prepaid to the appropriate recipient prior to the expiration of the time periods prescribed in this section.

(9) Any employer or carrier who fails or refuses to timely send any form, report, or notice required by this section shall be subject to a civil penalty not to exceed $500 for each such failure or refusal. However, any employer who fails to notify the carrier of the injury on the prescribed form or by letter within the 7 days required in subsection (2) shall be liable for the civil penalty, which shall be paid by the employer and not the carrier. Failure by the employer to meet its obligations under subsection (2) shall not relieve the carrier from liability for the civil penalty if it fails to comply with subsections (4) and (5).

(10) The *department* ~~division~~ may by rule prescribe forms and procedures governing the submission of the change in claims administration report and the risk class code and standard industry code report for all lost time and denied lost-time cases. The *department* ~~division~~ may by rule define terms that are necessary for the effective administration of this section.

(11) Any information in a report of injury or illness filed pursuant to this section that would identify an ill or injured employee is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 25. Subsection (1) of section 440.191, Florida Statutes, is amended to read:

440.191 Employee Assistance and Ombudsman Office.—

(1)(a) In order to effect the self-executing features of the Workers' Compensation Law, this chapter shall be construed to permit injured employees and employers or the employer's carrier to resolve disagreements without undue expense, costly litigation, or delay in the provisions of benefits. It is the duty of all who participate in the workers' compensation system, including, but not limited to, carriers, service providers, health care providers, attorneys, employers, and employees, to attempt to resolve disagreements in good faith and to cooperate with the *department's* ~~division's~~ efforts to resolve disagreements between the parties. The *department* ~~division~~ may by rule prescribe definitions that are necessary for the effective administration of this section.

(b) An Employee Assistance and Ombudsman Office is created within the *department* ~~Division of Workers' Compensation~~ to inform and assist injured workers, employers, carriers, and health care providers in fulfilling their responsibilities under this chapter. The *department* ~~division~~ may by rule specify forms and procedures for administering requests for assistance provided by this section.

(c) The Employee Assistance and Ombudsman Office~~, Division of Workers' Compensation,~~ shall be a resource available to all employees who participate in the workers' compensation system and shall take all steps necessary to educate and disseminate information to employees and employers.

Section 26. Subsections (1) and (8) 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 believes she or he is entitled under this chapter shall serve by certified mail upon the employer, the employer's carrier, and the *department* ~~division~~ in Tallahassee a petition for benefits that meets the requirements of this section. The *department* ~~division~~ shall refer the petition to the Office of the Judges of Compensation Claims.

(8) Within 14 days after receipt of a petition for benefits by certified mail, the carrier must either pay the requested benefits without prejudice to its right to deny within 120 days from receipt of the petition or file a notice of denial with the *department* ~~division~~. The carrier must list all benefits requested but not paid and explain its justification for nonpayment in the notice of denial. A carrier that does not deny compensability in accordance with s. 440.20(4) is deemed to have accepted the employee's injuries as compensable, unless it can establish material facts relevant to the issue of compensability that could not have been discovered through reasonable investigation within the 120-day period. The carrier shall provide copies of the notice to the filing party, employer, and claimant by certified mail.

Section 27. Subsections (1), (3), and (4) of section 440.1925, Florida Statutes, are amended to read:

440.1925 Procedure for resolving maximum medical improvement or permanent impairment disputes.—

(1) Notwithstanding the limitations on carrier independent medical examinations in s. 440.13, an employee or carrier who wishes to obtain an opinion other than the opinion of the treating physician or *an agency* ~~a division~~ advisor on the issue of permanent impairment may obtain one independent medical examination, except that the employee or carrier who selects the treating physician is not entitled to obtain an alternate opinion on the issue of permanent impairment, unless the parties otherwise agree. This section and s. 440.13(2) do not permit an employee or a carrier to obtain an additional medical opinion on the issue of permanent impairment by requesting an alternate treating physician pursuant to s. 440.13.

(3) Disputes shall be resolved under this section when:

(a) A carrier that is entitled to obtain a determination of an employee's date of maximum medical improvement or permanent impairment has done so;

(b) The independent medical examiner's opinion on the date of the employee's maximum medical improvement and degree or permanent impairment differs from the opinion of the employee's treating physician on either of those issues, or from the opinion of the expert medical advisor appointed by the *agency* ~~division~~ on the degree of permanent impairment; or

(c) The carrier denies any portion of an employee's claim petition for benefits due to disputed maximum medical improvement or permanent impairment issues.

(4) Only opinions of the employee's treating physician, *an agency* ~~a division~~ medical advisor, or an independent medical examiner are admissible in proceedings before a judge of compensation claims to resolve maximum medical improvement or impairment disputes.

Section 28. Subsections (3), (6), (8), (9), (10), (11), (12), (15), (16), and (17) of section 440.20, Florida Statutes, are amended to read:

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

(3) Upon making payment, or upon suspension or cessation of payment for any reason, the carrier shall immediately notify the *department* ~~division~~ that it has commenced, suspended, or ceased payment of compensation. The *department* ~~division~~ may require such notification in any format *and manner* it deems necessary to obtain accurate and timely reporting.

(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 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 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 *department* ~~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 *department* ~~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.

(8) In addition to any other penalties provided by this chapter for late payment, if any installment of compensation is not paid when it becomes due, the employer, carrier, or servicing agent shall pay interest thereon at the rate of 12 percent per year from the date the installment becomes due until it is paid, whether such installment is payable without an order or under the terms of an order. The interest payment shall be the greater of the amount of interest due or $5.

(a) Within 30 days after final payment of compensation has been made, the employer, carrier, or servicing agent shall send to the *department* ~~division~~ a notice, in accordance with a ~~form~~ *format and manner* prescribed by the *department* ~~division~~, stating that such final payment has been made and stating the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid.

(b) If the employer, carrier, or servicing agent fails to so notify the *department* ~~division~~ within such time, the *department* ~~division~~ shall assess against such employer, carrier, or servicing agent a civil penalty in an amount not over $100.

(c) In order to ensure carrier compliance under this chapter *and provisions of the insurance code*, the *department* ~~division~~ shall monitor the performance of carriers *by conducting market conduct examinations, as provided in s. 624.3161, and conducting investigations, as provided in s. 624.317*. The *department* ~~division~~ shall *impose penalties on* ~~establish by rule minimum performance standards for~~ carriers ~~to ensure that a minimum of 90 percent of all compensation benefits are timely paid. The division shall fine a carrier as provided in s. 440.13(11)(b) up to $50~~ for each late payment of compensation *pursuant to s. 624.4211* ~~that is below the minimum 90 percent performance standard~~. This paragraph does not affect the imposition of any penalties or interest due to the claimant. If a carrier contracts with a servicing agent to fulfill its administrative responsibilities under this chapter, the payment practices of the servicing agent are deemed the payment practices of the carrier for the purpose of assessing penalties against the carrier.

(9) The *department* ~~division~~ may upon its own initiative at any time in a case in which payments are being made without an award investigate same and shall, in any case in which the right to compensation is controverted, or in which payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation or from the employer that the right to compensation is controverted or that payments of compensation have been stopped or suspended, make such investigations, cause such medical examination to be made, or hold such hearings, and take such further action as it considers will properly protect the rights of all parties.

(10) Whenever the *department* ~~division~~ deems it advisable, it may require any employer to make a deposit with the Treasurer to secure the prompt and convenient payments of such compensation; and payments therefrom upon any awards shall be made upon order of the *department* ~~division~~ or judge of compensation claims.

(11)(a) 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 expenses and any other benefits provided under this chapter, shall be allowed at any time in any case in which the employer or carrier has filed a written notice of denial within 120 days after the date of the injury, and the judge of compensation claims at a hearing to consider the settlement proposal finds a justiciable controversy as to legal or medical compensability of the claimed injury or the alleged accident. The employer or carrier may not pay any attorney's fees on behalf of the claimant for any settlement under this section unless expressly authorized elsewhere in this chapter. Upon the joint petition of all interested parties and after giving due consideration to the interests of all interested parties, the judge of compensation claims may enter a compensation order approving and authorizing the discharge of the liability of the employer for compensation and remedial treatment, care, and attendance, as well as rehabilitation expenses, by the payment of a lump sum. Such a compensation order so entered upon joint petition of all interested parties is not subject to modification or review under s. 440.28. If the settlement proposal together with supporting evidence is not approved by the judge of compensation claims, it shall be considered void. Upon approval of a lump-sum settlement under this subsection, the judge of compensation claims shall send a report to the Chief Judge of the amount of the settlement and a statement of the nature of the controversy. The Chief Judge shall keep a record of all such reports filed by each judge of compensation claims and shall submit to the Legislature a summary of all such reports filed under this subsection annually by September 15.

(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 *Department of Education* ~~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 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.

(c) This section applies to all claims that the parties have not previously settled, regardless of the date of accident.

(12)(a) Liability of an employer for future payments of compensation may not be discharged by advance payment unless prior approval of a judge of compensation claims or the *department* ~~division~~ has been obtained as hereinafter provided. The approval shall not constitute an adjudication of the claimant's percentage of disability.

(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 *or*~~,~~ by the *department* ~~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 *department* ~~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 *department* ~~division~~, such payment may be approved by a judge of compensation claims by order if the judge 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 *Department of Education* ~~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 *Department of Education* ~~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.

(15)(a) The *department* ~~division~~ shall examine on an ongoing basis claims files *in accordance with ss. 624.3161 and 624.310(5)* in order to identify questionable claims-handling techniques, questionable patterns or practices of claims, or a pattern of repeated unreasonably controverted claims by employers, carriers, *and* self-insurers~~, health care providers, health care facilities, training and education providers, or any others~~ providing services to employees pursuant to this chapter ~~and may certify its findings to the Department of Insurance~~. *If the department finds* such questionable techniques, patterns, or repeated unreasonably controverted claims as constitute a general business practice of a carrier*,* ~~in the judgment of the division shall be certified in its findings by the division to the Department of Insurance or such other appropriate licensing agency. Such certification by the division is exempt from the provisions of chapter 120. Upon receipt of any such certification,~~ the department ~~of Insurance~~ shall take appropriate action so as to bring such general business practices to a halt pursuant to s. 440.38(3)(a) *or may impose penalties pursuant to s. 624.4211*. The *department* ~~division~~ may initiate investigations of questionable techniques, patterns, practices, or repeated unreasonably controverted claims. The *department* ~~division~~ may by rule establish *penalties for violations and* forms and procedures for corrective action plans and for auditing carriers.

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

(d) Subpoenas shall be served, and proof of such service made, in the same manner as if issued by a circuit court. Witness fees, costs, and reasonable travel expenses, if claimed, shall be allowed the same as for testimony in a circuit court.

(e) ~~The division shall publish annually a report which indicates the promptness of first payment of compensation records of each carrier or self-insurer so as to focus attention on those carriers or self-insurers with poor payment records for the preceding year. A copy of such report shall be certified to~~ The department ~~of Insurance which~~ shall take appropriate steps so as to cause such poor carrier payment practices to halt pursuant to s. 440.38(3)(a). In addition, the *department* ~~division~~ shall take appropriate action so as to halt such poor payment practices of self-insurers. "Poor payment practice" means a practice of late payment sufficient to constitute a general business practice.

(f) The *department* ~~division~~ shall promulgate rules providing guidelines to carriers, self-insurers, and employers to indicate behavior that may be construed as questionable claims-handling techniques, questionable patterns of claims, repeated unreasonably controverted claims, or poor payment practices.

(16) No penalty assessed under this section may be recouped by any carrier or self-insurer in the rate base, the premium, or any rate filing. ~~In the case of carriers,~~ The Department of Insurance shall enforce this subsection~~; and in the case of self-insurers, the division shall enforce this subsection~~.

(17) The *department* ~~division~~ may by rule establish audit procedures and set standards for the Automated Carrier Performance System.

Section 29. Subsections (1) and (2) of section 440.207, Florida Statutes, are amended to read:

440.207 Workers' compensation system guide.—

(1) The *department* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ shall educate all persons providing or receiving benefits pursuant to this chapter as to their rights and responsibilities under this chapter.

(2) The *department* ~~division~~ shall publish an understandable guide to the workers' compensation system which shall contain an explanation of benefits provided; services provided by the Employee Assistance and Ombudsman Office; procedures regarding mediation, the hearing process, and civil and criminal penalties; relevant rules of the *department* ~~division~~; and such other information as the *department* ~~division~~ believes will inform employees, employers, carriers, and those providing services pursuant to this chapter of their rights and responsibilities under this chapter and the rules of the *department* ~~division~~. For the purposes of this subsection, a guide is understandable if the text of the guide is written at a level of readability not exceeding the eighth grade level, as determined by a recognized readability test.

Section 30. Subsection (1) of section 440.211, Florida Statutes, is amended to read:

440.211 Authorization of collective bargaining agreement.—

(1) Subject to the limitation stated in subsection (2), a provision that is mutually agreed upon in any collective bargaining agreement filed with the *department* ~~division~~ between an individually self-insured employer or other employer upon consent of the employer's carrier and a recognized or certified exclusive bargaining representative establishing any of the following shall be valid and binding:

(a) An alternative dispute resolution system to supplement, modify, or replace the provisions of this chapter which may include, but is not limited to, conciliation, mediation, and arbitration. Arbitration held pursuant to this section shall be binding on the parties.

(b) The use of an agreed-upon list of certified health care providers of medical treatment which may be the exclusive source of all medical treatment under this chapter.

(c) The use of a limited list of physicians to conduct independent medical examinations which the parties may agree shall be the exclusive source of independent medical examiners pursuant to this chapter.

(d) A light-duty, modified-job, or return-to-work program.

(e) A vocational rehabilitation or retraining program.

Section 31. Subsections (1), (2), and (3) of section 440.24, Florida Statutes, are amended to read:

440.24 Enforcement of compensation orders; penalties.—

(1) In case of default by the employer or carrier in the payment of compensation due under any compensation order of a judge of compensation claims or other failure by the employer or carrier to comply with such order within 10 days after the order becomes final, any circuit court of this state within the jurisdiction of which the employer or carrier resides or transacts business shall, upon application by the *department* ~~division~~ or any beneficiary under such order, have jurisdiction to issue a rule nisi directing such employer or carrier to show cause why a writ of execution, or such other process as may be necessary to enforce the terms of such order, shall not be issued, and, unless such cause is shown, the court shall have jurisdiction to issue a writ of execution or such other process or final order as may be necessary to enforce the terms of such order of the judge of compensation claims.

(2) In any case where the employer is insured and the carrier fails to comply with any compensation order of a judge of compensation claims or court within 10 days after such order becomes final, ~~the division shall notify~~ the department ~~of Insurance of such failure, and the Department of Insurance~~ shall thereupon suspend the license of such carrier to do an insurance business in this state, until such carrier has complied with such order.

(3) In any case where the employer is a self-insurer and fails to comply with any compensation order of a judge of compensation claims or court within 10 days after such order becomes final, the *department* ~~division~~ may suspend or revoke any authorization previously given to the employer to become a self-insurer, and the *department* ~~division~~ may sell such of the securities deposited by such self-insurer with the *department* ~~division~~ as may be necessary to satisfy such order.

Section 32. Subsections (4), (5), and (7) of section 440.25, Florida Statutes, are amended to read:

440.25 Procedures for mediation and hearings.—

(4)(a) If, on the 10th day following commencement of mediation, the questions in dispute have not been resolved, the judge of compensation claims shall hold a pretrial hearing. The judge of compensation claims shall give the interested parties at least 7 days' advance notice of the pretrial hearing by mail. At the pretrial hearing, the judge of compensation claims shall, subject to paragraph (b), set a date for the final hearing that allows the parties at least 30 days to conduct discovery unless the parties consent to an earlier hearing date.

(b) The final hearing must be held and concluded within 45 days after the pretrial hearing. Continuances may be granted only if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the party's control.

(c) The judge of compensation claims shall give the interested parties at least 7 days' advance notice of the final hearing, served upon the interested parties by mail.

(d) The hearing shall be held in the county where the injury occurred, if the injury occurred in this state, unless otherwise agreed to between the parties and authorized by the judge of compensation claims in the county where the injury occurred. If the injury occurred without the state and is one for which compensation is payable under this chapter, then the hearing above referred to may be held in the county of the employer's residence or place of business, or in any other county of the state which will, in the discretion of the Chief Judge, be the most convenient for a hearing. The hearing shall be conducted by a judge of compensation claims, who shall, within 14 days after final hearing, unless otherwise agreed by the parties, determine the dispute in a summary manner. At such hearing, the claimant and employer may each present evidence in respect of such claim and may be represented by any attorney authorized in writing for such purpose. When there is a conflict in the medical evidence submitted at the hearing, the provisions of s. 440.13 shall apply. The report or testimony of the expert medical advisor shall be made a part of the record of the proceeding and shall be given the same consideration by the judge of compensation claims as is accorded other medical evidence submitted in the proceeding; and all costs incurred in connection with such examination and testimony may be assessed as costs in the proceeding, subject to the provisions of s. 440.13. No judge of compensation claims may make a finding of a degree of permanent impairment that is greater than the greatest permanent impairment rating given the claimant by any examining or treating physician, except upon stipulation of the parties.

(e) The order making an award or rejecting the claim, referred to in this chapter as a "compensation order," shall set forth the findings of ultimate facts and the mandate; and the order need not include any other reason or justification for such mandate. The compensation order shall be filed in the office of the *department* ~~division~~ at Tallahassee. A copy of such compensation order shall be sent by mail to the parties and attorneys of record at the last known address of each, with the date of mailing noted thereon.

(f) Each judge of compensation claims is required to submit a special report to the Chief Judge in each contested workers' compensation case in which the case is not determined within 14 days of final hearing. Said form shall be provided by the Chief Judge and shall contain the names of the judge of compensation claims and of the attorneys involved and a brief explanation by the judge of compensation claims as to the reason for such a delay in issuing a final order. The Chief Judge shall compile these special reports into an annual public report to the Governor, the *department* ~~Secretary of Labor and Employment Security~~, the Legislature, The Florida Bar, and the appellate district judicial nominating commissions.

(g) Judges of compensation claims shall adopt and enforce uniform local rules for workers' compensation.

(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.

(i) To expedite dispute resolution and to enhance the self-executing features of the Workers' Compensation Law, the Chief Judge shall make provision by rule or order for the resolution of appropriate motions by judges of compensation claims without oral hearing upon submission of brief written statements in support and opposition, and for expedited discovery and docketing.

(j) To further expedite dispute resolution and to enhance the self-executing features of the system, those petitions filed in accordance with s. 440.192 that involve a claim for benefits of $5,000 or less shall, in the absence of compelling evidence to the contrary, be presumed to be appropriate for expedited resolution under this paragraph; and any other claim filed in accordance with s. 440.192, upon the written agreement of both parties and application by either party, may similarly be resolved under this paragraph. For purposes of expedited resolution pursuant to this paragraph, the Chief Judge shall make provision by rule or order for expedited and limited discovery and expedited docketing in such cases. At least 15 days prior to hearing, the parties shall exchange and file with the judge of compensation claims a pretrial outline of all issues, defenses, and witnesses on a form promulgated by the Chief Judge; provided, in no event shall such hearing be held without 15 days' written notice to all parties. No pretrial hearing shall be held. The judge of compensation claims shall limit all argument and presentation of evidence at the hearing to a maximum of 30 minutes, and such hearings shall not exceed 30 minutes in length. Neither party shall be required to be represented by counsel. The employer or carrier may be represented by an adjuster or other qualified representative. The employer or carrier and any witness may appear at such hearing by telephone. The rules of evidence shall be liberally construed in favor of allowing introduction of evidence.

(5)(a) Procedures with respect to appeals from orders of judges of compensation claims shall be governed by rules adopted by the Supreme Court. Such an order shall become final 30 days after mailing of copies of such order to the parties, unless appealed pursuant to such rules.

(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 *department* ~~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 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 *department* ~~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 *department* ~~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 *department* ~~division~~ to pay record costs and filing fees from the Workers' Compensation *Administrative* Trust Fund pending final disposition of the costs of appeal. The *department* ~~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 *department* ~~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 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 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 *agency* ~~division~~ or the judge of compensation claims as the *agency* ~~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 33. Section 440.271, Florida Statutes, is amended to read:

440.271 Appeal of order of judge of compensation claims.—Review of any order of a judge of compensation claims entered pursuant to this chapter shall be by appeal to the District Court of Appeal, First District. Appeals shall be filed in accordance with rules of procedure prescribed by the Supreme Court for review of such orders. The *department* ~~division~~ shall be given notice of any proceedings pertaining to s. 440.25, regarding indigency, or s. 440.49, regarding the Special Disability Trust Fund, and shall have the right to intervene in any proceedings.

Section 34. Section 440.345, Florida Statutes, is amended to read:

440.345 Reporting of attorney's fees.—All fees paid to attorneys for services rendered under this chapter shall be reported to the *department* ~~division~~ as the *department* ~~division~~ requires by rule. The *department* ~~division~~ shall annually summarize such data in a report to the Workers' Compensation Oversight Board.

Section 35. Section 440.35, Florida Statutes, is amended to read:

440.35 Record of injury or death.—Every employer shall keep a record in respect of any injury to an employee. Such record shall contain such information of disability or death in respect of such injury as the *department* ~~division~~ may by regulation require, and shall be available to inspection by the *department* ~~division~~ or by any state authority at such time and under such conditions as the *department* ~~division~~ may by regulation prescribe.

Section 36. Subsections (1), (2), and (3) of section 440.38, Florida Statutes, are 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:

(a) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association or exchange, authorized to do business in the state;

(b) By furnishing satisfactory proof to the *department* ~~division~~ of its financial ability to pay such compensation individually and on behalf of its subsidiary and affiliated companies with employees in this state and receiving an authorization from the *department* ~~division~~ to pay such compensation directly in accordance with the following provisions:

1. The *department* ~~division~~ may, as a condition to such authorization, require such employer to deposit in a depository designated by the *department* ~~division~~ either an indemnity bond or securities, at the option of the employer, of a kind and in an amount determined by the *department* ~~division~~ and subject to such conditions as the *department* ~~division~~ may prescribe, which shall include authorization to the *department* ~~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 *department* ~~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 *department* ~~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 *department* ~~division~~. The *department* ~~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 *department* ~~division~~ shall revoke the employer's authority to self-insure, unless the employer provides to the *department* ~~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 *department* ~~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 *department* ~~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 *department* ~~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 *department* ~~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 *department* ~~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 *department* ~~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 *department* ~~division~~, or by a depository authorized by the *department* ~~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 *department* ~~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 *department* ~~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. The *department* ~~division~~ may specify by rule the amount of the qualifying security deposit required prior to authorizing an employer to self-insure and the amount of net worth required for an employer to qualify for authorization to self-insure;

(c) By entering into a contract with a public utility under an approved utility-provided self-insurance program as set forth in s. 440.571 in effect as of July 1, 1983. The *department* ~~division~~ shall adopt rules to implement this paragraph;

(d) By entering into an interlocal agreement with other local governmental entities to create a local government pool pursuant to s. 624.4622;

(e) In accordance with s. 440.135, an employer, other than a local government unit, may elect coverage under the Workers' Compensation Law and retain the benefit of the exclusiveness of liability provided in s. 440.11 by obtaining a 24-hour health insurance policy from an authorized property and casualty insurance carrier or an authorized life and health insurance carrier, or by participating in a fully or partially self-insured 24-hour health plan that is established or maintained by or for two or more employers, so long as the law of this state is not preempted by the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, or any amendment to that law, which policy or plan must provide, for at least occupational injuries and illnesses, medical benefits that are comparable to those required by this chapter. A local government unit, as a single employer, in accordance with s. 440.135, may participate in the 24-hour health insurance coverage plan referenced in this paragraph. Disputes and remedies arising under policies issued under this section are governed by the terms and conditions of the policies and under the applicable provisions of the Florida Insurance Code and rules adopted under the insurance code and other applicable laws of this state. The 24-hour health insurance policy may provide for health care by a health maintenance organization or a preferred provider organization. The premium for such 24-hour health insurance policy shall be paid entirely by the employer. The 24-hour health insurance policy may use deductibles and coinsurance provisions that require the employee to pay a portion of the actual medical care received by the employee. If an employer obtains a 24-hour health insurance policy or self-insured plan to secure payment of compensation as to medical benefits, the employer must also obtain an insurance policy or policies that provide indemnity benefits as follows:

1. If indemnity benefits are provided only for occupational-related disability, such benefits must be comparable to those required by this chapter.

2. If indemnity benefits are provided for both occupational-related and nonoccupational-related disability, such benefits must be comparable to those required by this chapter, except that they must be based on 60 percent of the average weekly wages.

3. The employer shall provide for each of its employees life insurance with a death benefit of $100,000.

4. Policies providing coverage under this subsection must use prescribed and acceptable underwriting standards, forms, and policies approved by the Department of Insurance. If any insurance policy that provides coverage under this section is canceled, terminated, or nonrenewed for any reason, the cancellation, termination, or nonrenewal is ineffective until the self-insured employer or insurance carrier or carriers notify ~~the division and~~ the Department of Insurance of the cancellation, termination, or nonrenewal, and until the *department* ~~division~~ has actually received the notification. The *department* ~~division~~ must be notified of replacement coverage under a workers' compensation and employer's liability insurance policy or plan by the employer prior to the effective date of the cancellation, termination, or nonrenewal; or

(f) By entering into a contract with an individual self-insurer under an approved individual self-insurer-provided self-insurance program as set forth in s. 624.46225. The *department* ~~division~~ may adopt rules to implement this subsection.

(2)(a) The *department* ~~division~~ shall adopt rules by which businesses may become qualified to provide underwriting claims-adjusting, loss control, and safety engineering services to self-insurers.

(b) The *department* ~~division~~ shall adopt rules requiring self-insurers to file any reports necessary to fulfill the requirements of this chapter. Any self-insurer who fails to file any report as prescribed by the rules adopted by the *department* ~~division~~ shall be subject to a civil penalty not to exceed $100 for each such failure.

(3)(a) The license of any stock company or mutual company or association or exchange authorized to do insurance business in the state shall for good cause~~, upon recommendation of the division,~~ be suspended or revoked by the Department of Insurance. No suspension or revocation shall affect the liability of any carrier already incurred.

(b) The *department* ~~division~~ shall suspend or revoke any authorization to a self-insurer for good cause, as defined by rule of the *department* ~~division~~. No suspension or revocation shall affect the liability of any self-insurer already incurred.

(c) Violation of s. 440.381 by a self-insurance fund shall result in the imposition of a fine not to exceed $1,000 per audit if the self-insurance fund fails to act on said audits by correcting errors in employee classification or accepted applications for coverage where it knew employee classifications were incorrect. Such fines shall be levied by the *department* ~~division~~ and deposited into the Workers' Compensation Administration Trust Fund.

Section 37. Subsections (3) and (7) of section 440.381, Florida Statutes, are amended to read:

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

(3) The department ~~of Insurance and the Department of Labor and Employment Security~~ shall establish by rule minimum requirements for audits of payroll and classifications in order to ensure that the appropriate premium is charged for workers' compensation coverage. The rules shall ensure that audits performed by both carriers and employers are adequate to provide that all sources of payments to employees, subcontractors, and independent contractors have been reviewed and that the accuracy of classification of employees has been verified. The rules shall provide that employers in all classes other than the construction class be audited not less frequently than biennially and may provide for more frequent audits of employers in specified classifications based on factors such as amount of premium, type of business, loss ratios, or other relevant factors. In no event shall employers in the construction class, generating more than the amount of premium required to be experience rated, be audited less than

annually. The annual audits required for construction classes shall consist of physical onsite audits. Payroll verification audit rules must include, but need not be limited to, the use of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees.

(7) If an employee suffering a compensable injury was not reported as earning wages on the last quarterly earnings report filed with the Division of Unemployment Compensation before the accident, the employer shall indemnify the carrier for all workers' compensation benefits paid to or on behalf of the employee unless the employer establishes that the employee was hired after the filing of the quarterly report, in which case the employer and employee shall attest to the fact that the employee was employed by the employer at the time of the injury. ~~It shall be the responsibility of the Division of Workers' Compensation to collect all necessary data so as to enable it to notify the carrier of the name of an injured worker who was not reported as earning wages on the last quarterly earnings report. The division is hereby authorized to release such records to the carrier which will enable the carrier to seek reimbursement as provided under this subsection.~~ Failure of the employer to indemnify the insurer within 21 days after demand by the insurer shall constitute grounds for the insurer to immediately cancel coverage. Any action for indemnification brought by the carrier shall be cognizable in the circuit court having jurisdiction where the employer or carrier resides or transacts business. The insurer shall be entitled to a reasonable attorney's fee if it recovers any portion of the benefits paid in such action.

Section 38. Section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(1) CREATION OF ASSOCIATION.—

(a) There is created a nonprofit corporation to be known as the "Florida Self-Insurers Guaranty Association, Incorporated," hereinafter referred to as "the association." Upon incorporation of the association, all individual self-insurers as defined in ss. 440.02(23)(a) and 440.38(1)(b), other than individual self-insurers which are public utilities or governmental entities, shall be members of the association as a condition of their authority to individually self-insure in this state. The *association* ~~corporation~~ shall perform its functions under a plan of operation as established and approved under subsection (5) and shall exercise its powers and duties through a board of directors as established under subsection (2). The *association* ~~corporation~~ shall have those powers granted or permitted *associations* ~~corporations~~ not for profit, as provided in chapter 617. *The activities of the association shall be subject to review by the Department of Insurance. The Department of Insurance shall have oversight responsibility as set forth in this act. The association is specifically authorized to enter into agreements with the State of Florida to perform specified services.*

(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 *association* ~~division~~ upon withdrawal, and at 12-month intervals thereafter, satisfactory proof*, including, if requested by the association, a report of known and potential claims certified by a member of the American Academy of Actuaries,* 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 *demonstrates to* ~~satisfies~~ the *association* ~~division~~ that there is no remaining value to claims incurred while the withdrawing member was self-insured. *If a withdrawing member fails or refuses to timely provide an actuarial report to the association, the association may obtain an order from a circuit court requiring the member to produce such a report and ordering such other relief as the court determines appropriate. The association shall be entitled to recover all reasonable costs and attorney's fees expended in such proceedings.* 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 *Academy* ~~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 *association* ~~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. *The association is also entitled to recover reasonable attorney's fees in any action to compel production of any actuarial report required by this statute.* 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.

(2) BOARD OF DIRECTORS.—The board of directors of the association shall consist of nine persons and shall be organized as established in the plan of operation. *All board members shall be experienced in self-insurance in this state.* ~~With respect to initial appointments, the Secretary of Labor and Employment Security shall, by July 15, 1982, approve and appoint to the board persons who are experienced with self insurance in this state and who are recommended by the individual self insurers in this state required to become members of the association pursuant to the provisions of paragraph (1)(a). In the event the secretary finds that any person so recommended does not have the necessary qualifications for service on the board and a majority of the board has been appointed, the secretary shall request the directors thus far approved and appointed to recommend another person for appointment to the board.~~ Each director shall serve for a 4-year term and may be reappointed. Appointments *after March 21, 2001,* ~~other than initial appointments~~ shall be made by the *Insurance Commissioner* ~~Secretary of Labor and Employment Security~~ upon recommendation of members of the association. Any vacancy on the board shall be filled for the remaining period of the term in the same manner as appointments other than initial appointments are made. Each director shall be reimbursed for expenses incurred in carrying out the duties of the board on behalf of the association.

(3) POWERS AND DUTIES.—

(a) Upon creation of the Insolvency Fund pursuant to the provisions of subsection (4), the association is obligated for payment of compensation under this chapter to insolvent members' employees resulting from incidents and injuries existing prior to the member becoming an insolvent member and from incidents and injuries occurring within 30 days after the member has become an insolvent member, provided the incidents giving rise to claims for compensation under this chapter occur during the year in which such insolvent member is a member of the guaranty fund and was assessable pursuant to the plan of operation, and provided the employee makes timely claim for such payments according to procedures set forth by a court of competent jurisdiction over the delinquency or bankruptcy proceedings of the insolvent member. Such obligation includes only that amount due the injured worker or workers of the insolvent member under this chapter. In no event is the association obligated to a claimant in an amount in excess of the obligation of the insolvent member. The association shall be deemed the insolvent employer for purposes of this chapter to the extent of its obligation on the covered claims and, to such

extent, shall have all rights, duties, and obligations of the insolvent employer as if the employer had not become insolvent. However, in no event shall the association be liable for any penalties or interest.

(b) The association may:

1. Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

2. Borrow funds necessary to effect the purposes of this section in accord with the plan of operation.

3. Sue or be sued.

4. Negotiate and become a party to such contracts as are necessary to carry out the purposes of this section.

5. Purchase such reinsurance as is determined necessary pursuant to the plan of operation.

6. Review all applicants for membership in the association *to determine whether the applicant is qualified for membership under the law. The association shall recommend to the Department of Insurance that the application be accepted or rejected based on the criteria set forth in s. 440.38(1)(b). The department shall approve or disapprove the application.* ~~Prior to a final determination by the Division of Workers' Compensation as to whether or not to approve any applicant for membership in the association, the association may issue opinions to the division concerning any applicant, which opinions shall be considered by the division prior to any final determination.~~

7. Collect and review financial information from employers and make recommendations to the Department of Insurance regarding the appropriate security deposit and reinsurance amounts necessary for an employer to demonstrate that it has the financial strength necessary to assure the timely payment of all current and future claims. The association may audit and examine an employer to verify the financial strength of its current and former members. If the association determines that a current or former self-insured employer does not have the financial strength necessary to assure the timely payment of all current and estimated future claims, the association may recommend to the department that the department:

a. Revoke the employer's self-insurance privilege.

b. Require the employer to provide a certified opinion of an independent actuary who is a member of the American Academy of Actuaries as to the actuarial present value of the employer's estimated current and future compensation payments, using a 4-percent discount rate.

c. Require an increase in the employer's security deposit in an amount determined by the association to be necessary to assure payment of compensation claims. The department shall act on such recommendations. The association has a cause of action against an employer, and against any successor of an employer, who fails to provide an additional security deposit required by the department. The association shall recover a judgment in the amount of the requested additional security deposit together with reasonable attorney's fees. For the purposes of this section, the successor of an employer is any person, business entity, or group of persons or business entities that holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the employer.

8.~~7.~~ Charge fees to any member of the association to cover the actual costs of examining the financial and safety conditions of that member.

9.~~8.~~ Charge an applicant for membership in the association a fee sufficient to cover the actual costs of examining the financial condition of the applicant.

10. Implement any and all procedures necessary to ensure compliance with regulatory actions taken by the department.

(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 *association, subject to approval by the* Department of *Insurance* ~~Labor and Employment Security, upon certification of the board of directors~~, shall levy assessments based on the annual *written* ~~normal~~ premium each employer would have paid had the employer 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 *written* ~~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. *Funds may be allocated or paid from the Workers' Compensation Administration Trust Fund to contract with the association to perform services required by law. However,* no state funds of any kind shall be allocated or paid to the association or any of its accounts *for payment of covered claims or related expenses* except those state funds accruing to the association by and through the assignment of rights of an insolvent employer. *The department shall not levy any assessment on the Florida Self-Insurance Guaranty Association.*

(4) INSOLVENCY FUND.—Upon the adoption of a plan of operation ~~or the adoption of rules by the Department of Labor and Employment Security pursuant to subsection (5)~~, there shall be created an Insolvency Fund to be managed by the association.

(a) The Insolvency Fund is created for purposes of meeting the obligations of insolvent members incurred while members of the association and after the exhaustion of any *security deposit* ~~bond~~, as required under this chapter. However, if such *security deposit* ~~bond, surety,~~ or reinsurance policy is payable to the Florida Self-Insurers Guaranty Association, the association shall commence to provide benefits out of the Insolvency Fund and be reimbursed from the *security deposit* ~~bond, surety,~~ or reinsurance policy. The method of operation of the Insolvency Fund shall be defined in the plan of operation as provided in subsection (5).

(b) The department shall have the authority to audit the financial soundness of the Insolvency Fund annually.

(c) The department may offer certain amendments to the plan of operation to the board of directors of the association for purposes of assuring the ongoing financial soundness of the Insolvency Fund and its ability to meet the obligations of this section.

~~(d) The department actuary may make certain recommendations to improve the orderly payment of claims.~~

(5) PLAN OF OPERATION.—*The association shall operate pursuant to a plan of operation approved by the board of directors. The plan of operation in effect on March 1, 2001, and approved by the Department of Labor and Employment Security shall remain in effect. However, any amendments to the plan shall not become effective until approved by the Department of Insurance.* ~~By September 15, 1982, the board of directors shall submit to the Department of Labor and Employment Security a proposed plan of operation for the administration of the association and the Insolvency Fund.~~

(a) The purpose of the plan of operation shall be to provide the association and the board of directors with the authority and responsibility to establish the necessary programs and to take the necessary actions to protect against the insolvency of a member of the association. In addition, the plan shall provide that the members of the association shall be responsible for maintaining an adequate Insolvency Fund to meet the obligations of insolvent members provided for under

this act and shall authorize the board of directors to contract and employ those persons with the necessary expertise to carry out this stated purpose. *By January 1, 2002, the board of directors shall submit to the Department of Insurance a proposed plan of operation for the administration of the association. The Department of Insurance shall approve the plan by order, consistent with this act. The Department of Insurance shall approve any amendments to the plan, by order consistent with this act, and determined appropriate to carry out the duties and responsibilities of the association.*

~~(b) The plan of operation, and any amendments thereto, shall take effect upon approval in writing by the department. If the board of directors fails to submit a plan by September 15, 1982, or fails to make required amendments to the plan within 30 days thereafter, the department shall promulgate such rules as are necessary to effectuate the provisions of this subsection. Such rules shall continue in force until modified by the department or superseded by a plan submitted by the board of directors and approved by the department.~~

(b)~~(c)~~ All member employers shall comply with the plan of operation.

(c)~~(d)~~ The plan of operation shall:

1. Establish the procedures whereby all the powers and duties of the association under subsection (3) will be performed.

2. Establish procedures for handling assets of the association.

3. Establish the amount and method of reimbursing members of the board of directors under subsection (2).

4. Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent employer shall be deemed notice to the association or its agent, and a list of such claims shall be submitted periodically to the association or similar organization in another state by the receiver or liquidator.

5. Establish regular places and times for meetings of the board of directors.

6. Establish procedures for records to be kept of all financial transactions of the association and its agents and the board of directors.

7. Provide that any member employer aggrieved by any final action or decision of the association may appeal to the department within 30 days after the action or decision.

8. Establish the procedures whereby recommendations of candidates for the board of directors shall be submitted to the department.

9. Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(d)~~(e)~~ The plan of operation may provide that any or all of the powers and duties of the association, except those specified under subparagraphs *(c)*~~(d)~~1. and 2., be delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association or its equivalent in two or more states. Such a corporation, association, or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation of powers or duties under this subsection shall take effect only with the approval of both the board of directors and the department and may be made only to a corporation, association, or organization which extends protection which is not substantially less favorable and effective than the protection provided by this section.

(6) POWERS AND DUTIES OF DEPARTMENT OF *INSURANCE* ~~LABOR AND EMPLOYMENT SECURITY~~.—

(a) The department shall~~:~~

~~1.~~ *review recommendations of the association concerning whether current or former self-insured employers or members of the association have the financial strength necessary to ensure the timely payment of all current and estimated future claims. If the association determines an employer does not have the financial strength necessary to ensure the timely payment of all current and future claims and recommends action pursuant to paragraph (3)(b), the Department of Insurance may take such action as necessary to order the employer to comply with the recommendation.* ~~Notify the association of the existence of an insolvent employer not later than 3 days after it receives notice of the determination of insolvency.~~

(b) The department may:

1. Contract with the association for services, which may include, but not be limited to, the following:

a. Process applications for self-insurance.

b. Collect and review financial statements and loss reserve information from individual self-insurers.

c. Collect and maintain files for original security deposit documents and reinsurance policies from individual self-insurers and, if necessary, perfect security interests in security deposits.

d. Process compliance documentation for individual self-insurers and provide same to the Department of Insurance.

e. Collect all data necessary to calculate annual premium for all individual self-insurers, including individual self-insurers that are public utilities or governmental entities, and provide such calculated annual premium to the Department of Insurance for assessment purposes.

f. Inspect and audit annually, if necessary, the payroll and other records of each individual self-insurer, including individual self-insurers that are public utilities or governmental entities, in order to determine the wages paid by each individual self-insurer, the premium such individual self-insurer would have to pay if insured, and all payments of compensation made by such individual self-insurer during each prior period with the results of such audit provided to the Department of Insurance. For the purposes of this section, the payroll records of each individual self-insurer shall be open to inspection and audit by the association, the department, or their authorized representative, during regular business hours.

g. Provide legal representation to implement the administration and audit of individual self-insurers and make recommendations regarding prosecution of any administrative or legal proceedings necessitated by the department's regulation of the individual self-insurers.

2. *Contract with an attorney or attorneys recommended by the association for representation of the department in any administrative or legal proceedings necessitated by the recommended regulation of the individual self-insurers.* ~~Upon request of the board of directors, provide the association with a statement of the annual normal premiums of each member employer.~~

~~(b) The department may:~~

3.~~1.~~ *Direct the association to require from each individual self-insurer, at such time and in accordance with such regulations as the department prescribes, reports in respect to wages paid, the amount of premiums such individual self-insurer would have to pay if insured, and all payments of compensation made by such individual self-insurer during each prior period and determine the amounts paid by each individual self-insurer and the amounts paid by all individual self-insurers during such period. For the purposes of this section, the payroll records of each individual self-insurer shall be open to annual inspection and audit by the association, the department, or their authorized representative, during regular business hours, and if any audit of such records of an individual self-insurer discloses a deficiency in the amount reported to the association or in the amounts paid to the Department of Insurance by an individual self-insurer for its assessment for the Workers' Compensation Administration Trust Fund, the Department of Insurance or the association may assess the cost of such audit against the individual self-insurer.*

4. Require that the association notify the member employers and any other interested parties of the determination of insolvency and of

their rights under this section. Such notification shall be by mail at the last known address thereof when available; but, if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

5.~~2.~~ Suspend or revoke the authority of any member employer failing to pay an assessment when due or failing to comply with the plan of operation to self-insure in this state. As an alternative, the department may levy a fine on any member employer failing to pay an assessment when due. Such fine shall not exceed 5 percent of the unpaid assessment per month, except that no fine shall be less than $100 per month.

~~3. Revoke the designation of any servicing facility if the department finds that claims are being handled unsatisfactorily.~~

(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.

(b) The receiver, liquidator, or statutory successor of an insolvent member shall be bound by settlements of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority against the assets of the insolvent member equal to that to which the claimant would have been entitled in the absence of this section. The expense of the association or similar organization in handling claims shall be accorded the same priority as the expenses of the liquidator.

(c) The association shall file periodically with the receiver or liquidator of the insolvent member statements of the covered claims paid by the association and estimates of anticipated claims on the association, which shall preserve the rights of the association against the assets of the insolvent member.

(8) *NOTIFICATION* ~~PREVENTION~~ OF INSOLVENCIES.—To aid in the detection and prevention of employer insolvencies~~:~~

~~(a)~~ upon determination by majority vote that any member employer may be insolvent or in a financial condition hazardous to the employees thereof or to the public, it shall be the duty of the board of directors to notify the Department of *Insurance* ~~Labor and Employment Security~~ of any information indicating such condition.

~~(b) The board of directors may, upon majority vote, request that the department determine the condition of any member employer which the board in good faith believes may no longer be qualified to be a member of the association. Within 30 days of the receipt of such request or, for good cause shown, within a reasonable time thereafter, the department shall make such determination and shall forthwith advise the board of its findings. Each request for a determination shall be kept on file by the department, but the request shall not be open to public inspection prior to the release of the determination to the public.~~

~~(c) It shall also be the duty of the department to report to the board of directors when it has reasonable cause to believe that a member employer may be in such a financial condition as to be no longer qualified to be a member of the association.~~

~~(d) The board of directors may, upon majority vote, make reports and recommendations to the department upon any matter which is germane to the solvency, liquidation, rehabilitation, or conservation of any member employer. Such reports and recommendations shall not be considered public documents.~~

~~(e) The board of directors may, upon majority vote, make recommendations to the department for the detection and prevention of employer insolvencies.~~

~~(f) The board of directors shall, at the conclusion of any member's insolvency in which the association was obligated to pay covered claims, prepare a report on the history and cause of such insolvency, based on the information available to the association, and shall submit such report to the department.~~

(9) EXAMINATION OF THE ASSOCIATION.—The association shall be subject to examination and regulation by the Department of *Insurance* ~~Labor and Employment Security~~. No later than March 30 of each year, the board of directors shall submit *an audited* ~~a~~ financial *statement* ~~report~~ for the preceding calendar year in a form approved by the department.

(10) IMMUNITY.—There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member employer, the association or its agents or employees, the board of directors, or the Department of *Insurance* ~~Labor and Employment Security~~ or its representatives for any action taken by them in the performance of their powers and duties under this section.

(11) STAY OF PROCEEDINGS; REOPENING OF DEFAULT JUDGMENTS.—All proceedings in which an insolvent employer is a party, or is obligated to defend a party, in any court or before any quasi-judicial body or administrative board in this state shall be stayed for up to 6 months, or for such additional period from the date the employer becomes an insolvent member, as is deemed necessary by a court of competent jurisdiction to permit proper defense by the association of all pending causes of action as to any covered claims arising from a judgment under any decision, verdict, or finding based on the default of the insolvent member. The association, either on its own behalf or on behalf of the insolvent member, may apply to have such judgment, order, decision, verdict, or finding set aside by the same court or administrator that made such judgment, order, decision, verdict, or finding and shall be permitted to defend against such claim on the merits. If requested by the association, the stay of proceedings may be shortened or waived.

(12) LIMITATION ON CERTAIN ACTIONS.—Notwithstanding any other provision of this chapter, a covered claim, as defined herein, with respect to which settlement is not effected and pursuant to which suit is not instituted against the insured of an insolvent member or the association within 1 year after the deadline for filing claims with the receiver of the insolvent member, or any extension of the deadline, shall thenceforth be barred as a claim against the association.

(13) CORPORATE INCOME TAX CREDIT.—Any sums acquired by a member by refund, dividend, or otherwise from the association shall be payable within 30 days of receipt to the Department of Insurance for deposit with the Treasurer to the credit of the General Revenue Fund. All provisions of chapter 220 relating to penalties and interest on delinquent corporate income tax payments apply to payments due under this subsection.

Section 39. Subsections (2), (3), and (4) of section 440.386, Florida Statutes, are amended to read:

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

(2) COMMENCEMENT OF DELINQUENCY PROCEEDING.—The Department *of Insurance or the Florida Self-Insurers Guaranty Association, Incorporated,* may commence *a delinquency* ~~any such~~ proceeding by application to the court for an order directing the individual self-insurer to show cause why the department *or association* should not have the relief prayed for. ~~The Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to commence such proceedings, and upon receipt of such petition, the department shall commence such proceeding.~~ On the return of such order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the claimants, creditors,

stockholders, members, subscribers, or public may require. The *Department of Insurance and the association shall give* ~~Florida Self-Insurers Guaranty Association, Incorporated, shall be given~~ reasonable written notice *to each other* ~~by the department~~ of all hearings which pertain to an adjudication of insolvency of a member individual self-insurer.

(3) GROUNDS FOR LIQUIDATION.—The Department of Insurance *or the association* may apply to the court for an order appointing a receiver and directing the receiver to liquidate the business of a domestic individual self-insurer if such individual self-insurer is insolvent. ~~Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to apply to the court for such order. Upon receipt of such petition, the department shall apply to the court for such order.~~

(4) GROUNDS FOR CONSERVATION; FOREIGN INDIVIDUAL SELF-INSURERS.—

(a) The Department *of Insurance or the association* may apply to the court for an order appointing a receiver or ancillary receiver, and directing the receiver to conserve the assets within this state, of a foreign individual self-insurer if such individual self-insurer is insolvent. ~~Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to apply for such order, and, upon receipt of such petition, the department shall apply to the court for such order.~~

(b) An order to conserve the assets of an individual self-insurer shall require the receiver forthwith to take possession of the property of the receiver within the state and to conserve it, subject to the further direction of the court.

Section 40. 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 *department* ~~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. The *department* ~~division~~ may by rule prescribe the form of the notices and require carriers to provide the notices to policyholders.

Section 41. Section 440.41, Florida Statutes, is amended to read:

440.41 Substitution of carrier for employer.—In any case where the employer is not a self-insurer, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the employer, and in order that the administration of this chapter in respect of such liability may be facilitated, the *department* ~~division~~ shall by regulation provide for the discharge, by the carrier for such employer, of such obligations and duties of the employer in respect of such liability, imposed by this chapter upon the employer, as it considers proper in order to effectuate the provisions of this chapter. For such purposes:

(1) Notice to or knowledge of an employer of the occurrence of the injury shall be notice to or knowledge of the carrier.

(2) Jurisdiction of the employer by the judges of compensation claims, the *department* ~~division~~, or any court under this chapter shall be jurisdiction of the carrier.

(3) Any requirement by the judges of compensation claims, the *department* ~~division~~, or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

Section 42. Subsection (3) of section 440.42, Florida Statutes, is amended to read:

440.42 Insurance policies; liability.—

(3) No contract or policy of insurance issued by a carrier under this chapter shall expire or be canceled until at least 30 days have elapsed after a notice of cancellation has been sent to the *department* ~~division~~ and to the employer in accordance with the provisions of s. 440.185(7). However, when duplicate or dual coverage exists by reason of two different carriers having issued policies of insurance to the same employer securing the same liability, it shall be presumed that only that policy with the later effective date shall be in force and that the earlier policy terminated upon the effective date of the latter. In the event that both policies carry the same effective date, one of the policies may be canceled instanter upon filing a notice of cancellation with the *department* ~~division~~ and serving a copy thereof upon the employer in such manner as the *department* ~~division~~ prescribes by rule. The *department* ~~division~~ may by rule prescribe the content of the notice of retroactive cancellation and specify the time, place, and manner in which the notice of cancellation is to be served.

Section 43. Section 440.44, Florida Statutes, is amended to read:

440.44 Workers' compensation; staff organization.—

(1) INTERPRETATION OF LAW.—As a guide to the interpretation of this chapter, the Legislature takes due notice of federal social and labor acts and hereby creates an agency to administer such acts passed for the benefit of employees and employers in Florida industry, and desires to meet the requirements of such federal acts wherever not inconsistent with the Constitution and laws of Florida.

(2) INTENT.—It is the intent of the Legislature that the *department, the agency, and the Department of Education* ~~division~~ assume an active and forceful role in *their* ~~its~~ administration of this act, so as to ensure that the system operates efficiently and with maximum benefit to both employers and employees.

(3) EXPENDITURES.—The *department, the agency, the Department of Education,* ~~division~~ and the Chief Judge shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books; for telephone services and WATS lines; for books of reference, periodicals, equipment, and supplies; and for printing and binding as may be necessary in the administration of this chapter. All expenditures in the administration of this chapter shall be allowed and paid as provided in s. 440.50 upon the presentation of itemized vouchers therefor approved by the *department, the agency, the Department of Education,* ~~division~~ or the Chief Judge.

(4) MERIT SYSTEM PRINCIPLE OF PERSONNEL ADMINISTRATION.—Subject to the other provisions of this chapter, the *department, the agency, and the Department of Education are* ~~division is~~ authorized to appoint, and prescribe the duties and powers of, bureau chiefs, attorneys, accountants, medical advisers, technical assistants, inspectors, claims examiners, and such other employees as may be necessary in the performance of its duties under this chapter.

(5) OFFICE.—The *department, the agency, the Department of Education,* ~~division~~ and the Chief Judge shall maintain and keep open during reasonable business hours an office, which shall be provided in the Capitol or some other suitable building in the City of Tallahassee, for the transaction of business under this chapter, at which office the official records and papers shall be kept. The office shall be furnished and equipped. The *department, the agency* ~~division~~, any judge of compensation claims, or the Chief Judge may hold sessions and conduct hearings at any place within the state.

(6) SEAL.—The division *and*~~,~~ the *Office of the Judges of Compensation Claims* ~~judges of compensation claims, and the Chief Judge~~ shall have *seals* ~~a seal~~ upon which shall be inscribed the words "State of Florida Department *of Insurance . . .Seal" and the "Division of Administrative Hearings. . . Seal." respectively.* ~~of Labor and Employment Security—Seal."~~

(7) DESTRUCTION OF OBSOLETE RECORDS.—The *department* ~~division~~ is expressly authorized to provide by regulation for and to destroy obsolete records of the *department* ~~division and commission~~.

(8) PROCEDURE.—In the exercise of *their* ~~its~~ duties and functions requiring administrative hearings, the *department and the agency* ~~division~~ shall proceed in accordance with the Administrative Procedure Act. The authority of the *department and the agency* ~~division~~ to issue orders resulting from administrative hearings as provided for in this chapter shall not infringe upon the jurisdiction of the judges of compensation claims.

Section 44. Section 440.4416, Florida Statutes, is hereby repealed.

Section 45. Subsection (1) of section 440.45, Florida Statutes, is amended to read:

440.45 Office of the Judges of Compensation Claims.—

(1) There is hereby created the Office of the Judges of Compensation Claims within the *Division of Administrative Hearing of the Department of Management Services* ~~Department of Labor and Employment Security~~. The Office of the Judges of Compensation Claims shall be headed by a Chief Judge. The Chief Judge shall be appointed by the Governor for a term of 4 years from a list of three names submitted by the statewide nominating commission created under subsection (2). The Chief Judge must possess the same qualifications for appointment as a judge of compensation claims, and the procedure for reappointment of the Chief Judge will be the same as for reappointment of a judge of compensation claims. The office shall be a separate budget entity and the Chief Judge shall be its agency head for all purposes. The *Division of Administrative Hearings* ~~Department of Labor and Employment Security~~ shall provide administrative support and service to the office to the extent requested by the Chief Judge but shall not direct, supervise, or control the Office of the Judges of Compensation Claims in any manner, including, but not limited to, personnel, purchasing, budgetary matters, or property transactions. The operating budget of the Office of the Judges of Compensation Claims shall be paid out of the Workers' Compensation Administration Trust Fund established in s. 440.50.

Section 46. Subsections (1), (2), (7), (8), (9), (10), and (11) of section 440.49, Florida Statutes, 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 *department* ~~division~~ or the administrator 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.

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

(a) "Permanent physical impairment" means and is limited to the conditions listed in paragraph (6)(a).

(b) "Preferred worker" means a worker who, because of a permanent impairment resulting from a compensable injury or occupational disease, is unable to return to the worker's regular employment.

(c) "Merger" describes or means that:

1. If the permanent physical impairment had not existed, the subsequent accident or occupational disease would not have occurred;

2. The permanent disability or permanent impairment resulting from the subsequent accident or occupational disease is materially and substantially greater than that which would have resulted had the permanent physical impairment not existed, and the employer has been required to pay, and has paid, permanent total disability or permanent impairment benefits for that materially and substantially greater disability;

3. The preexisting permanent physical impairment is aggravated or accelerated as a result of the subsequent injury or occupational disease, or the preexisting impairment has contributed, medically and circumstantially, to the need for temporary compensation, medical, or attendant care and the employer has been required to pay, and has paid, temporary compensation, medical, or attendant care benefits for the aggravated preexisting permanent impairment; or

4. Death would not have been accelerated if the permanent physical impairment had not existed.

(d) "Excess permanent compensation" means that compensation for permanent impairment, or permanent total disability or death benefits, for which the employer or carrier is otherwise entitled to reimbursement from the Special Disability Trust Fund.

(e) "Administrator" means the entity selected by the commission to review, allow, deny, compromise, controvert, and litigate claims of the Special Disability Trust Fund.

(f) "Corporation" means the Special Disability Trust Fund Financing Corporation, as created under subsection (14).

(g) "Commission" means the Special Disability Trust Fund Privatization Commission, as created under subsection (13).

In addition to the definitions contained in this subsection, the *department* ~~division~~ may by rule prescribe definitions that are necessary for the effective administration of this section.

(7) REIMBURSEMENT OF EMPLOYER.—

(a) The right to reimbursement as provided in this section is barred unless written notice of claim of the right to such reimbursement is filed by the employer or carrier entitled to such reimbursement with the *department* ~~division~~ or administrator at Tallahassee within 2 years after the date the employee last reached maximum medical improvement, or within 2 years after the date of the first payment of compensation for permanent total disability, wage loss, or death, whichever is later. The notice of claim must contain such information as the *department* ~~division~~ by rule requires or as established by the administrator; and the employer or carrier claiming reimbursement shall furnish such evidence in support of the claim as the *department* ~~division~~ or administrator reasonably may require.

(b) For notice of claims on the Special Disability Trust Fund filed on or after July 1, 1978, the Special Disability Trust Fund shall, within 120 days after receipt of notice that a carrier has paid, been required to pay, or accepted liability for excess compensation, serve notice of the acceptance of the claim for reimbursement.

(c) A proof of claim must be filed on each notice of claim on file as of June 30, 1997, within 1 year after July 1, 1997, or the right to reimbursement of the claim shall be barred. A notice of claim on file on or before June 30, 1997, may be withdrawn and refiled if, at the time refiled, the notice of claim remains within the limitation period specified in paragraph (a). Such refiling shall not toll, extend, or otherwise alter in any way the limitation period applicable to the withdrawn and subsequently refiled notice of claim. Each proof of claim filed shall be accompanied by a proof-of-claim fee as provided in paragraph (9)(d). The Special Disability Trust Fund shall, within 120 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(d) Each notice of claim filed or refiled on or after July 1, 1997, must be accompanied by a notification fee as provided in paragraph (9)(d). A proof of claim must be filed within 1 year after the date the notice of claim is filed or refiled, accompanied by a proof-of-claim fee as provided in paragraph (9)(d), or the claim shall be barred. The notification fee shall be waived if both the notice of claim and proof of claim are submitted together as a single filing. The Special Disability Trust Fund shall, within 180 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(e) For dates of accident on or after January 1, 1994, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has been required to pay, and has paid over $10,000 in benefits, serve notice of the acceptance of the claim for reimbursement. Failure of the Special Disability Trust Fund to serve notice of acceptance shall give rise to the right to request a hearing on the claim for reimbursement. If the Special Disability Trust Fund through its representative denies or controverts the claim, the right to such reimbursement shall be barred unless an application for a hearing thereon is filed with the *department* ~~division~~ or administrator at Tallahassee within 60 days after notice to the employer or carrier of such denial or controversion. When such application for a hearing is timely filed, the claim shall be heard and determined in accordance with the procedure prescribed in s. 440.25, to the extent that such procedure is applicable, and in accordance with the workers' compensation rules of procedure. In such proceeding on a claim for reimbursement, the Special Disability Trust Fund shall be made the party respondent, and no findings of fact made with respect to the claim of the injured employee or the dependents for compensation, including any finding made or order entered pursuant to s. 440.20(11), shall be res judicata. The Special Disability Trust Fund may not be joined or made a party to any controversy or dispute between an employee and the dependents and the employer or between two or more employers or carriers without the written consent of the fund.

(f) When it has been determined that an employer or carrier is entitled to reimbursement in any amount, the employer or carrier shall be reimbursed annually from the Special Disability Trust Fund for the compensation and medical benefits paid by the employer or carrier for which the employer or carrier is entitled to reimbursement, upon filing request therefor and submitting evidence of such payment in accordance with rules prescribed by the *department* ~~division~~, which rules may include parameters for annual audits. The Special Disability Trust Fund shall pay the approved reimbursement requests on a first-in, first-out basis reflecting the order in which the reimbursement requests were received.

(g) The *department* ~~division~~ may by rule require specific forms and procedures for the administration and processing of claims made through the Special Disability Trust Fund.

(8) PREFERRED WORKER PROGRAM.—The *The Department of Education* ~~division~~ or administrator shall issue identity cards to preferred workers upon request by qualified employees and *the department* shall reimburse an employer, from the Special Disability Trust Fund, for the cost of workers' compensation premium related to the preferred workers payroll for up to 3 years of continuous employment upon satisfactory evidence of placement and issuance of payroll and classification records and upon the employee's certification of employment. The *department and the Department of Education* ~~division~~ may by rule prescribe definitions, forms, and procedures for the administration of the preferred worker program. The *Department of Education* ~~division~~ may by rule prescribe the schedule for submission of forms for participation in the program.

(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 *department* ~~division~~ or corporation and upon the order of the Comptroller. The Treasurer shall deposit any moneys paid into such fund into such depository banks as the *department* ~~division~~ or corporation 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.

(b)1. The Special Disability Trust Fund shall be maintained by annual assessments upon the insurance companies writing compensation insurance in the state, the commercial self-insurers under ss. 624.462 and 624.4621, the assessable mutuals under s. 628.601, and the self-insurers under this chapter, which assessments shall become due and be paid quarterly at the same time and in addition to the assessments provided in s. 440.51. The *department* ~~division~~ shall estimate annually in advance the amount necessary for the administration of this subsection and the maintenance of this fund and shall make such assessment in the manner hereinafter provided.

2. The annual assessment shall be calculated to produce during the ensuing fiscal year an amount which, when combined with that part of the balance in the fund on June 30 of the current fiscal year which is in excess of $100,000, is equal to the average of:

a. The sum of disbursements from the fund during the immediate past 3 calendar years, and

b. Two times the disbursements of the most recent calendar year.

Such amount shall be prorated among the insurance companies writing compensation insurance in the state and the self-insurers. Provided however, for those carriers that have excluded ceded reinsurance premiums from their assessments on or before January 1, 2000, no assessments on ceded reinsurance premiums shall be paid by those carriers until such time as the Division *of Workers' Compensation of the Department of Labor and Employment Security or the department* advises each of those carriers of the impact that the inclusion of ceded reinsurance premiums has on their assessment. The *department* ~~division~~ may not recover any past underpayments of assessments levied against any carrier that on or before January 1, 2000, excluded ceded reinsurance premiums from their assessment prior to the point that the Division *of Workers' Compensation of the Department of Labor and Employment Security or the department* advises of the appropriate assessment that should have been paid.

3. The net premiums written by the companies for workers' compensation in this state and the net premium written applicable to the self-insurers in this state are the basis for computing the amount to be assessed as a percentage of net premiums. Such payments shall be made by each carrier and self-insurer to the *department* ~~division~~ for the Special Disability Trust Fund in accordance with such regulations as the *department* ~~division~~ prescribes.

4. The Treasurer is authorized to receive and credit to such Special Disability Trust Fund any sum or sums that may at any time be contributed to the state by the United States under any Act of Congress, or otherwise, to which the state may be or become entitled by reason of any payments made out of such fund.

(c) Notwithstanding the Special Disability Trust Fund assessment rate calculated pursuant to this section, the rate assessed shall not exceed 4.52 percent.

(d) The Special Disability Trust Fund shall be supplemented by a $250 notification fee on each notice of claim filed or refiled after July 1, 1997, and a $500 fee on each proof of claim filed in accordance with subsection (7). Revenues from the fee shall be deposited into the Special Disability Trust Fund and are exempt from the deduction required by s. 215.20. The fees provided in this paragraph shall not be imposed upon any insurer which is in receivership with the Department of Insurance.

(e) The Department of *Insurance* ~~Labor and Employment Security~~ or administrator shall report annually on the status of the Special Disability Trust Fund. The report shall update the estimated undiscounted and discounted fund liability, as determined by an independent actuary, change in the total number of notices of claim on file with the fund in addition to the number of newly filed notices of claim, change in the number of proofs of claim processed by the fund, the fee revenues refunded and revenues applied to pay down the liability of the fund, the average time required to reimburse accepted claims, and the average administrative costs per claim. The department or administrator shall submit its report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year.

(10) *DEPARTMENT* ~~DIVISION~~ ADMINISTRATION OF FUND; CLAIMS; ADVISORY COMMITTEE; EXPENSES.—The *department* ~~division~~ or administrator shall administer the Special Disability Trust Fund with authority to allow, deny, compromise, controvert, and litigate claims made against it and to designate an attorney to represent it in proceedings involving claims against the fund, including negotiation and consummation of settlements, hearings before judges of compensation claims, and judicial review. The *department* ~~division~~ or administrator or the attorney designated by it shall be given notice of all hearings and proceedings involving the rights or obligations of such fund and shall have authority to make expenditures for such medical examinations, expert witness fees, depositions, transcripts of testimony, and the like as may be necessary to the proper defense of any claim. The *department* ~~division~~ shall appoint an advisory committee composed of representatives of management, compensation insurance carriers, and self-insurers to aid it in formulating policies with respect to conservation of the fund, who shall serve without compensation for such terms as specified by it, but be reimbursed for travel expenses as provided in s. 112.061. All expenditures made in connection with conservation of the fund, including the salary of the attorney designated to represent it and necessary travel expenses, shall be allowed and paid from the Special Disability Trust Fund as provided in this section upon the presentation of itemized vouchers therefor approved by the *department* ~~division~~.

(11) EFFECTIVE DATES.—This section does not apply to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred prior to July 1, 1955, or on or after January 1, 1998. In no event shall the Special Disability Trust Fund be liable for, or reimburse employers or carriers for, any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred on or after January 1, 1998. The Special Disability Trust Fund shall continue to reimburse employers or carriers for subsequent injuries occurring prior to January 1, 1998, and the *department* ~~division~~ shall continue to assess for and the *department* ~~division~~ or administrator shall fund reimbursements as provided in subsection (9) for this purpose.

Section 47. Section 440.491, Florida Statutes, is amended to read:

440.491 Reemployment of injured workers; rehabilitation.—

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

(a) "Carrier" means group self-insurance funds or individual self-insureds authorized under this chapter and commercial funds or insurance entities authorized to write workers' compensation insurance under chapter 624.

(b) "Medical care coordination" includes, but is not limited to, coordinating physical rehabilitation services such as medical, psychiatric, or therapeutic treatment for the injured employee, providing health training to the employee and family, and monitoring the employee's recovery. The purposes of medical care coordination are to minimize the disability and recovery period without jeopardizing medical stability, to assure that proper medical treatment and other restorative services are timely provided in a logical sequence, and to contain medical costs.

(c) "Qualified rehabilitation provider" means a rehabilitation nurse, rehabilitation counselor, vocational evaluator, rehabilitation facility, or agency approved by the *Department of Education* ~~division~~ as qualified to provide reemployment assessments, medical care coordination, reemployment services, or vocational evaluations under this chapter.

(d) "Reemployment assessment" means a written assessment performed by a qualified rehabilitation provider which provides a comprehensive review of the medical diagnosis, treatment, and prognosis; includes conferences with the employer, physician, and claimant; and recommends a cost-effective physical and vocational rehabilitation plan to assist the employee in returning to suitable gainful employment.

(e) "Reemployment services" means services that include, but are not limited to, vocational counseling, job-seeking skills training, ergonomic job analysis, transferable skills analysis, selective job placement, labor market surveys, and arranging other services such as education or training, vocational and on-the-job, which may be needed by the employee to secure suitable gainful employment.

(f) "Reemployment status review" means a review to determine whether an injured employee is at risk of not returning to work.

(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 return to suitable gainful employment.

(2) INTENT.—It is the intent of this section to implement a systematic review by carriers of the factors that are predictive of longer-term disability and to encourage the provision of medical care coordination and reemployment services that are necessary to assist the employee in returning to work as soon as is medically feasible.

(3) REEMPLOYMENT STATUS REVIEWS AND REPORTS.—

(a) When an employee who has suffered an injury compensable under this chapter is unemployed 60 days after the date of injury and is receiving benefits for temporary total disability, temporary partial disability, or wage loss, and has not yet been provided medical care coordination and reemployment services voluntarily by the carrier, the carrier must determine whether the employee is likely to return to work and must report its determination to the *Department of Education* ~~division~~. The carrier must thereafter determine the reemployment status of the employee at 90-day intervals as long as the employee remains unemployed, is not receiving medical care coordination or reemployment services, and is receiving the benefits specified in this subsection.

(b) If medical care coordination or reemployment services are voluntarily undertaken within 60 days of the date of injury, such services may continue to be provided as agreed by the employee and the carrier.

(4) REEMPLOYMENT ASSESSMENTS.—

(a) The carrier may require the employee to receive a reemployment assessment as it considers appropriate. However, the carrier is encouraged to obtain a reemployment assessment if:

1. The carrier determines that the employee is at risk of remaining unemployed.

2. The case involves catastrophic or serious injury.

(b) The carrier shall authorize only a qualified rehabilitation provider to provide the reemployment assessment. The rehabilitation

provider shall conduct its assessment and issue a report to the carrier, the employee, and the *Department of Education* ~~division~~ within 30 days after the time such assessment is complete.

(c) If the rehabilitation provider recommends that the employee receive medical care coordination or reemployment services, the carrier shall advise the employee of the recommendation and determine whether the employee wishes to receive such services. The employee shall have 15 days after the date of receipt of the recommendation in which to agree to accept such services. If the employee elects to receive services, the carrier may refer the employee to a rehabilitation provider for such coordination or services within 15 days of receipt of the assessment report or notice of the employee's election, whichever is later.

(5) MEDICAL CARE COORDINATION AND REEMPLOYMENT SERVICES.—

(a) Once the carrier has assigned a case to a qualified rehabilitation provider for medical care coordination or reemployment services, the provider shall develop a reemployment plan and submit the plan to the carrier and the employee for approval.

(b) If the rehabilitation provider concludes that training and education are necessary to return the employee to suitable gainful employment, or if the employee has not returned to suitable gainful employment within 180 days after referral for reemployment services or receives $2,500 in reemployment services, whichever comes first, the carrier must discontinue reemployment services and refer the employee to the *Department of Education* ~~division~~ for a vocational evaluation. Notwithstanding any provision of chapter 289 or chapter 627, the cost of a reemployment assessment and the first $2,500 in reemployment services to an injured employee must not be treated as loss adjustment expense for workers' compensation ratemaking purposes.

(c) A carrier may voluntarily provide medical care coordination or reemployment services to the employee at intervals more frequent than those required in this section. For the purpose of monitoring reemployment, the carrier or the rehabilitation provider shall report to the *Department of Education* ~~division~~, in the manner prescribed by the *Department of Education* ~~division~~, the date of reemployment and wages of the employee. The carrier shall report its voluntary service activity to the *Department of Education* ~~division~~ as required by rule. Voluntary services offered by the carrier for any of the following injuries must be considered benefits for purposes of ratemaking: traumatic brain injury; spinal cord injury; amputation, including loss of an eye or eyes; burns of 5 percent or greater of the total body surface.

(d) If medical care coordination or reemployment services have not been undertaken as prescribed in paragraph (3)(b), a qualified rehabilitation service provider, facility, or agency that performs a reemployment assessment shall not provide medical care coordination or reemployment services for the employees it assesses.

(6) TRAINING AND EDUCATION.—

(a) Upon referral of an injured employee by the carrier, or upon the request of an injured employee, the *Department of Education* ~~division~~ shall conduct a training and education screening to determine whether it should refer the employee for a vocational evaluation and, if appropriate, approve training and education or other vocational services for the employee. The *Department of Education* ~~division~~ may not approve formal training and education programs unless it determines, after consideration of the reemployment assessment, pertinent reemployment status reviews or reports, and such other relevant factors as it prescribes by rule, that the reemployment plan is likely to result in return to suitable gainful employment. The *Department of Education* ~~division~~ is authorized to expend moneys from the Workers' Compensation Administration Trust Fund, established by s. 440.50, to secure appropriate training and education or other vocational services when necessary to satisfy the recommendation of a vocational evaluator. The *Department of Education* ~~division~~ shall establish training and education standards pertaining to employee eligibility, course curricula and duration, and associated costs.

(b) When it appears that an employee who has attained maximum medical improvement requires training and education to obtain suitable gainful employment, the employer shall pay the employee additional temporary total compensation while the employee receives such training and education for a period not to exceed 26 weeks, which period may be extended for an additional 26 weeks or less, if such extended period is determined to be necessary and proper by a judge of compensation claims. However, a carrier or employer is not precluded from voluntarily paying additional temporary total disability compensation beyond that period. If an employee requires temporary residence at or near a facility or an institution providing training and education which is located more than 50 miles away from the employee's customary residence, the reasonable cost of board, lodging, or travel must be borne by the *Department of Insurance* ~~division~~ from the Workers' Compensation Administration Trust Fund established by s. 440.50. An employee who refuses to accept training and education that is recommended by the vocational evaluator and considered necessary by the *Department of Education* ~~division~~ is subject to a 50-percent reduction in weekly compensation benefits, including wage-loss benefits, as determined under s. 440.15(3)(b).

(7) PROVIDER QUALIFICATIONS.—

(a) The *Department of Education* ~~division~~ shall investigate and maintain a directory of each qualified public and private rehabilitation provider, facility, and agency, and shall establish by rule the minimum qualifications, credentials, and requirements that each rehabilitation service provider, facility, and agency must satisfy to be eligible for listing in the directory. These minimum qualifications and credentials must be based on those generally accepted within the service specialty for which the provider, facility, or agency is approved.

(b) The *Department of Education* ~~division~~ shall impose a biennial application fee of $25 for each listing in the directory, and all such fees must be deposited in the Workers' Compensation Administration Trust Fund.

(c) The *Department of Education* ~~division~~ shall monitor and evaluate each rehabilitation service provider, facility, and agency qualified under this subsection to ensure its compliance with the minimum qualifications and credentials established by the *Department of Education* ~~division~~. The failure of a qualified rehabilitation service provider, facility, or agency to provide the *Department of Education* ~~division~~ with information requested or access necessary for the *Department of Education* ~~division~~ to satisfy its responsibilities under this subsection is grounds for disqualifying the provider, facility, or agency from further referrals.

(d) A qualified rehabilitation service provider, facility, or agency may not be authorized by an employer, a carrier, or the *Department of Education* ~~division~~ to provide any services, including expert testimony, under this section in this state unless the provider, facility, or agency is listed or has been approved for listing in the directory. This restriction does not apply to services provided outside this state under this section.

(e) The *Department of Education* ~~division~~, after consultation with representatives of employees, employers, carriers, rehabilitation providers, and qualified training and education providers, shall adopt rules governing professional practices and standards.

(8) CARRIER PRACTICES.—The *department* ~~division~~ shall monitor the selection of providers and the provision of services by carriers under this section for consistency with legislative intent set forth in subsection (2).

(9) PERMANENT DISABILITY.—The judge of compensation claims may not adjudicate an injured employee as permanently and totally disabled until or unless the carrier is given the opportunity to provide a reemployment assessment.

Section 48. Section 440.50, Florida Statutes, is amended to read:

440.50 Workers' Compensation Administration Trust Fund.—

(1)(a) There is established in the State Treasury a special fund to be known as the "Workers' Compensation Administration Trust Fund" for

the purpose of providing for the payment of all expenses in respect to the administration of this chapter, including the vocational rehabilitation of injured employees as provided in s. 440.49 and the payments due under s. 440.15(1)(f), the funding of the fixed administrative expenses of the plan, and the funding of the Bureau of Workers' Compensation Fraud within the Department of Insurance. Such fund shall be administered by the *department* ~~division~~.

(b) The *department* ~~division~~ is authorized to transfer as a loan an amount not in excess of $250,000 from such special fund to the Special Disability Trust Fund established by s. 440.49(9), which amount shall be repaid to said special fund in annual payments equal to not less than 10 percent of moneys received for such Special Disability Trust Fund.

(2) The Treasurer is authorized to disburse moneys from such fund only when approved by the *department* ~~division~~ and upon the order of the Comptroller.

(3) The Treasurer shall deposit any moneys paid into such fund into such depository banks as the *department* ~~division~~ may designate and is authorized to invest any portion of the fund which, in the opinion of the *department* ~~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.

(4) All civil penalties provided in this chapter, if not voluntarily paid, may be collected by civil suit brought by the *department* ~~division~~ and shall be paid into such fund.

Section 49. Section 440.51, Florida Statutes, is amended to read:

440.51 Expenses of administration.—

(1) The *department* ~~division~~ shall estimate annually in advance the amounts necessary for the administration of this chapter, in the following manner.

(a) The *department* ~~division~~ shall, by July 1 of each year, notify carriers and self-insurers of the assessment rate, which shall be based on the anticipated expenses of the administration of this chapter for the next calendar year. Such assessment rate shall take effect January 1 of the next calendar year and shall be included in workers' compensation rate filings approved by the Department of Insurance which become effective on or after January 1 of the next calendar year. Assessments shall become due and be paid quarterly.

(b) The total expenses of administration shall be prorated among the carriers writing compensation insurance in the state and self-insurers. The net premiums collected by carriers and the amount of premiums calculated by the *department* ~~division~~ for self-insured employers are the basis for computing the amount to be assessed. When reporting deductible policy premium for purposes of computing assessments levied after July 1, 2001, full policy premium value must be reported prior to application of deductible discounts or credits. This amount may be assessed as a specific amount or as a percentage of net premiums payable as the *department* ~~division~~ may direct, provided such amount so assessed shall not exceed 2.75 percent, beginning January 1, 2001, except during the interim period from July 1, 2000, through December 31, 2000, such assessments shall not exceed 4 percent of such net premiums. The carriers may elect to make the payments required under s. 440.15(1)(f) rather than having these payments made by the *department* ~~division~~. In that event, such payments will be credited to the carriers, and the amount due by the carrier under this section will be reduced accordingly.

(2) The *department* ~~division~~ shall provide by regulation for the collection of the amounts assessed against each carrier. Such amounts shall be paid within 30 days from the date that notice is served upon such carrier. If such amounts are not paid within such period, there may be assessed for each 30 days the amount so assessed remains unpaid, a civil penalty equal to 10 percent of the amount so unpaid, which shall be collected at the same time and a part of the amount assessed. For those carriers who excluded ceded reinsurance premiums from their assessments prior to January 1, 2000, the *department* ~~division~~ shall not recover any past underpayments of assessments related to ceded reinsurance premiums prior to January 1, 2001, against such carriers.

(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). The *department* ~~division~~ may permit a carrier to remit any underpayment of assessments for assessments levied after January 1, 2001.

(4) All amounts collected under the provisions of this section shall be paid into the fund established in s. 440.50.

(5) Any amount so assessed against and paid by an insurance carrier, self-insurer authorized pursuant to s. 624.4621, or commercial self-insurance fund authorized under ss. 624.460-624.488 shall be allowed as a deduction against the amount of any other tax levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of said insurance carrier, self-insurer, or commercial self-insurance fund. Any insurance carrier claiming such a deduction against the amount of any such tax shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such deduction. Because deductions under this subsection are available to insurance carriers, s. 624.5091 does not limit such deductions in any manner.

(6)(a) The *department* ~~division~~ may require from each carrier, at such time and in accordance with such regulations as the *department* ~~division~~ may prescribe, reports in respect to all gross earned premiums and of all payments of compensation made by such carrier during each prior period, and may determine the amounts paid by each carrier and the amounts paid by all carriers during such period.

(b) The Department of Insurance may require from each self-insurer, at such time and in accordance with such regulations as the Department of Insurance prescribes, reports in respect to wages paid, the amount of premiums such self-insurer would have to pay if insured, and all payments of compensation made by such self-insurer during each prior period, and may determine the amounts paid by each self-insurer and the amounts paid by all self-insurers during such period. For the purposes of this section, the payroll records of each self-insurer shall be open to annual inspection and audit by the Department of Insurance or its authorized representative, during regular business hours; and if any audit of such records of a self-insurer discloses a deficiency in the amounts reported to the Department of Insurance or in the amounts paid to the Department of Insurance by a self-insurer pursuant to this section, the Department of Insurance may assess the cost of such audit against the self-insurer.

(7) The *department* ~~division~~ shall keep accumulated cost records of all injuries occurring within the state coming within the purview of this chapter on a policy and calendar-year basis. For the purpose of this chapter, a "calendar year" is defined as the year in which the injury is reported to the *department* ~~division~~; "policy year" is defined as that calendar year in which the policy becomes effective, and the losses under such policy shall be chargeable against the policy year so defined.

(8) The *department* ~~division~~ shall assign an account number to each employer under this chapter and an account number to each insurance carrier authorized to write workers' compensation insurance in the state; and it shall be the duty of the *department* ~~division~~ under the account number so assigned to keep the cost experience of each carrier and the cost experience of each employer under the account number so assigned by calendar and policy year, as above defined.

(9) In addition to the above, it shall be the duty of the *department* ~~division~~ to keep the accident experience, as classified by the *department* ~~division~~, by industry as follows:

(a) Cause of the injury;

(b) Nature of the injury; and

(c) Type of disability.

(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.

(11) The *department* ~~division~~ shall furnish to any employer or carrier, upon request, its individual experience. ~~The division shall furnish to the Department of Insurance, upon request, the Florida experience as developed under accident year or calendar year.~~

(12) In addition to any other penalties provided by this law, the failure to submit any report or other information required by this law shall be just cause to suspend the right of a self-insurer to operate as such, or~~, upon certification by the division to the Department of Insurance that a carrier has failed or refused to furnish such reports,~~ shall be just cause for the Department of Insurance to suspend or revoke the license of such carrier.

(13) As used in s. 440.50 and this section, the term:

(a) "Plan" means the workers' compensation joint underwriting plan provided for in s. 627.311(4).

(b) "Fixed administrative expenses" means the expenses of the plan, not to exceed $750,000, which are directly related to the plan's administration but which do not vary in direct relationship to the amount of premium written by the plan and which do not include loss adjustment premiums.

(14) Before July 1 in each year, the plan shall notify the *department* ~~division~~ of the amount of the plan's gross written premiums for the preceding calendar year. Whenever the plan's gross written premiums reported to the *department* ~~division~~ are less than $30 million, the *department* ~~division~~ shall transfer to the plan, subject to appropriation by the Legislature, an amount not to exceed the plan's fixed administrative expenses for the preceding calendar year.

Section 50. Section 440.52, Florida Statutes, is amended to read:

440.52 Registration of insurance carriers; notice of cancellation or expiration of policy; suspension or revocation of authority.—

~~(1) Each insurance carrier who desires to write such compensation insurance in compliance with this chapter shall be required, before writing such insurance, to register with the division and pay a registration fee of $100. This shall be deposited by the division in the fund created by s. 440.50.~~

(1)~~(2)~~ A carrier or self-insurance fund that receives notice pursuant to s. 440.05 shall notify the contractor of the cancellation or expiration of the insurance.

(2)~~(3)~~ If the *department* ~~division~~ finds, after due notice and a hearing at which the insurance carrier is entitled to be heard in person or by counsel and present evidence, that the insurance carrier has repeatedly failed to comply with its obligations under this chapter, the *department* ~~division~~ may ~~request the Department of Insurance to~~ suspend or revoke the authorization of such insurance carrier to write workers' compensation insurance ~~under this chapter~~. Such suspension or revocation shall not affect the liability of any such insurance carrier under policies in force prior to the suspension or revocation.

(3)~~(4)~~ In addition to the penalties prescribed in subsection (3), violation of s. 440.381 by an insurance carrier shall result in the imposition of a fine not to exceed $1,000 per audit, if the insurance carrier fails to act on said audits by correcting errors in employee classification or accepted applications for coverage where it knew employee classifications were incorrect. Such fines shall be levied by the Department of Insurance and deposited into the Insurance Commissioner's Regulatory Trust Fund.

Section 51. Section 440.525, Florida Statutes, is amended to read:

440.525 Examination of carriers.~~—Beginning July 1, 1994,~~ The ~~Division of Workers' Compensation of the~~ department ~~of Labor and Employment Security~~ may examine each carrier as often as is warranted to ensure that carriers are fulfilling their obligations under the law~~, and shall examine each carrier not less frequently than once every 3 years~~. ~~The examination must cover the preceding 3 fiscal years of the carrier's operations and must commence within 12 months after the end of the most recent fiscal year being covered by the examination.~~ The examination may cover any period of the carrier's operations since the last previous examination.

Section 52. Section 440.572, Florida Statutes, is amended to read:

440.572 Authorization for individual self-insurer to provide coverage.—An individual self-insurer having a net worth of not less than $250 million as authorized by s. 440.38(1)(f) may assume by contract the liabilities under this chapter of contractors and subcontractors, or each of them, employed by or on behalf of such individual self-insurer when performing work on or adjacent to property owned or used by the individual self-insurer by the *department* ~~division~~. The net worth of the individual self-insurer shall include the assets of the self-insurer's parent company and its subsidiaries, sister companies, affiliated companies, and other related entities, located within the geographic boundaries of the state.

Section 53. Section 440.59, Florida Statutes, is amended to read:

440.59 Reporting requirements.—

(1) The department ~~of Labor and Employment Security~~ shall annually prepare a report of the administration of this chapter for the preceding calendar year, including a detailed statement of the receipts of and expenditures from the fund established in s. 440.50 and a statement of the causes of the accidents leading to the injuries for which the awards were made, together with such recommendations as the department considers advisable. On or before September 15 of each year, the department shall submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation.

(2) The ~~Division of Workers' Compensation of the~~ department ~~of Labor and Employment Security~~ shall *periodically* complete ~~on a quarterly basis~~ an analysis of the ~~previous quarter's~~ injuries which resulted in workers' compensation claims *as deemed necessary by the department*. The analysis shall *include the information, data, and statistics deemed relevant by the department* ~~be broken down by risk classification, shall show for each such risk classification the frequency and severity for the various types of injury, and shall include an analysis of the causes of such injuries~~. The *department* ~~division~~ shall *make available* ~~distribute~~ to each employer and self-insurer in the state covered by the Workers' Compensation Law the data relevant to its workforce. The report shall also be distributed to the insurers authorized to write workers' compensation insurance in the state.

(3) The *department* ~~division~~ shall annually prepare a closed claim report for all claims for which the employee lost more than 7 days from work and shall submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation on or before September 15 of each year. The closed claim report shall include *information, data, and statistics deemed relevant by the department*~~, but not be limited to, an analysis of all claims closed during the preceding year as to the date of accident, age of the injured employee, occupation of the injured employee, type of injury, body part affected, type and duration of indemnity benefits paid, permanent impairment rating, medical benefits identified by type of health care provider, and type and cost of any rehabilitation benefits provided~~.

(4) The *department* ~~division~~ shall prepare an annual report for all claims for which the employee lost more than 7 days from work and shall

submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation, on or before September 15 of each year. The annual report shall include *information, data, and statistics deemed relevant by the department* ~~a status report on all cases involving work-related injuries in the previous 10 years~~. ~~The annual report shall include, but not be limited to, the number of open and closed cases, the number of cases receiving various types of benefits, the cash and medical benefits paid between the date of injury and the evaluation date, the number of litigated cases, and the amount of attorney's fees paid in each case.~~

(5) The Chief Judge must prepare an annual report summarizing the disposition of mediation conferences and must submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation, on or before September 15 of each year.

Section 54. Section 440.591, Florida Statutes, is amended to read:

440.591 Administrative procedure; rulemaking authority.—The *department, the agency, and the Department of Education have* ~~division has~~ authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it.

Section 55. Section 440.593, Florida Statutes, is amended to read:

440.593 Electronic reporting.—The *department* ~~division~~ may establish by rule an electronic reporting system whereby an employer or carrier is required to submit information electronically rather than by filing otherwise required forms or reports. The *department* ~~division~~ may by rule establish different deadlines for reporting information to the *department* ~~division~~ via the electronic reporting system than are otherwise required.

Section 56. Subsections (1), (4), and (5) of section 443.012, Florida Statutes, are amended to read:

443.012 Unemployment Appeals Commission.—

(1) There is created within the *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~ an Unemployment Appeals Commission, hereinafter referred to as the "commission." The commission shall consist of a chair and two other members to be appointed by the Governor, subject to confirmation by the Senate. Not more than one appointee must be a person who, on account of previous vocation, employment, or affiliation, is classified as a representative of employers; and not more than one such appointee must be a person who, on account of previous vocation, employment, or affiliation, is classified as a representative of employees.

(a) The chair shall devote his or her entire time to commission duties and shall be responsible for the administrative functions of the commission.

(b) The chair shall have the authority to appoint a general counsel and such other personnel as may be necessary to carry out the duties and responsibilities of the commission.

(c) The chair shall have the qualifications required by law for a judge of the circuit court and shall not engage in any other business vocation or employment. Notwithstanding any other provisions of existing law, the chair shall be paid a salary equal to that paid under state law to a judge of the circuit court.

(d) The remaining members shall be paid a stipend of $100 for each day they are engaged in the work of the commission. The chair and other members shall also be reimbursed for travel expenses, as provided in s. 112.061.

(e) The total salary and travel expenses of each member of the commission shall be paid from the Employment Security Administration Trust Fund.

(4) The property, personnel, and appropriations relating to the specified authority, powers, duties, and responsibilities of the commission shall be provided to the commission by the *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~.

(5) The commission shall not be subject to control, supervision, or direction by the *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~ in the performance of its powers and duties under this chapter.

Section 57. Subsection (12) of section 443.036, Florida Statutes, is amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(12) COMMISSION.—"Commission" means the Unemployment Appeals Commission ~~of the Department of Labor and Employment Security~~.

Section 58. Subsection (3) of section 447.02, Florida Statutes, is amended to read:

447.02 Definitions.—The following terms, when used in this chapter, shall have the meanings ascribed to them in this section:

(3) The term "department" means the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 59. Subsections (1), (3), and (4) of section 447.205, Florida Statutes, are amended to read:

447.205 Public Employees Relations Commission.—

(1) There is hereby created within the Department of *Management Services* ~~Labor and Employment Security~~ the Public Employees Relations Commission, hereinafter referred to as the "commission." The commission shall be composed of a chair 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 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 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 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, the chair shall serve as chair for the duration of the term of office of chair. Nothing contained herein prohibits a chair or commissioner from serving multiple terms.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of *Management Services* ~~Labor and Employment Security~~.

(4) The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of *Management Services* ~~Labor and Employment Security~~.

Section 60. Subsection (4) of section 447.305, Florida Statutes, is amended to read:

447.305 Registration of employee organization.—

(4) Notification of registrations and renewals of registration shall be furnished at regular intervals by the commission to the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 61. Subsection (4) of section 450.012, Florida Statutes, is amended to read:

450.012 Definitions.—For the purpose of this chapter, the word, phrase, or term:

(4) "Department" means the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 62. Subsection (2) of section 450.28, Florida Statutes, is amended to read:

450.28 Definitions.—

(2) "Department" means the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 63. Subsection (1) of section 450.191, Florida Statutes, is amended to read:

450.191 Executive Office of the Governor; powers and duties.—

(1) The Executive Office of the Governor is authorized and directed to:

(a) Advise and consult with employers of migrant workers as to the ways and means of improving living conditions of seasonal workers;

(b) Cooperate with the Department of Health in establishing minimum standards of preventive and curative health and of housing and sanitation in migrant labor camps and in making surveys to determine the adequacy of preventive and curative health services available to occupants of migrant labor camps;

(c) Provide coordination for the enforcement of ss. 381.008-381.0088;

(d) Cooperate with the other departments of government in coordinating all applicable labor laws, including, but not limited to, those relating to private employment agencies, child labor, wage payments, wage claims, and crew leaders;

(e) Cooperate with the Department of Education to provide educational facilities for the children of migrant laborers;

(f) Cooperate with the Department of Highway Safety and Motor Vehicles to establish minimum standards for the transporting of migrant laborers;

(g) Cooperate with the Department of Agriculture and Consumer Services to conduct an education program for employers of migrant laborers pertaining to the standards, methods, and objectives of the office;

(h) Cooperate with the Department of Children and Family Services in coordinating all public assistance programs as they may apply to migrant laborers;

(i) Coordinate all federal, state, and local programs pertaining to migrant laborers; *and*

(j) Cooperate with the farm labor office of the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~ in the recruitment and referral of migrant laborers and other persons for the planting, cultivation, and harvesting of agricultural crops in Florida.

Section 64. Subsection (3) of section 468.529, Florida Statutes, is amended to read:

468.529 Licensee's insurance; employment tax; benefit plans.—

(3) A licensed employee leasing company shall within 30 days of initiation or termination notify its workers' compensation insurance carrier, the *Department of Insurance* ~~Division of Workers' Compensation~~, and the Division of Unemployment Compensation of the Department of *Revenue* ~~Labor and Employment Security~~ of both the initiation or the termination of the company's relationship with any client company.

Section 65. Subsections (1) and (5) of section 624.3161, Florida Statutes, are amended to read:

624.3161 Market conduct examinations.—

(1) As often as it deems necessary, the department shall examine each licensed rating organization, each advisory organization, each group, association *carrier as defined in s. 440.02,*, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters *440,* 624, 626, 627, and 635.

(5) Such examinations shall also be subject to the applicable provisions of ss. 624.318, 624.319, 624.321, and 624.322 *and chapter 440*.

Section 66. Paragraph (m) of subsection (1) of section 626.88, Florida Statutes, is amended to read:

626.88 Definitions of "administrator" and "insurer".—

(1) For the purposes of this part, an "administrator" is any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this state in connection with authorized commercial self-insurance funds or with insured or self-insured programs which provide life or health insurance coverage or coverage of any other expenses described in s. 624.33(1), other than any of the following persons:

(m) A person approved by the *Department of Insurance* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ who administers only self-insured workers' compensation plans.

Section 67. Subsection (9) of section 626.989, Florida Statutes, is amended to read:

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(9) In recognition of the complementary roles of investigating instances of workers' compensation fraud and enforcing compliance with the workers' compensation coverage requirements under chapter 440, the Division of Insurance Fraud of the Department of Insurance *is* ~~and the Division of Workers' Compensation of the Department of Labor and Employment Security are~~ directed to prepare and submit a ~~joint~~ performance report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year for each of the next 2 years, and then every 3 years thereafter, describing the results obtained in achieving compliance with the workers' compensation coverage requirements and reducing the incidence of workers' compensation fraud.

Section 68. Section 627.0915, Florida Statutes, is amended to read:

627.0915 Rate filings; workers' compensation, drug-free workplace, and safe employers.—The Department of Insurance shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers that either implement a drug-free workplace program pursuant to rules adopted by the *department* ~~Division of Workers' Compensation of the Department of Labor and Employment Security or implement a safety program approved by the Division of Safety pursuant to rules adopted by the Division of Safety of the Department of Labor and Employment Security~~

~~or implement both a drug-free workplace program and a safety program~~. ~~The Division of Safety may by rule require that the client of a help supply services company comply with the essential requirements of a workplace safety program as a condition for receiving a premium credit.~~ The plans must ~~take effect January 1, 1994, must~~ be actuarially sound, and must state the savings anticipated to result from such drug-testing *program* ~~and safety programs~~.

Section 69. Subsection (5) of section 627.914, Florida Statutes, is amended to read:

627.914 Reports of information by workers' compensation insurers required.—

(5) Self-insurers authorized to transact workers' compensation insurance as provided in s. 440.02 shall report only Florida data as prescribed in paragraphs (a)-(e) of subsection (4) to the *department* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~.

(a) The *department* ~~Division of Workers' Compensation~~ shall publish the dates and forms necessary to enable self-insurers to comply with this section.

~~(b) The Division of Workers' Compensation shall report the information collected under this section to the Department of Insurance in a manner prescribed by the department.~~

(b)~~(c)~~ A statistical or rating organization may be used by self-insurers for the purposes of reporting the data required by this section and calculating experience ratings.

Section 70. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

Section 71. *To the extent that any conflict exists between this act and the provisions of SB 1926, or similar legislation, which transfers the Office of Judges of Compensation Claims to the Division of Administration Hearings, the provisions of SB 1926 or the similar legislation shall control.*

Section 72. Unless otherwise expressly provided for in this act, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 1, through 5, line 29,
remove the entire title of the bill:

and insert in lieu thereof: A bill to be entitled An act relating to The Department of Labor and Employment Security; transferring the Division of Workers' Compensation from the Department of Labor and Employment Security to the Department of Insurance; providing exceptions; transferring various functions, powers, duties, personnel, and assets relating to workers' compensation to the Department of Education, the Agency for Health Care Administration, and the Department of Insurance; amending s. 20.13, F.S.; providing for certain employees of the Division to be given hiring priority by the Department of Insurance; providing pay and employment guidelines for such employees; creating the Division of Workers' Compensation in the Department of Insurance; repealing s. 20.171, F.S., which creates the Department of Labor and Employment Security; amending s. 440.015, F.S.; designating state agencies to administer the workers' compensation law; amending s. 440.02, F.S.; providing definitions; amending ss. 110.025, 440.05, 440.09, 440.10, 440.021, 440.102, 440.103, 440.105, 440.106, 440.107, 440.108, 440.125, 440.13, 440.134, 440.14, 440.15, 440.17, 440.185, 440.191, 440.192, 440.1925, 440.20, 440.207, 440.211, 440.24, 440.25, 440.271, 440.345, 440.35, 440.38, 440.381, 440.385, 440.386, 440.40, 440.41, 440.42, 440.44, 440.49, 440.491, 440.50, 440.51, 440.52, 440.525, 440.572, 440.59, 440.591, 440.593, 443.012, 443.036, 447.02, 447.205, 447.305, 450.12, 450.197, 450.28, 468.529, 626.88, 626.989, 627.0915, 627.914, F.S., to conform to the transfers made by this act; providing for the continuation of contracts and agreements; amending s. 440.4416, F.S.; revising the composition of the Workers' Compensation Oversight Board; providing for substitution of a successor agency as a party in judicial and administrative proceedings; providing severability; amending s. 624.3161, F.S.; providing for market conduct examinations with respect to workers' compensation; providing legislative intent; providing for a type two transfer of the administration of child labor laws to the Department of Business and Professional Regulation; providing for a type two transfer of certain functions of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security relating to labor organizations and migrant and farm labor registration to the Department of Business and Professional Regulation; providing for a type two transfer of other workplace regulation functions to the Department of Business and Professional Regulation; providing appropriations; amending s. 447.02, F.S.; conforming the definition of "department" to the transfer of the regulation of labor organizations to the Department of Business and Professional Regulation; amending s. 450.012, F.S.; conforming the definition of "department" to the transfer of the regulation of child labor to the Department of Business and Professional Regulation; amending s. 450.191, F.S., relating to the duties of the Executive Office of the Governor with respect to migrant labor; conforming provisions to changes made by the act; amending s. 450.28, F.S.; conforming the definition of "department" to the transfer of the regulation of farm labor to the Department of Business and Professional Regulation; providing effective dates.

Rep. Clarke moved the adoption of the amendment.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 674803)

Amendment 1 to Amendment 7—On page 4, line 13,
remove from the amendment: *Twenty-nine*

and insert in lieu thereof: *Effective July 1, 2001, 29*

Rep. Clarke moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 044825)

Amendment 2 to Amendment 7—On page 7, line 2, after the period,

insert: *Upon completion of this transfer, the State Technology Office and the Department of Insurance shall enter into discussions to determine whether it would be technologically feasible and cost effective to separate the Workers' Compensation Integrated System from its current mainframe platform and transfer ownership of this system to the Department of Insurance. If the Department of Insurance ultimately determines that it is technologically feasible and cost effective to transfer ownership of the Workers' Compensation Integrated System from the State Technology Office to the Department of Insurance, the State Technology Office and the Department of Insurance shall jointly develop and implement a plan to transfer this system to the Department of Insurance.*

Rep. Clarke moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 821551)

Amendment 3 to Amendment 7 (with title amendment)—On page 10, between lines 1 and 2,

insert: *(22) All rules adopted by the Department of Labor and Employment Security and the authority for such rules relating to the regulation of workers' compensation medical services are transferred to the Agency for Health Care Administration.*

And the title is amended as follows:

On page 188, line 11, after the semicolon,

insert: transferring certain rules to the Agency for Health Care Administration;

Rep. Clarke moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 680695)

Amendment 4 to Amendment 7—On page 62, line 19 through page 67, line 23,
remove from the amendment: all of said lines

Rep. Clarke moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 062963)

Amendment 5 to Amendment 7 (with title amendment)—On page 115, line 5, through page 122, line 24,
remove from the amendment: all of said lines,

and insert in lieu thereof:

Section 36. Subsections (1), (2), and (3) of section 440.38, Florida Statutes, are 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:

(a) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association or exchange, authorized to do business in the state;

(b) By furnishing satisfactory proof to the *Florida Self-Insurers Guaranty Association, Incorporated, created in s. 440.385, that it has the financial strength necessary to assure timely payment of all current and future claims* ~~division of its financial ability to pay such compensation~~ individually and on behalf of its subsidiary and affiliated companies with employees in this state and receiving an authorization from the *Department of Insurance,* ~~division~~ to pay such compensation directly. *The association shall review the financial strength of applicants for membership, current members, and former members and make recommendations to the department regarding their qualifications to self-insure* in accordance with *this act and ss. 440.385 and 440.386. The department shall consult with the association on any recommendation before taking action.* ~~the following provisions:~~

1. The *association* ~~division~~ may *recommend that the Department of Insurance*~~, as a condition to such authorization,~~ require *an* ~~such~~ employer to deposit *with* ~~in a depository designated by~~ the *association a qualifying deposit. The association shall recommend the type and amount of the qualifying security deposit and shall* ~~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 *conditions for the qualifying security deposit*~~,~~ which shall include authorization *for* ~~to~~ the *association to call the qualifying security deposit* ~~division~~ in the case of default ~~to sell any such securities sufficient~~ to pay compensation awards *and related expenses of the association* ~~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, *the employer shall provide* proof that the employer has provided for competent personnel with whom to deliver benefits and to provide a safe working environment. ~~Further,~~ The *employer* ~~division~~ shall *also provide evidence of* ~~require such employer to carry~~ reinsurance at levels that will ensure the *financial strength and* actuarial soundness of such employer in accordance with rules *adopted* ~~promulgated~~ by the *Department of Insurance* ~~division~~. The *Department of Insurance* ~~division~~ may by rule require that, in the event of an individual self-insurer's insolvency, such *qualifying security deposits* ~~indemnity bonds, securities,~~ and reinsurance policies *are* ~~shall be~~ payable to the *association* ~~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. *All such employers shall, if requested, provide the association an actuarial report signed by a member of the American Academy of Actuaries providing an opinion of the appropriate present value of the reserves for current and future compensation claims. If any member or former member of the association refuses to timely provide such a report, the association may obtain an order from a circuit court requiring the member to produce such a report and ordering such other relief as the court determines appropriate. The association shall be entitled to recover all reasonable costs and attorney's fees in such proceedings.*

2. If the employer fails to maintain the foregoing requirements, the *association* ~~division~~ shall *recommend to the Department of Insurance that it* revoke the employer's authority to self-insure, unless the employer provides to the *association* ~~division~~ the certified opinion of an independent actuary who is a member of the American *Academy* ~~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 *association shall provide such information to the department along with a recommendation, and the Department of Insurance* ~~division~~ shall then revoke *an* ~~such~~ employer's authorization to self-insure.~~, and such~~ Failure *to comply with this provision* 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 *Academy* ~~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 *association* ~~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 *association* ~~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 *association* ~~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.~~

b.~~c.~~ Irrevocable letters of credit in favor of the *association* ~~division~~ issued by financial institutions *located within this state, the deposits of which are insured through the Federal Deposit Insurance Corporation* ~~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 *association* ~~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 *letter of credit* ~~other qualifying security~~ may be allowed to *expire* ~~lapse~~, without 90 days' prior *written* notice to the *association* ~~division~~ and *the* deposit by the self-insuring employer of *some* other qualifying security *deposit* of equal value within 10 business days after such notice. Failure to provide such *written* notice or failure to timely provide qualifying replacement security after such notice shall constitute grounds for the *association* ~~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 *its* ~~of~~ rights under a letter of credit*. Current self-insured employers must comply with this section on or before December 31, 2001, or upon maturity of existing security deposits, whichever occurs later* ~~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~~. The *Department of Insurance* ~~division~~ may specify by rule the amount of the qualifying security deposit required prior to authorizing an employer to self-insure and the amount of net worth required for an employer to qualify for authorization to self-insure;

(c) By entering into a contract with a public utility under an approved utility-provided self-insurance program as set forth in s. *624.46225* ~~440.571~~ in effect as of July 1, 1983. The *Department of Insurance* ~~division~~ shall adopt rules to implement this paragraph;

(d) By entering into an interlocal agreement with other local governmental entities to create a local government pool pursuant to s. 624.4622;

(e) In accordance with s. 440.135, an employer, other than a local government unit, may elect coverage under the Workers' Compensation Law and retain the benefit of the exclusiveness of liability provided in s. 440.11 by obtaining a 24-hour health insurance policy from an authorized property and casualty insurance carrier or an authorized life and health insurance carrier, or by participating in a fully or partially self-insured 24-hour health plan that is established or maintained by or for two or more employers, so long as the law of this state is not preempted by the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, or any amendment to that law, which policy or plan must provide, for at least occupational injuries and illnesses, medical benefits that are comparable to those required by this chapter. A local government unit, as a single employer, in accordance with s. 440.135, may participate in the 24-hour health insurance coverage plan referenced in this paragraph. Disputes and remedies arising under policies issued under this section are governed by the terms and conditions of the policies and under the applicable provisions of the Florida Insurance Code and rules adopted under the insurance code and other applicable laws of this state. The 24-hour health insurance policy may provide for health care by a health maintenance organization or a preferred provider organization. The premium for such 24-hour health insurance policy shall be paid entirely by the employer. The 24-hour health insurance policy may use deductibles and coinsurance provisions that require the employee to pay a portion of the actual medical care received by the employee. If an employer obtains a 24-hour health insurance policy or self-insured plan to secure payment of compensation as to medical benefits, the employer must also obtain an insurance policy or policies that provide indemnity benefits as follows:

1. If indemnity benefits are provided only for occupational-related disability, such benefits must be comparable to those required by this chapter.

2. If indemnity benefits are provided for both occupational-related and nonoccupational-related disability, such benefits must be comparable to those required by this chapter, except that they must be based on 60 percent of the average weekly wages.

3. The employer shall provide for each of its employees life insurance with a death benefit of $100,000.

4. Policies providing coverage under this subsection must use prescribed and acceptable underwriting standards, forms, and policies approved by the Department of Insurance. If any insurance policy that provides coverage under this section is canceled, terminated, or nonrenewed for any reason, the cancellation, termination, or nonrenewal is ineffective until the self-insured employer or insurance carrier or carriers notify the ~~division and the~~ Department of Insurance of the cancellation, termination, or nonrenewal, and until the *Department of Insurance* ~~division~~ has actually received the notification. The *Department of Insurance* ~~division~~ must be notified of replacement coverage under a workers' compensation and employer's liability insurance policy or plan by the employer prior to the effective date of the cancellation, termination, or nonrenewal; or

(f) By entering into a contract with an individual self-insurer under an approved individual self-insurer-provided self-insurance program as set forth in s. 624.46225. The *Department of Insurance* ~~division~~ may adopt rules to implement this subsection.

(2)(a) The *Department of Insurance* ~~division~~ shall adopt rules by which businesses may become qualified to provide underwriting claims-adjusting, loss control, and safety engineering services to self-insurers.

(b) The *Department of Insurance* ~~division~~ shall adopt rules requiring self-insurers to file any reports necessary to fulfill the requirements of this chapter. Any self-insurer who fails to file any report as prescribed by the rules adopted by the *department* ~~division~~ shall be subject to a civil penalty ~~not to exceed $100 for each such failure~~.

(3)~~(a) The license of any stock company or mutual company or association or exchange authorized to do insurance business in the state shall for good cause, upon recommendation of the division, be suspended or revoked by the Department of Insurance. No suspension or revocation shall affect the liability of any carrier already incurred.~~

(a)~~(b)~~ The *Department of Insurance* ~~division~~ shall suspend or revoke any authorization to a self-insurer for *failure to comply with this act or for* good cause, as defined by rule of the *department* ~~division~~. No suspension or revocation shall affect the liability of any self-insurer already incurred.

(b)~~(c)~~ Violation of s. 440.381 by a self-insurance fund shall result in the imposition of a fine not to exceed $1,000 per audit if the self-insurance fund fails to act on said audits by correcting errors in employee classification or accepted applications for coverage where it knew employee classifications were incorrect. Such fines shall be levied by the *Department of Insurance* ~~division~~ and deposited into the Workers' Compensation Administration Trust Fund.

And the title is amended as follows:

On page 189, line 6, of the amendment, after the semicolon,

insert: amending s. 440.38, F.S.; transferring operation of provisions requiring the securing of payment of compensation by employers from the Division of Workers' Compensation of the Department of Labor and Employment Security to the Florida Self-Insurer's Guaranty Association, Incorporated, and the Department of Insurance; revising and clarifying requirements and procedures; providing powers and

duties of the association and the departments; providing for allocation or payment of state funds to the association for certain purposes; providing rulemaking authority;

Rep. Clarke moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 212573)

Amendment 6 to Amendment 7—On page 186, lines 4-21, remove from the amendment: all of said lines,

and insert in lieu thereof:

627.0915 Rate filings; workers' compensation, drug-free workplace, and safe employers.—The Department of Insurance shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers that either implement a drug-free workplace program pursuant to rules adopted by the Division of Workers' Compensation of the Department of Labor and Employment Security or implement a safety program *pursuant to provisions of the rating plan* ~~approved by the Division of Safety pursuant to rules adopted by the Division of Safety of the Department of Labor and Employment Security~~ or implement both a drug-free workplace program and a safety program. ~~The Division of Safety may by rule require that the client of a help supply services company comply with the essential requirements of a workplace safety program as a condition for receiving a premium credit.~~ The plans must ~~take effect January 1, 1994, must~~ be actuarially sound, and must state the savings anticipated to result from such drug-testing and safety programs.

Rep. Clarke moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Miller, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Clarke, Alexander, and Miller offered the following:

(Amendment Bar Code: 920569)

Amendment 7 to Amendment 7 (with title amendment)—On page 178, between lines 21 and 22 of the amendment

insert:

Section 1. Effective July 1, 2001, section 633.801, Florida Statutes, is created to read:

633.801 Short title.—Sections 633.801 through 633.825 may be cited as the "Florida Firefighter Occupational Safety and Health Act."

Section 2. Effective July 1, 2001, section 633.802, Florida Statutes, is created to read:

633.802 Definitions.—As used in ss. 633.801-633.825, unless the context clearly indicates otherwise, the term:

(1) "Department" means the Department of Insurance.

(2) "Division" means the Division of State Fire Marshal of the Department of Insurance.

(3) "Firefighter employee" means any person engaged in any employment, public or private, as a firefighter under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and responding to or assisting with fire and medical emergencies whether or not the firefighter is on duty, except those appointed under s. 590.02(1)(d).

(4) "Firefighter employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, and any person carrying on any employment thereof, which employs firefighters or which uses volunteer firefighters, except those appointed under s. 590.02(1)(d).

(5) "Firefighter employment" or "employment" means any service performed by a firefighter employee for the firefighter employer.

(6) "Place of firefighter employment" or "place of employment" means the physical location at which the firefighter is employed.

Section 3. Effective July 1, 2001, section 633.803, Florida Statutes, is created to read:

633.803 Legislative intent.—It is the intent of the Legislature to enhance firefighter occupational safety and health in this state through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of firefighter employee accidents, firefighter occupational diseases, and firefighter fatalities compensable under chapter 440 or otherwise. The Legislature further intends that the division develop a means by which it can identify individual firefighter employers with a high frequency or severity of work-related injuries, conduct safety inspections of those firefighter employers, and assist those firefighter employers in the development and implemention of firefighter employee safety and health programs. In addition, it is the intent of the Legislature that the division administer the provisions of ss. 633.801-633.825; provide assistance to firefighter employers, firefighter employees, and insurers; and enforce the policies, rules, and standards set forth in ss. 633.801-633.825.

Section 4. Effective July 1, 2001, section 633.804, Florida Statutes, is created to read:

633.804 Safety inspections, consultations; rules.—The division shall adopt rules governing the manner, means, and frequency of firefighter employer and firefighter employee safety inspections and consultations by all insurers and self-insurers.

Section 5. Effective July 1, 2001, section 633.805, Florida Statutes, is created to read:

633.805 Division to make study of firefighter occupational diseases, etc.—The division shall make a continuous study of firefighter occupational diseases and the ways and means for their control and prevention and shall make and enforce necessary regulations for such control. For this purpose, the division is authorized to cooperate with firefighter employers, firefighter employees, and insurers and with the Department of Health.

Section 6. Effective July 1, 2001, section 633.806, Florida Statutes, is created to read:

633.806 Investigations by the division; refusal to admit; penalty.—

(1) The division shall make studies and investigations with respect to safety provisions and the causes of firefighter injuries in places of firefighter employment, and shall make to the Legislature and firefighter employers and insurers such recommendations as it considers proper as to the best means of preventing firefighter injuries. In making such studies and investigations, the division may:

(a) Cooperate with any agency of the United States charged with the duty of enforcing any law securing safety against injury in any place of firefighter employment covered by ss. 633.801-633.825, or any agency or department of the state engaged in enforcing any law to assure safety for firefighter employees.

(b) Allow any such agency or department to have access to the records of the division.

(2) The division by rule may adopt procedures for conducting investigations of firefighter employers under ss. 633.801-633.825.

Section 7. Effective July 1, 2001, section 633.807, Florida Statutes, is created to read:

633.807 Safety; firefighter employer responsibilities.—Every firefighter employer shall furnish to firefighters employment that is safe for the firefighter employees, furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to protect the lives, health, and

safety of such firefighter employees. As used in this section, the terms "safe" and "safety" as applied to any employment or place of firefighter employment mean such freedom from danger as is reasonably necessary for the protection of the lives, health, and safety of firefighter employees, including conditions and methods of sanitation and hygiene. Safety devices and safeguards required to be furnished by the firefighter employer by this section or by the division under authority of this section shall not include personal apparel and protective devices that replace personal apparel normally worn by firefighter employees during regular working hours.

Section 8. Effective July 1, 2001, section 633.808, Florida Statutes, is created to read:

633.808 Division authority.—The division shall:

(1) Investigate and prescribe by rule what safety devices, safeguards, or other means of protection must be adopted for the prevention of accidents in every place of firefighter employment or at any fire scene; determine what suitable devices, safeguards, or other means of protection for the prevention of occupational diseases must be adopted or followed in any or all such places of firefighter employment or at any fire scene; and adopt reasonable rules for the prevention of accidents, the safety, protection, and security of firefighters engaged in interior firefighting, and the prevention of occupational diseases.

(2) Ascertain, fix, and order such reasonable standards and rules for the construction, repair, and maintenance of places of firefighter employment as shall render them safe. Such rules and standards must be adopted in accordance with chapter 120.

(3) Assist firefighter employers in the development and implementation of firefighter employee safety training programs by contracting with professional safety organizations.

(4) Adopt rules prescribing recordkeeping responsibilities for firefighter employers, which may include rules for maintaining a log and summary of occupational injuries, diseases, and illnesses and for producing on request a notice of injury and firefighter employee accident investigation records, and rules prescribing a retention schedule for such records.

Section 9. Effective July 1, 2001, section 633.810, Florida Statutes, is created to read:

633.810 Firefighter employers whose firefighter employees have a high frequency or severity of work-related injuries.—The division shall develop a means by which it can identify individual firefighter employers whose firefighter employees have a high frequency or severity of work-related injuries. The division shall carry out safety inspections of the facilities and operations of these firefighter employers in order to assist them in reducing the frequency and severity of work-related injuries. The division shall develop safety and health programs for those firefighter employers. Insurers shall distribute these safety and health programs to the firefighter employers so identified by the division. Those firefighter employers identified by the division as having a high frequency or severity of work-related injuries shall implement a division-developed safety and health program. The division shall carry out safety inspections of those firefighter employers so identified to ensure compliance with the safety and health program and to assist such firefighter employers in reducing the number of work-related injuries. The division may not assess penalties as the result of such inspections, except as provided by s. 633.813. Copies of any report made as the result of such an inspection must be provided to the firefighter employer and its insurer. Firefighter employers may submit their own safety and health programs to the division for approval in lieu of using the division-developed safety and health program. The division must promptly review the program submitted and approve or disapprove it. Upon approval by the division, the program must be implemented by the firefighter employer. If the program is not approved or if a program is not submitted, the firefighter employer must implement the division-developed program. The division shall adopt rules setting forth the criteria for safety and health programs, as such rules relate to this section.

Section 10. Effective July 1, 2001, section 633.812, Florida Statutes, is created to read:

633.812 Workplace safety committees and safety coordinators.—

(1) In order to promote health and safety in places of firefighter employment in this state:

(a) Each firefighter employer of 20 or more firefighter employees shall establish and administer a workplace safety committee in accordance with rules adopted under this section.

(b) Each firefighter employer of fewer than 20 firefighter employees that is identified by the division as having a high frequency or severity of work-related injuries shall establish and administer a workplace safety committee or designate a workplace safety coordinator who shall establish and administer workplace safety activities in accordance with rules adopted under this section.

(2) The division shall adopt rules:

(a) Prescribing the membership of the workplace safety committees so as to ensure an equal number of firefighter employee representatives, who are volunteers or are elected by their peers, and of firefighter employer representatives and specifying the frequency of meetings.

(b) Requiring firefighter employers to make adequate records of each meeting and to file and maintain the records subject to inspection by the division.

(c) Prescribing the duties and functions of the workplace safety committee and workplace safety coordinator, which include, but are not limited to:

1. Establishing procedures for workplace safety inspections by the committee.

2. Establishing procedures investigating all workplace accidents, safety-related incidents, illnesses, and deaths.

3. Evaluating accident prevention and illness prevention programs.

4. Prescribing guidelines for the training of workplace safety committee members.

(3) The composition, selection, and function of workplace safety committees shall be a mandatory topic of negotiations with any certified collective bargaining agent for firefighter employers that operate under a collective bargaining agreement. Firefighter employers that operate under a collective bargaining agreement that contains provisions regulating the formation and operation of workplace safety committees that meet or exceed the minimum requirements contained in this section, or that otherwise have existing workplace safety committees that meet or exceed the minimum requirements established by this section, are in compliance with this section.

(4) Firefighter employees must be compensated at their regular hourly wages while engaged in workplace safety committee or workplace safety coordinator training, meetings, or other duties prescribed under this section.

Section 11. Effective July 1, 2001, section 633.813, Florida Statutes, is created to read:

633.813 Firefighter employer penalties.—If any firefighter employer violates or fails or refuses to comply with ss. 633.801-633.825, any rule adopted by the division in accordance with chapter 120 for the prevention of injuries, accidents, or occupational diseases, or any lawful order of the division in connection with ss. 633.801-633.825, or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by the division under ss. 633.801-633.825 for the prevention of accidents or occupational diseases, the division may assess against the firefighter employer a civil penalty of not less than $100 nor more than $5,000 for each day the violation, failure, or refusal continues after the firefighter employer has been given notice thereof in writing. The total penalty for each violation may not exceed $50,000. The division shall adopt rules requiring penalties commensurate with the frequency

or severity, or both, of safety violations. A hearing must be held in the county where the violation, failure, or refusal is alleged to have occurred unless otherwise agreed to by the firefighter employer and authorized by the division. All penalties assessed and collected under this section shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

Section 12. Effective July 1, 2001, section 633.814, Florida Statutes, is created to read:

633.814 Division cooperation with Federal Government; exemption from division requirements.—

(1) The division shall cooperate with the Federal Government so that duplicate inspections will be avoided yet assure safe places of firefighter employment for the citizens of this state.

(2) Except as provided in this section, a private firefighter employer is not subject to the requirements of the division if:

(a) The private firefighter employer is subject to the federal regulations in 29 C.F.R. ss. 1910 and 1926;

(b) The private firefighter employer has adopted and implemented a written safety program that conforms to the requirements of 29 C.F.R. ss. 1910 and 1926;

(c) A private firefighter employer with 20 or more full-time firefighter employees includes provisions for a workplace safety committee in its safety program. The workplace safety committee must include firefighter employee representation and must meet at least once each calendar quarter. The private firefighter employer must make adequate records of each meeting and maintain the records subject to inspections under subsection (3). The workplace safety committee shall, if appropriate, make recommendations regarding improvements to the safety program and corrections of hazards affecting workplace safety; and

(d) The private firefighter employer provides the division with a written statement that certifies compliance with this subsection.

(3) The division may enter at any reasonable time any place of firefighter employment for the purpose of verifying the accuracy of the written certification required pursuant to paragraph (2)(d). If the division determines that the firefighter employer has not complied with the requirements of subsection (2), the firefighter employer shall be subject to the rules of the division until the firefighter employer complies with subsection (2) and recertifies that fact to the division.

(4) This section shall not restrict the division from performing any duties pursuant to a written contract between the division and the federal Occupational Safety and Health Administration (OSHA).

Section 13. Effective July 1, 2001, section 633.815, Florida Statutes, is created to read:

633.815 Failure to implement a safety and health program; cancellations.—If a firefighter employer that is found by the division to have a high frequency or severity of work-related injuries fails to implement a safety and health program, the insurer or self-insurer's fund that is providing coverage for the firefighter employer may cancel the contract for insurance with the firefighter employer. In the alternative, the insurer or fund may terminate any discount or deviation granted to the firefighter employer for the remainder of the term of the policy. If the contract is canceled or the discount or deviation is terminated, the insurer must make such reports as are required by law.

Section 14. Effective July 1, 2001, section 633.816, Florida Statutes, is created to read:

633.816 Expenses of administration.—The amounts that are needed to administer ss. 633.801-633.825 shall be disbursed from the Insurance Commissioner's Regulatory Trust Fund.

Section 15. Effective July 1, 2001, section 633.817, Florida Statutes, is created to read:

633.817 Refusal to admit; penalty.—The division and its authorized representatives may enter and inspect any place of firefighter employment at any reasonable time for the purpose of investigating compliance with ss. 633.801-633.825 and conducting inspections for the proper enforcement of ss. 633.801-633.825. A firefighter employer who refuses to admit any member of the division or its authorized representative to any place of employment or to allow investigation and inspection pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Effective July 1, 2001, section 633.818, Florida Statutes, is created to read:

633.818 Firefighter employee rights and responsibilities.—

(1) Each firefighter employee of a firefighter employer covered under ss. 633.801-633.825 shall comply with rules adopted by the division and with reasonable workplace safety and health standards, rules, policies, procedures, and work practices established by the firefighter employer and the workplace safety committee. A firefighter employee who knowingly fails to comply with this subsection may be disciplined or discharged by the firefighter employer.

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

(a) The firefighter employee has testified or is about to testify, on her or his own behalf or on behalf of others, in any proceeding instituted under ss. 633.801-633.825;

(b) The firefighter employee has exercised any other right afforded under ss. 633.801-633.825; or

(c) The firefighter employee is engaged in activities relating to the workplace safety committee.

(3) Neither pay, position, seniority, nor other benefit may be lost for exercising any right under, or for seeking compliance with any requirement of, ss. 633.801-633.825.

Section 17. Effective July 1, 2001, section 633.819, Florida Statutes, is created to read:

633.819 Compliance.—Failure of a firefighter employer or an insurer to comply with ss. 633.801-633.825 or with any rules adopted thereunder constitutes grounds for the division to seek remedies, including injunctive relief, for noncompliance by making appropriate filings with the circuit court.

Section 18. Effective July 1, 2001, section 633.820, Florida Statutes, is created to read:

633.820 False statements to insurers.—A firefighter employer who knowingly and willfully falsifies or conceals a material fact, makes a false, fictitious, or fraudulent statement or representation, or makes or uses any false document knowing the document to contain any false, fictitious, or fraudulent entry or statement to an insurer of workers' compensation insurance under ss. 633.801-633.825 commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 19. Effective July 1, 2001, section 633.823, Florida Statutes, is created to read:

633.823 Matters within jurisdiction of the division; false, fictitious, or fraudulent acts, statements, and representations prohibited; penalty; statute of limitations.—A person may not, in any matter within the jurisdiction of the division, knowingly and willfully falsify or conceal a material fact; make any false, fictitious, or fraudulent statement or representation; or make or use any false document, knowing the same to contain any false, fictitious, or fraudulent statement or entry. A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The statute of limitations for prosecution of an act committed in violation of this section is 5 years after the date the act was committed or, if not discovered within 30 days after the act was committed, 5 years after the date the act was discovered.

Section 20. Effective July 1, 2001, section 633.824, Florida Statutes, is created to read:

633.824 Volunteer firefighters; volunteer fire departments.—Sections 633.803-633.825 apply to volunteer firefighters and volunteer fire departments.

Section 21. Effective July 1, 2001, section 633.825, Florida Statutes, is created to read:

633.825 Workplace safety.—

(1) The division shall assist in making places of firefighter employment safer places to work and decreasing the frequency and severity of work-related injuries.

(2) The division shall have the authority to adopt rules for the purpose of assuring safe working conditions for all firefighter employees by authorizing the enforcement of effective standards, assisting and encouraging firefighter employers to maintain safe working conditions, and providing for education and training in the field of safety. Specifically, the division may by rule adopt all or any part of subparts C through T and subpart Z of 29 C.F.R. part 1910 as revised April 8, 1998; the National Fire Protection Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

(3) With respect to 29 C.F.R. s. 1910.134(g)(4), the two individuals located outside the immediately dangerous to life and health atmosphere may be assigned to an additional rule, such as incident commander, pumper operator, engineer, or driver, so long as such individual is able to immediately perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at an incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):

(a) Each county, municipality, or special district shall implement such provision by April 1, 2002, except as provided in paragraph (b).

(b) If any county, municipality, or special district is unable to implement such provision by April 1, 2002, without adding additional personnel to its firefighting staff or expending significant additional funds, such county, municipality, or special district shall have an additional 6 months within which to implement such provision. Such county, municipality, or special district shall notify the division that the 6-month extension to implement such provision is in effect in such county, municipality, or special district within 30 days after its decision to extend the time for an additional 6 months. The decision to extend the time for implementation shall be made prior to April 1, 2002.

(c) If, after the extension granted in paragraph (b), the county, municipality, or special district, after having worked with and cooperated fully with the division and the Firefighters Employment, Standards, and Training Council, is still unable to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds, such county, municipality, or special district shall be exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4). Nevertheless, each year thereafter the division shall review each such county, municipality, or special district to determine if such county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds. If the division determines that any county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds, the division shall require such county, municipality, or special district to implement such provision. Such requirement by the division under this paragraph constitutes final agency action subject to chapter 120.

(4) The provisions of chapter 440 which pertain to workplace safety shall be applicable to the division.

(5) The division shall have the authority to adopt any rule necessary to implement, interpret, and make specific the provisions of this section; however, the division may not adopt by rule any other standard or standards of the Occupational Safety and Health Administration or the National Fire Protection Association without specific legislative authority.

Section 22. Paragraph (c) of subsection (3) of section 383.3362, Florida Statutes, is amended to read:

383.3362 Sudden Infant Death Syndrome.—

(3) TRAINING.—

(c) The Department of Health, in consultation with the Emergency Medical Services Advisory Council, the Firefighters *Employment,* Standards, and Training Council, and the Criminal Justice Standards and Training Commission, shall develop and adopt, by rule, curriculum that, at a minimum, includes training in the nature of SIDS, standard procedures to be followed by law enforcement agencies in investigating cases involving sudden deaths of infants, and training in responding appropriately to the parents or caretakers who have requested assistance.

Section 23. Subsection (4) of section 633.30, Florida Statutes, is amended to read:

633.30 Standards for firefighting; definitions.—As used in this chapter:

(4) "Council" means the Firefighters *Employment,* Standards, and Training Council.

Section 24. Effective July 1, 2001, subsections (1) and (2) of section 633.31, Florida Statutes, are amended to read:

633.31 Firefighters *Employment,* Standards, and Training Council.—

(1) There is created within the Department of Insurance a Firefighters *Employment,* Standards, and Training Council of *thirteen* ~~nine~~ members appointed by the State Fire Marshal. Two members shall be fire chiefs *who shall be appointed by the Florida Fire Chiefs Association*, two members shall be firefighters who are not officers *who shall be appointed by the Florida Professional Firefighters' Association*, two members shall be firefighter officers who are not fire chiefs *who shall be appointed by the State Fire Marshal, one member shall be appointed by the Florida League of Cities, one member shall be appointed by the Florida Association of Counties, one member shall be appointed by the Florida Association of Special Districts, one member shall be appointed by the Florida Fire Marshal's Association, one member shall be appointed by the State Fire Marshal*, and one member shall be a director or instructor of a state-certified firefighting training facility *who shall be appointed by the State Fire Marshal*. To be eligible for appointment as a fire chief member, firefighter officer member, firefighter member, or a director or instructor of a state-certified firefighting facility, a person shall have had at least 4 years' experience in the firefighting profession. The remaining *member, who shall be appointed by the State Fire Marshal,* ~~two members~~ shall not be *a member or representative* ~~members~~ of the firefighting profession *or of any local government*. Members shall serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.

(2) ~~Initially, the State Fire Marshal shall appoint three 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 and in no event shall a member serve more than two consecutive terms. Any vacancy shall be filled in the manner of the original appointment for the remaining time of the term.

Section 25. Subsection (4) of section 633.32, Florida Statutes, is amended to read:

633.32 Organization; meetings; quorum; compensation; seal.—

(4) The council may adopt a seal for its use containing the words "Firefighters *Employment,* Standards, and Training Council."

Section 26. Subsections (4) and (5) of section 633.33, Florida Statutes, are amended to read:

633.33 Special powers; firefighter training.—The council shall have special powers in connection with the employment and training of firefighters to:

(4) Consult and cooperate with any employing agency, university, college, community college, the Florida State Fire College, or other educational institution concerning the *employment and safety of firefighters, including, but not limited to, the safety of firefighters while at the scene of a fire and at the scene of any incident related to emergency services to which a firefighter responds,* development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of fire science, fire technology, fire administration, and all allied and supporting fields.

(5) Make or support studies on any aspect of firefighting *employment,* education*,* and training or recruitment.

And the title is amended as follows:

On page 190, of the amendment

after the semicolon, insert: creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.810, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, 633.823, 633.824, and 633.825, F.S.; designating such sections as the Florida Firefighter Occupational Safety and Health Act; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal to adopt rules related to firefighter safety inspections; requiring the division to conduct a study; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair, and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing for the source of funding of the division; specifying firefighter employee rights and responsibilities; providing penalties for firefighter employers who make false statements to the division or to an insurer; specifying applicability to volunteer firefighters and volunteer fire departments; authorizing the division to adopt rules for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name and membership of the Firefighters Standards and Training Council; amending ss. 383.3362, 633.30, and 633.32, F.S., to conform; amending s. 633.33, F.S.; revising certain powers of the council

Rep. Miller moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Ross, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Ross offered the following:

(Amendment Bar Code: 561695)

Amendment 8 to Amendment 7—On page 127, line 9, after the period,

insert: *As of December 31, 2003, six members of the board shall be individual self-insurers in this state. The board members who are individual self-insurers shall be officers or full-time employees of the self-insured company they represent. If the individual self-insurer board member's company voluntarily withdraws such member's privilege to self-insure, the board member may complete the remaining term of his or her appointment.*

Rep. Ross moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 7**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1845—A bill to be entitled An act relating to the criminal use of personal identification information; amending s. 817.568, F.S.; revising the definition of "harass"; deleting the definitions of "individual" and "person"; revising the definition of "personal identification information"; adding an offense for obtaining or using personal identification information without authorization; revising the provision for offense of harassment by use of personal identification information; revising the provision for offense of fraudulent use of personal identification information; adding a provision for reclassifying offenses involving unlawful use of a public record; revising the provision authorizing sentencing court to order restitution; adding a provision for venue; amending s. 775.15, F.S.; adding a provision extending the period within which prosecutions may be commenced; amending s. 921.0022, F.S.; revising the Florida Criminal Punishment Code Offense Severity Ranking Chart to include fraudulent use of personal identification information; amending s. 921.0024, F.S.; revising the Florida Criminal Punishment Code to increase sentencing points for unlawful use of a public record in committing an offense under s. 817.568, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 160185)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 817.568, Florida Statutes, is amended to read:

817.568 Criminal use of personal identification information.—

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

(a) "Access device" means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument.

(b) "Authorization" means empowerment, permission, or competence to act.

(c) "Harass" means to engage in conduct directed at a specific person that is intended to cause substantial emotional distress to such person and serves no legitimate purpose. "Harass" does not mean to use personal identification information for accepted commercial purposes. The term does not include constitutionally protected conduct such as organized protests or the use of personal identification information for accepted commercial purposes.

(d) "Individual" means a single human being and does not mean a firm, association of individuals, corporation, partnership, joint venture, sole proprietorship, or any other entity.

(e) "Person" means a "person" as defined in s. 1.01(3).

(f) "Personal identification information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any:

1. Name, social security number, date of birth, official state-issued or United States-issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food stamp account number;

2. Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

3. Unique electronic identification number, address, or routing code; or

4. Telecommunication identifying information or access device.

(2)*(a)* Any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning an individual without first obtaining that individual's consent, commits the offense of fraudulent use of personal identification information, which is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and without authorization fraudulently uses personal identification information concerning an individual without first obtaining that individual's consent commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is $75,000 or more.

(3) Any person who willfully and without authorization possesses, uses, or attempts to use personal identification information concerning an individual without first obtaining that individual's consent, and who does so for the purpose of harassing that individual, commits the offense of harassment by use of personal identification information, which is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) If an offense prohibited under this section was facilitated or furthered by the use of a public record, as defined in s. 119.011, the offense is reclassified to the next higher degree as follows:

(a) A misdemeanor of the first degree is reclassified as a felony of the third degree.

(b) A felony of the third degree is reclassified as a felony of the second degree.

(c) A felony of the second degree is reclassified as a felony of the first degree.

For purposes of sentencing under chapter 921 and incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 of the felony offense committed, and a misdemeanor offense that is reclassified under this subsection is ranked in level 2 of the offense severity ranking chart in s. 921.0022.

(5)~~(4)~~ This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of this state or any of its political subdivisions, of any other state or its political subdivisions, or of the Federal Government or its political subdivisions.

(6)~~(5)~~(a) In sentencing a defendant convicted of an offense under this section, the court may order that the defendant make restitution pursuant to s. 775.089 to any victim of the offense. In addition to the victim's out-of-pocket costs, such restitution may include payment of any other costs, including attorney's fees incurred by the victim in clearing the victim's credit history or credit rating, or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as the result of the actions of the defendant.

(b) The sentencing court may issue such orders as are necessary to correct any public record that contains false information given in violation of this section.

(7)~~(6)~~ Prosecutions for violations of this section may be brought on behalf of the state by any state attorney or by the statewide prosecutor.

(8) LEGISLATIVE FINDING. The Legislature finds that, in the absence of evidence to the contrary, the location where a victim gives or fails to give consent to the use of personal identification information is the county where the victim generally resides.

(9) Notwithstanding any other provision of law, venue for the prosecution and trial of violations of this section may be commenced and maintained in any county in which an element of the offense occurred, including the county where the victim generally resides.

(10) A prosecution of an offense prohibited under subsection (2) must be commenced within 3 years after the offense occurred. However, a prosecution may be commenced within 1 year after discovery of the offense by an aggrieved party, or by a person who has a legal duty to represent the aggrieved party and who is not a party to the offense, if such prosecution is commenced within 5 years after the violation occurred.

Section 2. Paragraphs (d) and (e) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(d) LEVEL 4
316.1935(3)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a marked patrol vehicle with siren and lights activated.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
784.075	3rd	Battery on detention or commitment facility staff.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

Florida Statute	Felony Degree	Description
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	*3rd*	*Fraudulent use of personal-identification information.*
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
874.05(1)	3rd	Encouraging or recruiting another to join a criminal street gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.568(2)(b)	*2nd*	*Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $75,000 or more.*
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility or school.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of university or public park.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of public housing facility.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1,
remove from the title of the bill: the entire title

and insert in lieu thereof: An act relating to the criminal use of personal information; amending s. 817.568, F.S.; providing that the willful and fraudulent use of personal identification information of another individual is a felony of the second degree if the value of the pecuniary benefit services received, payment sought to be avoided, or injury or fraud perpetrated is of a specified amount or more; providing for reclassification of certain offenses involving the criminal use of personal-identification information if the offense was facilitated by the use of a public record; requiring that such offense be prosecuted in the county where the victim resides or in a county where any element of the offense occurred; limiting the time within which a person who fraudulently uses personal-identification information must be prosecuted; amending s. 921.0022, F.S., relating to the the offense severity ranking chart of the Criminal Punishment Code; ranking offenses relating to fraudulent use of personal identification information; providing an effective date.

Rep. Hart moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1977—A bill to be entitled An act relating to state planning and budgeting; amending s. 216.011, F.S.; modifying the definitions of "operating capital outlay" and "state agency"; amending s. 216.013, F.S.; removing the requirement for the Executive Office of the Governor to consider certain findings relating to information technology in its review of long-range program plans of executive agencies; requiring long-range program plans to be consistent with legislation implementing the General Appropriations Act; amending s. 216.023, F.S.; revising requirements of legislative budget requests relating to the total number of positions and to unit-cost data; requiring legislative budget requests to include an inventory of litigation requiring additional appropriations or changes in the law; providing for update of such inventory; amending s. 216.0446, F.S.; correcting terminology; amending s. 216.081, F.S.; revising provisions requiring submission to the Governor of information on financial needs for the next fiscal year to remove applicability to the judicial branch; amending s. 216.151, F.S.; adding the judicial branch to entities the Executive Office of the Governor is required to study for budgeting and reorganizational purposes; amending s. 216.163, F.S.; revising requirements for the Governor's recommended budget to exclude recommendations of the Chief Justice of the Supreme Court, require the Governor to make such recommendations, and include the legislative budget request of the judicial branch; amending s. 216.177, F.S.; revising the manner in which requests regarding legislative intent on the General Appropriations Act are to be made; revising requirements relating to notice of action on appropriations to be taken by the Executive Office of the Governor or the Chief Justice of the Supreme Court; deleting an obsolete notice requirement; amending s. 216.181, F.S.; requiring budget amendments for the judicial branch to be approved by the Chief Justice of the Supreme Court and the Legislative Budget Commission; authorizing the Chief Justice to amend, without approval of the Legislative Budget Commission, judicial branch entity budgets to reflect transferred funds based on the approved plans for lump-sum appropriations; requiring approval of the Legislative Budget Commission for certain adjustments to approved salary rate; providing circumstances under which lump-sum bonuses may be provided; requiring quarterly reporting of positions filled, positions vacant, and the salary rate associated with each category; granting the Legislative Budget Commission authority to approve state trust fund appropriations in excess of $1 million; creating s. 216.1815, F.S.; providing for an agency incentive and savings program; providing requirements; creating s. 216.1826, F.S.; providing for activity-based planning and budgeting; amending s. 216.192, F.S.; conforming provisions; amending s. 216.216, F.S.; providing restrictions on the expenditure of funds for court settlements negotiated by the state; amending s. 216.221, F.S.; providing requirements for the elimination of a deficit in a trust fund; amending s. 216.292, F.S.; conforming provisions; adding food products as an allowable fund transfer category; authorizing transfer of positions under certain circumstances; authorizing transfers of appropriations for operations from trust funds in excess of certain amounts under certain conditions; amending s. 11.90, F.S.; establishing the chair and vice chair of the Legislative Budget Commission each year; eliminating the election of such officers; amending ss. 27.345 and 27.3451, F.S.; revising references, to conform; amending s. 45.062, F.S.; requiring certain notification and reporting with respect to executive branch settlements; saving s. 215.20(3), F.S., relating to an additional trust fund service charge, from scheduled repeal; amending s. 284.385, F.S.; requiring assigned counsel to report to the covered department on the status of casualty claims or litigation; prohibiting compromise or settlement of a casualty claim without prior notification to the covered department; amending s. 376.15, F.S.; correcting a cross reference; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1931—A bill to be entitled An act relating to retiree health insurance subsidy; amending ss. 112.363, 121.052, 121.055, and 121.071, F.S.; changing the employer contribution for the retiree health insurance subsidy; amending s. 121.571, F.S.; adding cross references; providing a finding of important state interest; providing an effective date.

—was read the second time by title.

Representative(s) Murman offered the following:

(Amendment Bar Code: 741631)

Amendment 1 (with title amendment)—On page 4, between lines 17 & 18,

insert:

Section 5. Paragraph (e) of subsection (4) of section 121.4501, Florida Statutes, is amended to read:

121.4501 Public Employee Optional Retirement Program.—

(4) PARTICIPATION; ENROLLMENT.—

(e) After the period during which an eligible employee had the choice to elect the defined benefit program or the Public Employee Optional Retirement Program, the employee shall have one opportunity, *that is, a second election* ~~at the employee's discretion~~, to choose to move from the defined benefit program to the Public Employee Optional Retirement Program or from the Public Employee Optional Retirement Program to the defined benefit program. This paragraph shall be contingent upon approval from the Internal Revenue Service for including the choice described herein within the programs offered by the Florida Retirement System.

1. If the employee chooses to move to the Public Employee Optional Retirement Program, the applicable provisions of this section shall govern the transfer.

2. If the employee chooses to move *from the Public Employee Optional Retirement Program* to the defined benefit program, the employee must transfer from his or her *optional program* ~~Public Employee Optional Retirement Program~~ account *an amount equal to the sum of the following:*

a. The value of any account balance representing the actuarial present value of the employee's accrued benefit transferred to the optional program at the time of the initial transfer;

b. The product of the participant's salary during the period of participation in the optional program times the greater of the applicable contribution rate or the applicable employer normal cost rate in effect for the Florida Retirement System defined benefit program membership class to which the member belonged during each fiscal year of such period; and

c. Interest on the sum of the amounts calculated under sub-subparagraphs a. and b. The interest rate shall be equal to the greater of the annualized rate of return earned on investments of the assets of the Florida Retirement System Trust Fund as calculated by the State Board of Administration for each fiscal year of the participation period or the Florida Retirement System actuarial valuation assumed rate of return of 8 percent ~~and from other employee moneys as necessary, a sum representing all contributions that would have been made to the defined benefit plan for that employee and the actual return that would have been earned on those contributions had they been invested in the defined benefit program~~.

If, at the time of a member's election to transfer to the defined benefit program, the member's optional program account does not contain the total amount required to be transferred to the defined benefit program, the member must pay the remaining balance. If the member's optional program account contains more than the amount required to be transferred to the defined benefit program, such additional amount shall remain in the member's optional program account.

3. The second election must be made no later than 3 years after the initial election.

And the title is amended as follows:

On page 1, lines 2-9,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to state-administered retirement programs; amending s. 112.363, 121.052, 121.055, and 121.071, F.S.; changing the employer contribution for the retiree health insurance subsidy; amending s. 121.4501, F.S.; modifying provisions relating to opportunity to transfer between the Public Employee Optional Retirement Program and the defined benefit program of the Florida Retirement System, to establish the means by which the cost of such transfers would be covered; amending s. 121.571, F.S.; adding cross references; providing a finding of important state interest; providing an effective date.

Rep. Murman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1981—A bill to be entitled An act relating to tax administration; amending s. 45.031, F.S.; providing for notice of disbursement of the proceeds of a judicial sale to the Department of Revenue under certain conditions when it was performing unemployment compensation tax collection services pursuant to a contract with the Agency for Workforce Innovation; amending s. 69.041, F.S.; authorizing the department to participate in the distribution of surplus funds remaining after such disbursement when it has an interest in an unemployment compensation tax lien pursuant to such a contract; amending s. 213.053, F.S.; providing application of confidentiality and information sharing provisions to ch. 443, F.S., while the department is performing such tax collection services; amending s. 11, ch. 2000-165, Laws of Florida; specifying that the department is administering a revenue law when it provides such tax collection services and specifying the provisions of ch. 213, F.S., that apply thereto; amending s. 201.02, F.S.; providing that the documentary stamp tax on deeds and other instruments relating to real property or interests in real property does not apply to a contract to sell the residence of an employee relocating at an employer's direction, or related documents, under specified circumstances; exempting deeds and other instruments whereby property is conveyed from an electric utility to a regional transmission organization from said tax under certain circumstances; amending s. 212.02, F.S.; excluding from the definition of "lease," "let," "rental," or "license" payments made by such an organization to an electric utility under certain conditions; amending s. 212.031, F.S.; exempting property occupied or used by certain regional transmission organizations from the tax on the lease or rental of or license in real property; amending s. 212.06, F.S.; revising the definition of "fixtures" for purposes of determining if a person is improving real property under ch. 212, F.S.; providing intent; amending s. 212.08, F.S.; specifying conditions for receipt of sales tax exemptions provided to an entity under ch. 212, F.S., and subsection (7) of said section; providing for retroactive application; deleting obsolete provisions relating to registration with the WAGES Program Business Registry; providing for retroactive application; reinstating retroactively the sales tax exemption for parent-teacher organizations and parent-teacher associations; eliminating the specific sales tax exemption for organizations providing crime prevention, drunk driving prevention, and juvenile delinquency prevention services; providing for determination of a mileage apportionment factor for the first year of operation in this state of vessels, railroads, or motor vehicles engaged in interstate or foreign commerce and entitled to a partial sales tax exemption; correcting references; requiring a purchaser to file an affidavit stating the exempt nature of a purchase with the vendor instead of the department for purposes of the sales tax exemption for machinery and equipment used to produce electrical or steam energy; providing for retroactive application; revising the application of the sales tax exemption for the sale of drinking water in bottles or other containers; replacing the definitions of "section 38 property" with express definitions of "industrial machinery and equipment" and "motion picture or video equipment" and "sound recording equipment" for purposes of the sales tax exemptions therefor; providing intent and purpose; providing that provisions authorizing a partial sales tax exemption for a motor vehicle sold to a resident of another state do not require payment of tax to this state for prior assessments under certain conditions; providing for retroactive application; providing that a vehicle purchased by a nonresident corporation or partnership is not eligible for the partial sales tax exemption under certain circumstances; repealing s. 212.084(6), F.S.; eliminating provisions for temporary sales tax exemption certificates for newly organized charitable organizations; repealing s. 4, ch. 96-395, Laws of Florida, which provides for the repeal of sales tax exemptions for certain citizen support organizations and the Florida Folk Festival; providing for retroactive application; amending s. 213.285, F.S.; delaying the future repeal of the certified audits project; amending ss. 213.053 and 213.21, F.S., to conform; amending s. 213.30, F.S., relating to compensation for information relating to a violation of tax laws; specifying that said section is the only available means of obtaining compensation for information regarding another person's failure to comply with the state's tax laws; providing applicability; repealing s. 213.27(9), F.S., which authorizes the department to contract with certain vendors to develop and implement a voluntary system for sales and use tax collection and administration; creating s. 213.256, F.S., the Simplified Sales and Use Tax Administration Act; defining terms; authorizing the department's participation in the Streamlined Sales and Use Tax Agreement; providing that the agreement must require each state to abide by certain requirements in order for the department to enter into the agreement; authorizing the state to enter into multistate discussions and providing for appointment of delegates; specifying relationship of the agreement to state law; specifying the effect of the agreement with respect to persons other than member states; providing that government actions or state laws cannot be challenged on the basis of inconsistency with the agreement; providing liabilities and responsibilities of sellers, certified service providers, and providers of certified automated systems; providing for maintenance of confidentiality of certain information; providing a penalty; requiring the department to make annual recommendations to the Legislature regarding compliance with the agreement; reviving and readopting s. 215.20(3), F.S., which provides for deduction of a service charge from certain trust funds; amending s. 220.22, F.S.; eliminating the initial year's corporate tax information return for subchapter S subsidiaries and directing the department to designate by rule entities that are not required to file a corporate tax return; amending s. 443.131, F.S.; reducing the Unemployment Compensation Trust Fund balance thresholds used in computing unemployment compensation contribution rate adjustment factors; creating s. 443.1315, F.S.; providing definitions; providing for treatment of Indian tribes under the Unemployment Compensation Law; providing that Indian tribes or tribal units may elect to make payments in lieu of contributions and providing requirements with respect thereto; providing that such Indian tribe or tribal unit may be required to file a bond or deposit security at the discretion of the director of the Agency for Workforce Innovation; providing effect of failure of such tribe or unit to make required payments; providing requirements for notices; providing responsibility

for certain extended benefits; providing for rules; providing for retroactive application; repealing s. 624.509(10), F.S., which provides an exemption from the insurance premium tax for insurers who write monoline flood insurance policies not subsidized by the Federal Government; providing effective dates.

—was read the second time by title.

Representative(s) Fasano offered the following:

(Amendment Bar Code: 510063)

Amendment 1 (with title amendment)—On page 11, between lines 20-21

insert:

Section 6. *It is the intent of the Legislature that s. 201.02(8), Florida Statutes, as created by this act, confirms and clarifies existing law.*

And renumber subsequent sections.

And the title is amended as follows:

On page 1, line 31

after the semicolon insert: providing intent;

Rep. Fasano moved the adoption of the amendment, which was adopted.

Representative(s) Fasano offered the following:

(Amendment Bar Code: 283275)

Amendment 2—On page 71, lines 22-31
remove all of said lines:

and insert in lieu thereof:

(3) *Notwithstanding the provisions of any other law, this section is the sole means by which any person may seek or obtain any moneys as the result of, in relation to, or founded upon the failure by another person to comply with tax laws of this state, and a person's use of any other law to seek or obtain moneys for such failure is in derogation of this statute and conflicts with the state's duty to administer the tax laws.*

Section 20. *The amendment to Section 213.30, Florida Statutes, made by this act applies to any case in litigation or under seal on the effective date of this act.*
And renumber subsequent sections.

Rep. Fasano moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1909—A bill to be entitled An act relating to trust funds; creating s. 287.103, F.S.; creating the Purchasing and Transportation Support Trust Fund, to be administered by the Department of Management Services; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1941—A bill to be entitled An act relating to trust funds; terminating specified trust funds within the Department of Management Services and the Agency for Workforce Innovation; providing for disposition of balances in and revenues of such trust funds; declaring the findings of the Legislature that specified trust funds within the Department of Management Services are exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; renaming specified trust funds within the Department of Management Services and the Department of Education; amending s. 272.161, F.S.; providing for the deposit of fees from rental of reserved parking spaces into the Facilities Management Trust Fund, to conform; amending s. 284.01, F.S.; providing for rental value insurance for loss of income from certain buildings operated and maintained by the Department of Management Services from the Facilities Management Trust Fund, to conform; amending s. 235.2195, F.S.; providing for deposit of proceeds from bond sales under the 1997 School Capital Outlay Bond Program into the Lottery Capital Outlay and Debt Service Trust Fund; amending s. 215.196, F.S.; providing for deposit of proceeds from fixed capital outlay management assessments into the Facilities Management Trust Fund, to conform; amending s. 287.16, F.S.; providing for deposit of proceeds from fees charged to state agencies to which aircraft or motor vehicles are furnished into the Purchasing and Transportation Support Trust Fund; amending s. 287.161, F.S.; providing for deposit of proceeds from fees collected for use of the executive aircraft pool into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 217.07, F.S.; providing for deposit of federal surplus property assets into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 287.042, F.S.; providing for deposit of proceeds from fees collected for use of electronic information services of the Department of Management Services and for deposit of funds from certain governmental agencies pursuant to joint purchasing agreements into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 287.1345, F.S.; providing for deposit of proceeds from the surcharge on users of state term contracts into the Purchasing and Transportation Support Trust Fund, to conform; expanding uses of the surcharge proceeds; amending s. 215.22, F.S.; providing for the Technology Enterprise Trust Fund to be exempt from the general revenue service charge, to conform; amending s. 216.292, F.S.; providing for billings for state communications system services to be transferred to the Technology Enterprise Trust Fund, to conform; repealing s. 282.20(6), F.S., relating to the Technology Resource Center's reserve account of its working capital trust fund, to conform; repealing s. 110.151(7), F.S., relating to reestablishment of the State Employee Child Care Revolving Trust Fund, to conform; providing for contingent effect of certain provisions; providing effective dates.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1633—A bill to be entitled An act relating to student assessment; amending s. 229.57, F.S.; revising provisions relating to the designation of school performance grade categories; revising the basis for such designations; revising provisions relating to statewide annual assessments; revising provisions relating to the use of a statistical system for assessment; requiring the Commissioner of Education to establish a schedule for administration of assessments; reenacting ss. 230.23(16)(c), 231.085(4), 231.17(15), 231.29(3)(a), and 231.2905(4), F.S., relating to supplements for teachers based on assessment of student learning gains, use of student assessment data, comparison of routes to a professional certificate, assessment procedures for school personnel, and the School Recognition Program, to incorporate the amendment to s. 229.57, F.S., in references thereto; providing an effective date.

—was read the second time by title.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 041959)

Amendment 1 (with title amendment)—On page 10 between lines 19-20,

insert:

Section 3. *(1) The serious and often adverse consequences resulting from the sole reliance on the Florida Comprehensive Assessment Test (FCAT) have increasingly resulted in questions and significant concerns by students, parents, teachers, and school administrators about how to ensure that the test is used appropriately and in a manner that is fair. Currently, there is no peer-reviewed, research-based determination that the FCAT is a reliable and valid instrument suitable to fairly assess students, schools, and teachers. Therefore, the Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Department of Education, shall conduct a nationwide search for suitable independent research organizations to submit proposals for*

review of the FCAT. Based on the proposals and additional background information, OPPAGA shall recommend an organization or organizations to the Speaker of the House of Representatives, the President of the Senate, and the majority and minority leaders of each house of the Legislature. If no objections are made to the recommendation within 14 calendar days, OPPAGA shall proceed to contract with the recommended organization or organizations for the FCAT review.

(2) The FCAT review shall be guided by the principles and findings reported by the National Academy of Sciences on high stakes testing in 1999. The review shall include, but is not limited to, whether the FCAT is aligned adequately with the Sunshine State Standards; whether the test accurately and fairly measures what students have learned independent of their socioeconomic background and readiness for the subject matter being studied; whether the test can accurately reflect annual student learning gains within a school; and whether the test can accurately evaluate teacher performance.

(3) The Office of Program Policy Analysis and Government Accountability shall provide the Speaker of the House of Representatives, the President of the Senate, and the majority and minority leaders of each house of the Legislature with quarterly updates and a final report before March 1, 2002.

(4) The independent review of the FCAT shall be funded by the Office of Program Analysis and Government Accountability within its appropriated funds for fiscal year 2001-2002.

And the title is amended as follows:

On page 1, line 21, after the semicolon

insert: requiring an independent review of the Florida Comprehensive Assessment Test;

Rep. Wiles moved the adoption of the amendment.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 813281)

Substitute Amendment 1—On page 10, between lines 19-20 of the bill

insert:

Section 3. *1. The department, in consultation with the Office of Program Policy Analysis and Government Accountability, and other sources as appropriate, shall participate in the monitoring and reporting of the implementation of the methodology that will be used to identify student learning gains.*

Rep. Attkisson moved the adoption of the substitute amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1811—A bill to be entitled An act relating to information technology; amending s. 20.22, F.S.; creating the State Technology Office within the Department of Management Services; requiring the office to operate and manage the Technology Resource Center; amending s. 110.205, F.S.; providing that specified officers within the State Technology Office are exempt from career service; providing that the office shall set the salaries and benefits for such officers in accordance with the rules of the Senior Management Service; providing for the personal secretary to specified officers within the State Technology Office to be exempt from career service; providing for all managers, supervisors, and confidential employees of the State Technology Office to be exempt from career service; providing that the office shall set the salaries and benefits for those positions in accordance with the rules of the Selected Exempt Service; amending s. 186.022, F.S.; revising the entities required to annually develop and submit an information technology strategic plan; providing for the State Technology Office to administer and approve development of information technology strategic plans; amending s. 216.013, F.S.; revising provisions relating to the review of long-range program plans for executive agencies by the Executive Office of the Governor; providing that the Executive Office of the Governor shall consider the findings of the State Technology Office with respect to the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office; amending s. 216.0446, F.S., relating to review of agency information resources management needs; eliminating the Technology Review Workgroup; providing for assumption of the duties of the Technology Review Workgroup by the State Technology Office; requiring the reporting of specified information to the Executive Office of the Governor; providing powers and duties of the State Technology Office; amending s. 216.181, F.S., relating to approved budgets for operations and fixed capital outlay; providing requirements with respect to an amendment to the original approved operating budget for specified information technology projects or initiatives; amending s. 216.235, F.S.; transferring specified responsibilities with respect to the Innovation Investment Program Act from the Department of Management Services to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor; revising the membership of the State Innovation Committee; amending s. 216.292, F.S.; authorizing state agencies to transfer positions and appropriations for fiscal year 2001-2002 for the purpose of consolidating information technology resources to the State Technology Office; amending s. 282.005, F.S.; revising legislative findings and intent with respect to the Information Resources Management Act of 1997; providing that the State Technology Office has primary responsibility and accountability for information technology matters within the state; amending and renumbering s. 282.303, F.S.; revising definitions; defining “information technology”; amending s. 282.102, F.S.; revising powers and duties of the State Technology Office; providing that the office shall be a separate budget entity within the Department of Management Services; providing that the Chief Information Officer shall be an agency head; authorizing the office to perform, in consultation with a state agency, the enterprise resource planning and management for the agency; authorizing the office to apply for, receive, and hold specified patents, copyrights, trademarks, and service marks; authorizing the office to purchase, lease, hold, sell, transfer, license, and dispose of specified real, personal, and intellectual property; providing for deposit of specified fees in the Law Enforcement Radio Operating Trust Fund; amending s. 282.103, F.S., to conform; authorizing the State Technology Office to grant an agency exemption from required use of specified SUNCOM Network services; amending s. 282.104, F.S., to conform; amending s. 282.105, F.S., to conform; amending s. 282.106, F.S., to conform; amending s. 282.1095, F.S., relating to the state agency law enforcement radio system; providing conforming amendments; renaming the State Agency Law Enforcement Radio System Trust Fund as the Law Enforcement Radio Operating Trust Fund; requiring the office to establish policies, procedures, and standards for a comprehensive plan for a statewide radio communications system; eliminating provisions relating to establishment and funding of specified positions; amending s. 282.111, F.S., to conform; amending s. 282.20, F.S., relating to the Technology Resource Center; providing conforming amendments; removing provisions relating to the acceptance of new customers by the center; authorizing the center to spend funds in the reserve account of the Technology Enterprise Operating Trust Fund; amending s. 282.21, F.S., to conform; amending s. 282.22, F.S.; revising terminology; removing specified restrictions on the office’s authority to sell services; creating s. 282.23, F.S.; authorizing the State Technology Office, in consultation with the Department of Management Services, to establish a State Strategic Information Technology Alliance; providing purposes of the alliance; providing for the establishment of policies and procedures; repealing s. 282.3041, F.S., which provides that the head of each state agency is responsible and accountable for enterprise resource planning and management within the agency; amending s. 282.3055, F.S.; authorizing the Chief Information Officer to appoint or contract for Agency Chief Information Officers to assist in carrying out enterprise resource planning and management responsibilities; amending s. 282.3063, F.S.; requiring Agency Chief Information Officers to prepare and submit an Agency Annual Enterprise Resource Planning and Management Report; amending s. 282.315, F.S.; renaming the Chief

Information Officers Council as the Agency Chief Information Officers Council; revising the voting membership of the council; amending s. 282.318, F.S., to conform; amending s. 282.322, F.S.; eliminating provisions relating to the special monitoring process for designated information resources management projects; requiring the Enterprise Project Management Office of the State Technology Office to report on, monitor, and assess risk levels of specified high-risk technology projects; requiring certain state agencies to transfer described positions and administrative support personnel to the State Technology Office by specified dates; providing limits on the number of positions and administrative support personnel transferred; providing that the State Technology Office and the relevant agencies are authorized to request subsequent transfers of positions, subject to approval by the Legislative Budget Commission; providing requirements with respect to transferred resources which were dedicated to a federally funded system; providing appropriations; repealing s. 282.404, F.S.; abolishing the Florida Geographic Information Board within the State Technology Office; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 311365)

Amendment 1—On page 30, line 10,
remove from the bill: all of said line

and insert in lieu thereof: *(2) To adopt rules implementing policies and procedures providing best*

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 941571)

Amendment 2—On page 38, line 14
remove from the bill: all of said line

and insert in lieu thereof: The State Agency Law Enforcement Radio System Trust

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 912577)

Amendment 3—On page 45, lines 25-26,
remove from the bill: all of said line

and insert in lieu thereof: *accordance with competitive procurement provisions of chapter 287.*

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 143997)

Amendment 4—On page 45, line 28
remove from the bill: all of said line

and insert in lieu thereof: *the Department of Management Services, shall adopt rules implementing*

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 150335)

Amendment 5 (with title amendment)—On page 52, between lines 21 and 22, of the bill

insert:

Section 28. Paragraph (f) of subsection (2) of section 216.163, Florida Statutes, is amended to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(2) The Governor's recommended budget shall also include:

(f) The Governor's recommendations for *high-risk* ~~critical~~ information *technology* ~~resource management~~ projects which should be subject to ~~special~~ monitoring under s. 282.322. These recommendations shall include proviso language which specifies whether funds are specifically provided to contract for project monitoring, or whether the Auditor General will conduct such project monitoring. When funds are recommended for contracting with a project monitor, such funds may equal 1 percent to 5 percent of the project's estimated total costs. These funds shall be specifically appropriated and nonrecurring.

Section 29. Paragraph (b) of subsection (1) and paragraph (o) of subsection (3) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(1)

(b) If the nature or volume of public records requested to be inspected, examined, or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both. "Information technology resources" *means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training* ~~shall have the same meaning as in s. 282.303(12)~~.

(3)

(o) Data processing software obtained by an agency under a licensing agreement which prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software which is sensitive are exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive shall not prohibit an agency head from sharing or exchanging such software with another public agency. As used in this paragraph:

1. "Data processing software" *means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs* ~~has the same meaning as in s. 282.303(7)~~.

2. "Sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

a. Collect, process, store, and retrieve information which is exempt from the provisions of subsection (1);

b. Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or

c. Control and direct access authorizations and security measures for automated systems.

Section 30. Paragraph (b) of subsection (1) of section 119.083, Florida Statutes, is amended to read:

119.083 Definitions; copyright of data processing software created by governmental agencies; fees; prohibited contracts.—

(1) As used in this section:

(b) "Data processing software" has the same meaning as in s. *119.07(3)(o)* ~~282.303~~.

And the title is amended as follows:

On page 5, line 26,

after the semicolon, insert: amending s. 216.163, F.S.; providing that the Governor's recommended budget shall include recommendations for

specified high-risk information technology projects; amending s. 119.07, F.S.; defining "information technology resources" and "data processing software"; amending ss. 119.083, F.S.; correcting cross references;

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 953207)

Amendment 6 (with title amendment)—On page 16, line 25, through page 18, line 21,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 5. Section 216.0446, Florida Statutes, is amended to read:

216.0446 Review of information resources management needs.—

(1) There is created within the Legislature the Technology Review Workgroup. The workgroup *and the State Technology Office* shall *independently* review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information resources management needs and with respect to agencies' legislative budget requests for information *technology and related* resources ~~management~~. The Technology Review Workgroup shall *report such recommendations, together with the findings and conclusions on which such recommendations are based,*~~be responsible~~ to the chairs of the legislative appropriations committees. *The State Technology Office shall report such recommendations, together with the findings and conclusions on which such recommendations are based, to the Executive Office of the Governor and to the chairs of the legislative appropriations committees.*

(2) In addition to its primary duty specified in subsection (1), the Technology Review Workgroup shall have powers and duties that include, but are not limited to, the following:

(a) To evaluate the information resource management needs identified in the agency long-range program plans for consistency with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies recommended by the State Technology *Office* ~~Council~~, and make recommendations to the chairs of the legislative appropriations committees.

(b) To review and make recommendations to the chairs of the legislative appropriations committees on proposed budget amendments and agency transfers associated with information *technology* ~~resources management~~ initiatives or projects that involve more than one agency, that have an outcome that impacts another agency, ~~or~~ that exceed $500,000 in total cost over a 1-year period*, or that are requested by the chairs of the legislative budget committees to be reviewed*.

Section 6. Subsection (5)of section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(5) An amendment *to the original operating budget* for an information *technology* ~~resources management~~ project or initiative that involves more than one agency, has an outcome that impacts another agency, or exceeds $500,000 in total cost over a 1-year period, except for those projects that are a continuation of hardware or software maintenance or software licensing agreements, or that are for desktop replacement that is similar to the technology currently in use must be reviewed by the Technology Review Workgroup pursuant to s. 216.0466 and approved by the Executive Office of the Governor for the executive branch or by the Chief Justice for the judicial branch, and shall be subject to the notice and review procedures set forth in s. 216.177.

And on page 50, line 24, through page 52, line 21,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 27. 282.322 Special monitoring process for designated information resources management projects.—

*(1)*For each information resources management project which is designated for special monitoring in the General Appropriations Act, with a proviso requiring a contract with a project monitor, the Technology Review Workgroup established pursuant to s. 216.0446, in consultation with each affected agency, shall be responsible for contracting with the project monitor. Upon contract award, funds equal to the contract amount shall be transferred to the Technology Review Workgroup upon request and subsequent approval of a budget amendment pursuant to s. 216.292. With the concurrence of the Legislative Auditing Committee, the office of the Auditor General shall be the project monitor for other projects designated for special monitoring. However, nothing in this section precludes the Auditor General from conducting such monitoring on any project designated for special monitoring. In addition to monitoring and reporting on significant communications between a contracting agency and the appropriate federal authorities, the project monitoring process shall consist of evaluating each major stage of the designated project to determine whether the deliverables have been satisfied and to assess the level of risks associated with proceeding to the next stage of the project. The major stages of each designated project shall be determined based on the agency's information systems development methodology. Within 20 days after an agency has completed a major stage of its designated project or at least 90 days, the project monitor shall issue a written report, including the findings and recommendations for correcting deficiencies, to the agency head, for review and comment. Within 20 days after receipt of the project monitor's report, the agency head shall submit a written statement of explanation or rebuttal concerning the findings and recommendations of the project monitor, including any corrective action to be taken by the agency. The project monitor shall include the agency's statement in its final report, which shall be forwarded, within 7 days after receipt of the agency's statement, to the agency head, the inspector general's office of the agency, the Executive Office of the Governor, the appropriations committees of the Legislature, the Joint Legislative Auditing Committee, the Technology Review Workgroup, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The Auditor General shall also receive a copy of the project monitor's report for those projects in which the Auditor General is not the project monitor.

(2) The Enterprise Project Management Office of the State Technology Office shall report any information technology projects the office identifies as high-risk to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriations committees. Within the limits of current appropriations, the Enterprise Project Management Office shall monitor and report on such high-risk information technology projects, and assess the levels of risks associated with proceeding to the next stage of the project.

And the title is amended as follows:

On page 2, lines 9 through 21
remove from the title of the bill: all of said lines

and insert in lieu thereof: needs; providing for the duties of the State Technology Office; requiring the reporting of specified information to the Executive Office of the Governor and to the chairs of the legislative appropriations committees; amending s. 216.181, F.S.; relating to approved budgets for operations and fixed capital outlay;

and on page 5, lines through 19-22
remove from the title of the bill: all of said lines

and insert in lieu thereof: 282.322, F.S.; requiring the Enterprise Project

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 394687)

Amendment 1 to Amendment 6 (with title amendment)—On page 1, line 15, through page 5, line 13
remove from the amendment: all of said lines

and insert in lieu thereof:

And the title is amended as follows:

On page 5, line 18, through page 6, line 2, of the amendment
remove: all of said lines

and insert in lieu thereof:

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 810483)

Amendment 7 (with title amendment)—On page 54, between lines 8&9 of the bill

insert:

Section 30. Subsection (6) of Section 11.90, Florida Statutes, is created to read:

(6)The Commission shall review information resource management needs identified in agency long-range program plans for consistency with the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office. The Commission shall also review all proposed budget amendments associated with information technology.

And the title is amended as follows:

On page 6, line 10

after the semicolon, insert: provides for Legislative Budgeting Commission review of certain agency plans, State Technology Office policies, and certain budget amendments;

On motion by Rep. Hart, the committee and council amendments failed of adoption *en bloc*.

Representative(s) Hart offered the following:

(Amendment Bar Code: 820279)

Amendment 8 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (b) of subsection (2) and subsection (3) of section 20.22, Florida Statutes, are amended to read:

20.22 Department of Management Services.—There is created a Department of Management Services.

(2) The following divisions and programs within the Department of Management Services are established:

(b) *State Technology Office* ~~Information Technology Program~~.

(3) The *State Technology Office* ~~Information Technology Program~~ shall operate and manage the Technology Resource Center.

Section 2. Subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph *(i)* ~~(h)~~, shall be exempted if the position reports to a position in the career service:

(a) All officers of the executive branch elected by popular vote and persons appointed to fill vacancies in such offices. Unless otherwise fixed by law, the salary and benefits for any such officer who serves as the head of a department shall be set by the department in accordance with the rules of the Senior Management Service.

(b) All members, officers, and employees of the legislative branch, except for the members, officers, and employees of the Florida Public Service Commission.

(c) All members, officers, and employees of the judicial branch.

(d) All officers and employees of the State University System and the Correctional Education Program within the Department of Corrections, and the academic personnel and academic administrative personnel of the Florida School for the Deaf and the Blind. In accordance with the provisions of chapter 242, the salaries for academic personnel and academic administrative personnel of the Florida School for the Deaf and the Blind shall be set by the board of trustees for the school, subject only to the approval of the State Board of Education. The salaries for all instructional personnel and all administrative and noninstructional personnel of the Correctional Education Program shall be set by the Department of Corrections, subject to the approval of the Department of Management Services.

(e) The Chief Information Officer, deputy chief information officers, chief technology officers, and deputy chief technology officers in the State Technology Office. Unless otherwise fixed by law, the State Technology Office shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

(f)~~(e)~~ All members of state boards and commissions, however selected. Unless otherwise fixed by law, the salary and benefits for any full-time board or commission member shall be set by the department in accordance with the rules of the Senior Management Service.

(g)~~(f)~~ Judges, referees, and receivers.

(h)~~(g)~~ Patients or inmates in state institutions.

(i)~~(h)~~ All positions which are established for a limited period of time for the purpose of conducting a special study, project, or investigation and any person paid from an other-personal-services appropriation. Unless otherwise fixed by law, the salaries for such positions and persons shall be set in accordance with rules established by the employing agency for other-personal-services payments pursuant to s. 110.131.

(j)~~(i)~~ The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; and the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, and the State Transportation Planner, State Highway Engineer, State Public Transportation Administrator, district secretaries, district directors of planning and programming, production, and operations, and the managers of the offices specified in s. 20.23(3)(d)2., of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

(k)~~(j)~~ The personal secretary to the incumbent of each position exempted in *paragraphs* ~~paragraph~~ (a), *(e), and (j).* ~~and to each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, and deputy executive director of each department under paragraph (i).~~ Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Selected Exempt Service.

(l)~~(k)~~ All officers and employees in the office of the Governor, including all employees at the Governor's mansion, and employees within each separate budget entity, as defined in chapter 216, assigned to the Governor. Unless otherwise fixed by law, the salary and benefits of these positions shall be set by the department as follows:

1. The chief of staff, the assistant or deputy chief of staff, general counsel, Director of Legislative Affairs, chief inspector general, Director of Cabinet Affairs, Director of Press Relations, Director of Planning and Budgeting, director of administration, director of state-federal relations, Director of Appointments, Director of External Affairs, Deputy General

Counsel, Governor's Liaison for Community Development, Chief of Staff for the Lieutenant Governor, Deputy Director of Planning and Budgeting, policy coordinators, and the director of each separate budget entity shall have their salaries and benefits established by the department in accordance with the rules of the Senior Management Service.

2. The salaries and benefits of positions not established in sub-subparagraph a. shall be set by the employing agency. Salaries and benefits of employees whose professional training is comparable to that of licensed professionals under paragraph *(r)* ~~(q)~~, or whose administrative responsibility is comparable to a bureau chief shall be set by the Selected Exempt Service. The department shall make the comparability determinations. Other employees shall have benefits set comparable to legislative staff, except leave shall be comparable to career service as if career service employees.

(m)~~(l)~~ All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, the Department of Children and Family Services, and the Department of Corrections that are assigned primary duties of serving as the superintendent or assistant superintendent, or warden or assistant warden, of an institution; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; those positions described in s. 20.171 as included in the Senior Management Service; and positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

(n)~~(m)~~1.a. In addition to those positions exempted by other paragraphs of this subsection, each department head may designate a maximum of 20 policymaking or managerial positions, as defined by the department and approved by the Administration Commission, as being exempt from the Career Service System. Career service employees who occupy a position designated as a position in the Selected Exempt Service under this paragraph shall have the right to remain in the Career Service System by opting to serve in a position not exempted by the employing agency. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Selected Exempt Service; provided, however, that if the agency head determines that the general counsel, chief Cabinet aide, public information administrator or comparable position for a Cabinet officer, inspector general, or legislative affairs director has both policymaking and managerial responsibilities and if the department determines that any such position has both policymaking and managerial responsibilities, the salary and benefits for each such position shall be established by the department in accordance with the rules of the Senior Management Service.

b. In addition, each department may designate one additional position in the Senior Management Service if that position reports directly to the agency head or to a position in the Senior Management Service and if any additional costs are absorbed from the existing budget of that department.

2. If otherwise exempt, employees of the Public Employees Relations Commission, the Commission on Human Relations, and the Unemployment Appeals Commission, upon the certification of their respective commission heads, may be provided for under this paragraph as members of the Senior Management Service, if otherwise qualified. However, the deputy general counsels of the Public Employees Relations Commission shall be compensated as members of the Selected Exempt Service.

(o)~~(n)~~ The executive director, deputy executive director, general counsel, official reporters, and division directors within the Public Service Commission and the personal secretary and personal assistant to each member of the Public Service Commission. Unless otherwise fixed by law, the salary and benefits of the executive director, deputy executive directors, general counsel, Director of Administration, Director of Appeals, Director of Auditing and Financial Analysis, Director of Communications, Director of Consumer Affairs, Director of Electric and Gas, Director of Information Processing, Director of Legal Services, Director of Records and Reporting, Director of Research, and Director of Water and Sewer shall be set by the department in accordance with the rules of the Senior Management Service. The salary and benefits of the personal secretary and the personal assistant of each member of the commission and the official reporters shall be set by the department in accordance with the rules of the Selected Exempt Service, notwithstanding any salary limitations imposed by law for the official reporters.

(p)~~(o)~~1. All military personnel of the Department of Military Affairs. Unless otherwise fixed by law, the salary and benefits for such military personnel shall be set by the Department of Military Affairs in accordance with the appropriate military pay schedule.

2. The military police chiefs, military police officers, firefighter trainers, firefighter-rescuers, and electronic security system technicians shall have salary and benefits the same as career service employees.

(q)~~(p)~~ The staff directors, assistant staff directors, district program managers, district program coordinators, district subdistrict administrators, district administrative services directors, district attorneys, and the Deputy Director of Central Operations Services of the Department of Children and Family Services and the county health department directors and county health department administrators of the Department of Health. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.

(r)~~(q)~~ All positions not otherwise exempt under this subsection which require as a prerequisite to employment: licensure as a physician pursuant to chapter 458, licensure as an osteopathic physician pursuant to chapter 459, licensure as a chiropractic physician pursuant to chapter 460, including those positions which are occupied by employees who are exempted from licensure pursuant to s. 409.352; licensure as an engineer pursuant to chapter 471, which are supervisory positions except for such positions in the Department of Transportation; or for 12 calendar months, which require as a prerequisite to employment that the employee have received the degree of Bachelor of Laws or Juris Doctor from a law school accredited by the American Bar Association and thereafter membership in The Florida Bar, except for any attorney who serves as an administrative law judge pursuant to s. 120.65 or for hearings conducted pursuant to s. 120.57(1)(a). Unless otherwise fixed by law, the department shall set the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

(s)~~(r)~~ The statewide prosecutor in charge of the Office of Statewide Prosecution of the Department of Legal Affairs and all employees in the office. The Department of Legal Affairs shall set the salary of these positions.

(t)~~(s)~~ The executive director of each board or commission established within the Department of Business and Professional Regulation or the Department of Health. Unless otherwise fixed by law, the department shall establish the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

(u)~~(t)~~ All officers and employees of the State Board of Administration. The State Board of Administration shall set the salaries and benefits of these positions.

(v)~~(u)~~ Positions which are leased pursuant to a state employee lease agreement expressly authorized by the Legislature pursuant to s. 110.191.

(w) All managers, supervisors, and confidential employees of the State Technology Office. The State Technology Office shall set the salaries and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 3. Section 186.022, Florida Statutes, is amended to read:

186.022 Information *technology* ~~resource~~ strategic plans.—By June 1 of each year, ~~the Geographic Information Board,~~ the Financial Management Information Board, the Criminal and Juvenile Justice Information Systems Council, and the Health Information Systems Council shall each develop and submit *to the State Technology Office* an information *technology* ~~resource~~ strategic plan ~~to the Executive Office of the Governor~~ in a form and manner prescribed in written instructions *from* ~~prepared by~~ the *State Technology Office* ~~Executive Office of the Governor~~ in consultation with *the Executive Office of the Governor and* the legislative appropriations committees. The *State Technology Office* ~~Executive Office of the Governor~~ shall review *each such* ~~the~~ strategic plan and ~~may provide comments within 30 days. In its review, the Executive Office of the Governor~~ shall *determine* ~~consider all comments and findings of the Technology Review Workgroup as to~~ whether *each such* ~~the~~ plan is consistent with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies *adopted by the State Technology Office, and by July 1 of each year shall develop and transmit to each such board and council a written expression of its findings, conclusions, and required changes, if any, with respect to each such strategic plan* ~~recommended by the State Technology Council~~. If *any change to any such strategic plan is* ~~revisions are~~ required, *each affected board* ~~boards~~ and *council shall revise its strategic plan to the extent necessary to incorporate such required changes* ~~councils have 30 days to incorporate those revisions~~ and *shall resubmit its strategic* ~~return the~~ plan to the *State Technology Office for final approval and acceptance* ~~Executive Office of the Governor~~.

Section 4. Subsection (4) of section 216.013, Florida Statutes, is amended to read:

216.013 Long-range program plan.—

(4) The Executive Office of the Governor shall review the long-range program plans for executive agencies to ensure that they are consistent with the state's goals and objectives and other requirements as specified in the written instructions and that they provide the framework and context for the agency's budget request. In its review, the Executive Office of the Governor shall consider the findings of the *State Technology Office* ~~Technology Review Workgroup~~ as to the consistency of the information technology portion of long-range program plans with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies *adopted* ~~recommended~~ by the State Technology *Office* ~~Council~~ and the state's plan for facility needs pursuant to s. 216.0158. Based on the results of the review, the Executive Office of the Governor may require an agency to revise the plan.

Section 5. Section 216.0446, Florida Statutes, is amended to read:

216.0446 Review of information resources management needs.—

(1) ~~There is created within the Legislature the Technology Review Workgroup.~~ The *State Technology Office* ~~workgroup~~ shall review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information resources management needs and with respect to agencies' legislative budget requests for information *technology and related* resources ~~management~~. The *State Technology Office* ~~Technology Review Workgroup~~ shall *report such recommendations, together with the findings and conclusions on which such recommendations are based,* ~~be responsible~~ to the *Executive Office of the Governor and the* chairs of the legislative appropriations committees.

(2) In addition to *the powers and duties otherwise provided by law, the State Technology Office* ~~its primary duty specified in subsection (1), the Technology Review Workgroup~~ shall have powers and duties that include, but are not limited to, the following:

(a) To evaluate the information resource management needs identified in the agency long-range program plans for consistency with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies *adopted* ~~recommended~~ by the State Technology *Office* ~~Council~~, and make recommendations to *the Executive Office of the Governor and* the chairs of the legislative appropriations committees.

(b) To review and make recommendations *to the Executive Office of the Governor and* ~~to~~ the chairs of the legislative appropriations committees on proposed budget amendments ~~and agency transfers~~ associated with information *technology* ~~resources management~~ initiatives ~~or projects that involve more than one agency, that have an outcome that impacts another agency, or that exceed $500,000 in total cost over a 1-year period~~.

Section 6. Subsection (5) of section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(5) An amendment *to the original approved operating budget* for an information *technology project or initiative which requires review as provided in s. 216.181* ~~resources management project or initiative that involves more than one agency, has an outcome that impacts another agency, or exceeds $500,000 in total cost over a 1-year period, except for those projects that are a continuation of hardware or software maintenance or software licensing agreements, or that are for desktop replacement that is similar to the technology currently in use~~ must be reviewed by the *State Technology Office* ~~Technology Review Workgroup~~ pursuant to s. 216.0466*. This excludes items submitted by the State Technology Office for review and approval according to the provisions of this section.* ~~and approved by the Executive Office of the Governor for the executive branch or by the Chief Justice for the judicial branch, and shall be subject to the notice and review procedures set forth in s. 216.177.~~

Section 7. Section 216.235, Florida Statutes, is amended to read:

216.235 Innovation Investment Program; intent; definitions; composition and responsibilities of State Innovation Committee; responsibilities of the *Office of Tourism, Trade, and Economic Development* ~~Department of Management Services, the Information Resource Commission,~~ and the review board; procedures for innovative project submission, review, evaluation, and approval; criteria to be considered.—

(1) This section shall be cited as the "Innovation Investment Program Act."

(2) The Legislature finds that each state agency should be encouraged to pursue innovative investment projects which demonstrate a novel, creative, and entrepreneurial approach to conducting the agency's normal business processes; effectuate a significant change in the accomplishment of the agency's activities; address an important problem of public concern; and have the potential of being replicated by other state agencies. The Legislature further finds that investment in innovation can produce longer-term savings and that funds for such investment should be available to assist agencies in investing in innovations that produce a cost savings to the state or improve the quality of services delivered. The Legislature also finds that any eligible savings realized as a result of investment in innovation should be available for future investment in innovation.

(3) For purposes of this section:

(a) "Agency" means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of the executive branch.

(b) "Commission" means the Information Resource Commission.

(c) "Committee" means the State Innovation Committee.

(d) *"Office" means the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor.* ~~"Department" means the Department of Management Services.~~

(e) "Review board" means a nonpartisan board composed of private citizens and public employees who evaluate the projects and make funding recommendations to the committee.

(4) There is hereby created the State Innovation Committee, which shall have final approval authority as to which innovative investment projects submitted under this section shall be funded. Such committee shall be comprised of *seven* ~~five~~ members. Appointed members shall serve terms of 1 year and may be reappointed. The committee shall include:

(a) The Lieutenant Governor.

(b) The director of the Governor's Office of Planning and Budgeting.

(c) The Chief Information Officer in the State Technology Office.

(d)~~(c)~~ The Comptroller.

(e)~~(d)~~ One representative of the private sector appointed by the Commission on Government Accountability to the People.

(f)~~(e)~~ *The director of the Office of Tourism, Trade, and Economic Development.* ~~One representative appointed by Enterprise Florida, Inc.~~

(g) The Chair of IT Florida.com, Inc.

~~The Secretary of Management Services shall serve as an alternate in the event a member is unable to attend the committee meeting.~~

(5) Agencies shall submit proposed innovative investment projects to the *Office of Tourism, Trade, and Economic Development* ~~department~~ by a date established and in the format prescribed by the *office* ~~department~~. Such innovative investment project proposals shall include, but not be limited to:

(a) The identification of a specific innovative investment project.

(b) The name of the agency's innovative investment project administrator.

(c) A cost/benefit analysis which is a financial summary of how the innovative investment project will produce a cost savings for the agency or improve the quality of the public services delivered by the agency. The analysis shall include a breakdown of each project cost category, including, but not limited to: the costs associated with hiring of other-personal-services staff, re-engineering efforts, purchase of equipment, maintenance agreements, training, consulting services, travel, acquisition of information technology resources; any monetary or in-kind contributions made by the agency, another public entity, or the private sector; and available baseline data, performance measures, and outcomes as defined in s. 216.011(1).

(d) The approval of the agency head, the agency's budget director, the agency's inspector general or internal auditor, and, if the innovative investment project involves information technology resources, the information resource manager.

(6) Any agency developing an innovative investment project proposal that involves information technology resources may consult with and seek technical assistance from the commission. The *office* ~~department~~ shall consult with the commission for any project proposal that involves information resource technology. The commission is responsible for evaluating these projects and for advising the committee and review board of the technical feasibility and any transferable benefits of the proposed technology. In addition to the requirements of subsection (5), the agencies shall provide to the commission any information requested by the commission to aid in determining that the proposed technology is appropriate for the project's success.

(7) The *office* ~~department~~ shall select a review board composed of private and public members. Terms of review board members shall be for 1 year beginning on a date established by the *office* ~~department~~. Review board members may serve more than one term. The board shall evaluate innovative investment projects and shall make recommendations to the committee as to which innovative projects should be considered for funding.

(8) When evaluating projects, the committee and the review board shall consider whether the innovative investment project meets the following criteria:

(a) Increases the quality of public services by the agency.

(b) Reduces costs for the agency.

(c) Involves a cooperative effort with another public entity or the private sector.

(d) Reduces the need for hiring additional employees or avoids other operating costs incurred by the agency in the future.

(9) The committee shall allocate funds based on a competitive evaluation process and award funds to agencies for innovative investment projects demonstrating quantifiable savings to the state, or improved customer service delivery.

(10) The awarded agency shall monitor and evaluate the projects to determine if the anticipated results were achieved.

(11) Funds appropriated for the Innovation Investment Program shall be distributed by the Executive Office of the Governor subject to notice, review, and objection procedures set forth in s. 216.177. The *office* ~~department~~ may transfer funds from the annual appropriation as necessary to administer the program.

Section 8. Paragraph (c) is added to subsection (1) of section 216.292, Florida Statutes, to read:

216.292 Appropriations nontransferable; exceptions.—

(1)

(c) Notwithstanding any other provision of this section or the provisions of s. 216.351, for fiscal year 2001-2002, state agencies may transfer positions and appropriations as necessary to comply with any provision of the General Appropriations Act, or any other provision of law, that requires or specifically authorizes the transfer of positions and appropriations in the consolidation of information technology resources to the State Technology Office.

Section 9. Section 282.005, Florida Statutes, is amended to read:

282.005 Legislative findings and intent.—The Legislature finds that:

(1) Information is a strategic asset of the state, and, as such, it should be managed as a valuable state resource.

(2) The state makes significant investments in information technology ~~resources~~ in order to manage information and to provide services to its citizens.

(3) An office must be created to provide support and guidance to enhance the state's use and management of information technology ~~resources~~ and to design, procure, and deploy, on behalf of the state, information technology ~~resources~~.

(4) The cost-effective deployment of *information* technology ~~and information resources~~ by state agencies can best be managed by a Chief Information Officer.

(5) ~~The head of each state agency, in consultation with~~ The State Technology Office, has primary responsibility and accountability for the planning, budgeting, acquisition, development, implementation, use, and management of information technology ~~resources~~ within the *state* ~~agency~~. *The State Technology Office shall use the state's information technology in the best interest of the state as a whole and shall contribute to and make use of shared data and related resources whenever appropriate. Each agency head has primary responsibility and accountability for setting agency priorities, identifying business needs, and determining agency services and programs to be developed as provided by law. The State Technology Office, through service level agreements with each agency, shall provide the information technology needed for the agency to accomplish its mission.*

(6) The expanding need for, use of, and dependence on information technology ~~resources~~ requires focused management attention and managerial accountability by state agencies and the state as a whole.

~~(7) The agency head, in consultation with the State Technology Office, has primary responsibility for the agency's information technology resources and for their use in accomplishing the agency's mission. However, each agency shall also use its information technology resources in the best interests of the state as a whole and thus contribute to and make use of shared data and related resources whenever appropriate.~~

(7)~~(8)~~ The state*, through the State Technology Office,* shall provide, by whatever means is most cost-effective and efficient, *the information technology, enterprise resource planning and management, and enterprise resource management infrastructure* ~~the information resources management infrastructure~~ needed to collect, store, and process the state's data and information, provide connectivity, and facilitate the exchange of data and information among both public and private parties.

(8)~~(9)~~ A necessary part of the state's information *technology* ~~resources management~~ infrastructure is a statewide communications system for all types of signals, including*, but not limited to,* voice, data, video, radio, *telephone, wireless,* and image.

(9)~~(10)~~ To ensure the best management of the state's information technology ~~resources,~~ and notwithstanding other provisions of law to the contrary, the functions of information *technology* ~~resources management~~ are hereby assigned to the Board of Regents as the agency responsible for the development and implementation of policy, planning, management, rulemaking, standards, and guidelines for the State University System; to the State Board of Community Colleges as the agency responsible for establishing and developing rules and policies for the Florida Community College System; to the Supreme Court, for the judicial branch; to each state attorney and public defender; and to the State Technology Office for the executive branch of state government.

(10) The State Technology Office shall take no action affecting the supervision, control, management or coordination of information technology and information technology personnel, that any cabinet officer listed in s. 4 Art. IV of the State Constitution deems necessary for the exercise of his or her statutory or constitutional duties.

~~(11) Notwithstanding anything to the contrary contained in this act, the State Technology Office shall take no action affecting the supervision or control of the personnel or data processing equipment that the Comptroller deems necessary for the exercise of his or her official constitutional duties as set forth in s. 4(d) and (e), Art. IV of the State Constitution.~~

~~(12) Notwithstanding anything to the contrary contained in this act, the State Technology Office shall take no action affecting the supervision and control of the personnel or data processing equipment which the Attorney General deems necessary for the exercise of his or her official constitutional duties as set forth in s. 4(c), Art. IV of the State Constitution.~~

Section 10. Section 282.303, Florida Statutes, is renumbered as section 282.0041, Florida Statutes, and amended to read:

282.0041 ~~282.303~~ Definitions.—For the purposes of *this part* ~~ss. 282.303-282.322~~, the term:

(1) "Agency" means those entities described in s. 216.011(1)*(qq)*~~(mm)~~.

(2)~~(8)~~ "Agency Annual Enterprise Resource Planning and Management Report" means the report prepared by *each Agency* ~~the~~ Chief Information Officer ~~of each agency~~ as required by s. 282.3063.

(3)~~(2)~~ "*Agency* Chief Information Officer" means the person appointed by ~~the agency head, in consultation with~~ the State Technology Office~~,~~ to coordinate and manage the information *technology* ~~resources management~~ policies and activities *applicable to* ~~within~~ that agency.

(4)~~(3)~~ "*Agency* Chief Information Officers Council" means the council created in s. 282.315 to facilitate the sharing and coordination of information *technology* ~~resources management~~ issues and initiatives among the agencies.

(5)~~(13)~~ "Enterprise resources management infrastructure" means the hardware, software, networks, data, human resources, policies, standards, and facilities*, maintenance, and related materials and services* that are required to support the business processes of an agency or state enterprise.

~~(5) "Information technology hardware" means equipment designed for the automated storage, manipulation, and retrieval of data, voice or video, by electronic or mechanical means, or both, and includes, but is not limited to, central processing units, front-end processing units, including miniprocessors and microprocessors, and related peripheral equipment such as data storage devices, document scanners, data entry, terminal controllers and data terminal equipment, word processing systems, equipment and systems for computer networks, personal communication devices, and wireless equipment.~~

(6)~~(11)~~ "Enterprise resource planning and management" means the planning, budgeting, acquiring, developing, organizing, directing, training, ~~and~~ control*, and related services* associated with government information technology ~~resources~~. The term encompasses information and related resources, as well as the controls associated with their acquisition, development, dissemination, and use.

(7) "Information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.

~~(6) "Information technology services" means all services that include, but are not limited to, feasibility studies, systems design, software development, enterprise resource planning, application service provision, consulting, or time-sharing services.~~

~~(7) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.~~

(8)~~(10)~~ "Project" means an undertaking directed at the accomplishment of a strategic objective relating to enterprise resources management or a specific appropriated program.

(9) "State Annual Report on Enterprise Resource Planning and Management" means the report prepared by the State Technology Office as defined in s. 282.3093.

(10)~~(16)~~ "Standards" means the use of current, open, nonproprietary, or non-vendor-specific technologies.

(11)~~(4)~~ "State Technology Office" *or "office"* means the office created in s. 282.102 ~~to support and coordinate cost-effective deployment of technology and information resources and services across state government~~.

(12)~~(15)~~ "Total cost" means all costs associated with information *technology* ~~resources management~~ projects or initiatives, including, but not limited to, value of hardware, software, service, maintenance, incremental personnel, and facilities. Total cost of a loan or gift of information technology resources to an agency includes the fair market value of the resources, except that the total cost of loans or gifts of information technology ~~resources~~ to state universities to be used in instruction or research does not include fair market value.

~~(12) "Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.~~

~~(14) "Technology Review Workgroup" means the workgroup created in s. 216.0446 to review and make recommendations on agencies' information resources management planning and budgeting proposals.~~

Section 11. Section 282.102, Florida Statutes, is amended to read:

282.102 *Creation of the State Technology Office;* powers and duties ~~of the State Technology Office of the Department of Management Services~~.—There is created a State Technology Office~~, administratively placed~~ within the Department of Management Services. *The office shall be a separate budget entity*, *and* ~~which~~ shall be headed by a Chief Information Officer who is appointed by the Governor and is in the Senior Management Service. *The Chief Information Officer shall be an agency head for all purposes. The Department of Management Services shall provide administrative support and service to the office to the extent requested by the Chief Information Officer. The office may adopt policies and procedures regarding personnel, procurement, and transactions for State Technology Office personnel.* The office shall have the following powers, duties, and functions:

(1) To publish electronically the portfolio of services available from the office, including pricing information; the policies and procedures of the office governing usage of available services; and a forecast of the priorities and initiatives for the state communications system for the ensuing 2 years. ~~The office shall provide a hard copy of its portfolio of services upon request.~~

(2) *To adopt rules implementing policies and procedures providing best practices to be followed by agencies in acquiring, using, upgrading, modifying, replacing, or disposing of information technology.* ~~To coordinate the purchase, lease, and use of all information technology services for state agencies, including communications services provided as part of any other total system to be used by the state or any of its agencies.~~

(3) To perform, in consultation with an agency, the enterprise resource planning and management for the agency.

(4)~~(3)~~ To advise and render aid to state agencies and political subdivisions of the state as to systems or methods to be used for organizing and meeting information technology requirements efficiently and effectively.

(5)~~(4)~~ To integrate the information technology systems and services of state agencies.

(6)~~(5)~~ To adopt technical standards for the state information technology system which will assure the interconnection of computer networks and information systems of ~~state~~ agencies.

(7)~~(6)~~ To assume management responsibility for any integrated information technology system or service when determined by the office to be economically efficient or performance-effective.

(8)~~(7)~~ To enter into agreements *related to* ~~for the support and use of the~~ information technology *with* ~~services of~~ state agencies and of political subdivisions of the state.

(9)~~(8)~~ To use *and* ~~or~~ acquire, with agency concurrence, information technology ~~facilities~~ now owned or operated by any ~~state~~ agency.

~~(9) To standardize policies and procedures for the use of such services.~~

(10) To purchase from or contract with information technology providers for information technology ~~facilities or services~~, including private line services.

(11) To apply for, receive, and hold, *and to* ~~or~~ assist agencies in applying for, receiving, or holding, such authorizations, *patents, copyrights, trademarks, service marks,* licenses, and allocations or channels and frequencies to carry out the purposes of *this part* ~~ss. 282.101-282.109~~.

(12) To *purchase, lease, or otherwise* acquire *and to hold, sell, transfer, license, or otherwise dispose of* real*, personal* ~~estate~~, ~~equipment,~~ and *intellectual* ~~other~~ property*, including, but not limited to, patents, trademarks, copyrights, and service marks*.

(13) To cooperate with any federal, state, or local emergency management agency in providing for emergency communications services.

(14) To delegate*, as necessary,* to state agencies the *authority to purchase, lease, or otherwise acquire and to use* ~~powers of acquisition and utilization of~~ information technology ~~equipment, facilities, and services~~ or*, as necessary,* to control and approve the purchase, lease, *or acquisition* and *the* use of all information technology ~~equipment, services, and facilities~~, including*, but not limited to,* communications services provided as part of any other total system to be used by the state or any of its agencies.

(15) To *acquire* ~~take~~ ownership, *possession,* custody, and control of existing communications equipment and facilities, ~~with agency concurrence,~~ including all right, title, interest, and equity therein, *as necessary,* to carry out the purposes of *this part* ~~ss. 282.101-282.109~~. However, the provisions of this subsection shall in no way affect the rights, title, interest, or equity in any such equipment or facilities owned by, or leased to, the state or any state agency by any telecommunications company.

(16) To adopt rules pursuant to ss. 120.536(1) and 120.54 relating to information technology and to administer the provisions of this part.

(17) To provide a means whereby political subdivisions of the state may use ~~the~~ state information technology *systems* ~~system~~ upon such terms and under such conditions as the office may establish.

(18) To apply for and accept federal funds for any of the purposes of *this part* ~~ss. 282.101-282.109~~ as well as gifts and donations from individuals, foundations, and private organizations.

(19) To monitor issues relating to communications facilities and services before the Florida Public Service Commission and, when necessary, prepare position papers, prepare testimony, appear as a witness, and retain witnesses on behalf of state agencies in proceedings before the commission.

(20) Unless delegated to the agencies by the Chief Information Officer, to manage and control, but not intercept or interpret, communications within the SUNCOM Network by:

(a) Establishing technical standards to physically interface with the SUNCOM Network.

(b) Specifying how communications are transmitted within the SUNCOM Network.

(c) Controlling the routing of communications within the SUNCOM Network.

(d) Establishing standards, policies, and procedures for access to the SUNCOM Network.

(e) Ensuring orderly and reliable communications services in accordance with ~~the standards and policies of all state agencies and~~ the service *level* agreements executed with state agencies.

(21) To plan, design, and conduct experiments for information technology services, equipment, and technologies, and to implement enhancements in the state information technology system when in the public interest and cost-effective. Funding for such experiments shall be derived from SUNCOM Network service revenues and shall not exceed 2 percent of the annual budget for the SUNCOM Network for any fiscal year or as provided in the General Appropriations Act ~~for fiscal year 2000-2001~~. New services offered as a result of this subsection shall not affect existing rates for facilities or services.

(22) To enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, and nondiscriminatory basis, property and other structures under office control for the placement of new facilities by any wireless provider of mobile service as defined in 47 U.S.C. s. 153(n) or s. 332(d)

and any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or other structures available. The office may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for the placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The office and a wireless provider or telecommunications company may negotiate the reduction or elimination of a fee in consideration of services provided to the office by the wireless provider or telecommunications company. All such fees collected by the office shall be deposited directly into the ~~State Agency~~ Law Enforcement Radio *Operating* ~~System~~ Trust Fund, and may be used by the office to construct, maintain, or support the system.

(23) To provide an integrated electronic system for deploying government products, services, and information to individuals and businesses.

(a) The integrated electronic system shall reflect cost-effective deployment strategies in keeping with industry standards and practices, including protections *and* ~~of~~ security of private information as well as maintenance of public records.

(b) The office shall provide a method for assessing fiscal accountability for the integrated electronic system and shall establish the organizational structure required to implement this system.

(24) To provide administrative support to the *Agency* Chief Information Officers Council and other workgroups created by the Chief Information Officer.

(25) To facilitate state information technology education and training for senior management and other agency staff.

(26) To prepare, on behalf of the Executive Office of the Governor, memoranda on recommended guidelines and best practices for information resources management, when requested.

(27) To prepare, publish, and disseminate the State Annual Report on Enterprise Resource Planning and Management under s. 282.310.

(28) To study and make a recommendation to the Governor and Legislature on the feasibility of implementing online voting in this state.

(29) To facilitate the development of a network access point in this state, as needed.

(30) To designate a State Chief Privacy Officer who shall be responsible for the continual review of policies, laws, rules, and practices of state agencies which may affect the privacy concerns of state residents.

Section 12. Section 282.103, Florida Statutes, is amended to read:

282.103 SUNCOM Network; exemptions from the required use.—

(1) There is created within the State Technology Office ~~of the Department of Management Services~~ the SUNCOM Network which shall be developed to serve as the state communications system for providing local and long-distance communications services to state agencies, political subdivisions of the state, municipalities, and nonprofit corporations pursuant to ss. 282.101-282.111. The SUNCOM Network shall be developed to transmit all types of communications signals, including, but not limited to, voice, data, video, image, and radio. State agencies shall cooperate and assist in the development and joint use of communications systems and services.

(2) The State Technology Office ~~of the Department of Management Services~~ shall design, engineer, implement, manage, and operate through state ownership, commercial leasing, or some combination thereof, the facilities and equipment providing SUNCOM Network services, and shall develop a system of equitable billings and charges for communication services.

(3) All state agencies are required to use the SUNCOM Network for agency communications services as the services become available; however, no agency is relieved of responsibility for maintaining communications services necessary for effective management of its programs and functions. If a SUNCOM Network service does not meet the communications requirements of an agency, the agency shall notify the State Technology Office ~~of the Department of Management Services~~ in writing and detail the requirements for that communications service. If the office is unable to meet an agency's requirements by enhancing SUNCOM Network service, the office *may* ~~shall~~ grant the agency an exemption from the required use of specified SUNCOM Network services.

Section 13. Section 282.104, Florida Statutes, is amended to read:

282.104 Use of state SUNCOM Network by municipalities.—Any municipality may request the State Technology Office ~~of the Department of Management Services~~ to provide any or all of the SUNCOM Network's portfolio of communications services upon such terms and under such conditions as the *office* ~~department~~ may establish. The requesting municipality shall pay its share of installation and recurring costs according to the published rates for SUNCOM Network services and as invoiced by the office. Such municipality shall also pay for any requested modifications to existing SUNCOM Network services, if any charges apply.

Section 14. Subsection (1) of section 282.105, Florida Statutes, is amended to read:

282.105 Use of state SUNCOM Network by nonprofit corporations.—

(1) The State Technology Office ~~of the Department of Management Services~~ shall provide a means whereby private nonprofit corporations under contract with state agencies or political subdivisions of the state may use the state SUNCOM Network, subject to the limitations in this section. In order to qualify to use the state SUNCOM Network, a nonprofit corporation shall:

(a) Expend the majority of its total direct revenues for the provision of contractual services to the state, a municipality, or a political subdivision of the state; and

(b) Receive only a small portion of its total revenues from any source other than a state agency, a municipality, or a political subdivision of the state during the period of time SUNCOM Network services are requested.

Section 15. Section 282.106, Florida Statutes, is amended to read:

282.106 Use of SUNCOM Network by libraries.—The State Technology Office ~~of the Department of Management Services~~ may provide SUNCOM Network services to any library in the state, including libraries in public schools, community colleges, the State University System, and nonprofit private postsecondary educational institutions, and libraries owned and operated by municipalities and political subdivisions.

Section 16. Subsection (1), paragraphs (f) and (g) of subsection (2), and subsections (3), (4), and (5) of section 282.1095, Florida Statutes, are amended to read:

282.1095 State agency law enforcement radio system.—

(1) The State Technology Office ~~of the Department of Management Services~~ may acquire and implement a statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through a mutual aid channel. The Joint Task Force on State Agency Law Enforcement Communications is established in the State Technology Office ~~of the Department of Management Services~~ to advise the office of member-agency needs for the planning, designing, and establishment of the joint system. The State Agency Law Enforcement Radio System Trust Fund is established in the State Technology Office ~~of the Department of Management Services~~. The trust fund shall be funded from surcharges collected under ss. 320.0802 and 328.72.

(2)

(f) The State Technology Office ~~of the Department of Management Services~~ is hereby authorized to rent or lease space on any tower under

its control. The office may also rent, lease, or sublease ground space as necessary to locate equipment to support antennae on the towers. The costs for use of such space shall be established by the office for each site, when it is determined to be practicable and feasible to make space available. The office may refuse to lease space on any tower at any site. All moneys collected by the office for such rents, leases, and subleases shall be deposited directly into the ~~State Agency~~ Law Enforcement Radio *Operating* ~~System~~ Trust Fund and may be used by the office to construct, maintain, or support the system.

(g) The State Technology Office ~~of the Department of Management Services~~ is hereby authorized to rent, lease, or sublease ground space on lands acquired by the office for the construction of privately owned or publicly owned towers. The office may, as a part of such rental, lease, or sublease agreement, require space on said tower or towers for antennae as may be necessary for the construction and operation of the state agency law enforcement radio system or any other state need. The positions necessary for the office to accomplish its duties under this paragraph and paragraph (f) shall be established in the General Appropriations Act and shall be funded by the ~~State Agency~~ Law Enforcement Radio *Operating* ~~System~~ Trust Fund.

(3) Upon appropriation, moneys in the trust fund may be used by the office to acquire by competitive procurement the equipment; software; and engineering, administrative, and maintenance services it needs to construct, operate, and maintain the statewide radio system. Moneys in the trust fund collected as a result of the surcharges set forth in ss. 320.0802 and 328.72 shall be used to help fund the costs of the system. Upon completion of the system, moneys in the trust fund may also be used by the office to provide for payment of the recurring maintenance costs of the system. ~~Moneys in the trust fund may be appropriated to maintain and enhance, over and above existing agency budgets, existing radio equipment systems of the state agencies represented by the task force members, in an amount not to exceed 10 percent per year per agency, of the existing radio equipment inventory until the existing radio equipment can be replaced pursuant to implementation of the statewide radio communications system.~~

(4)(a) The *office* ~~joint task force~~ shall establish policies, procedures, and standards which shall be incorporated into a comprehensive management plan for the use and operation of the statewide radio communications system.

(b) The joint task force*, in consultation with the office,* shall have the authority to permit other state agencies to use the communications system, under terms and conditions established by the joint task force.

(5)~~(a)~~ The ~~State Technology~~ office ~~of the Department of Management Services~~ shall provide technical support to the joint task force and shall bear the overall responsibility for the design, engineering, acquisition, and implementation of the statewide radio communications system and for ensuring the proper operation and maintenance of all system common equipment.

~~(b) The positions necessary for the office to accomplish its duties under this section shall be established through the budgetary process and shall be funded by the State Agency Law Enforcement Radio System Trust Fund.~~

Section 17. Section 282.111, Florida Statutes, is amended to read:

282.111 Statewide system of regional law enforcement communications.—

(1) It is the intent and purpose of the Legislature that a statewide system of regional law enforcement communications be developed whereby maximum efficiency in the use of existing radio channels is achieved in order to deal more effectively with the apprehension of criminals and the prevention of crime generally. To this end, all law enforcement agencies within the state are directed to provide the State Technology Office ~~of the Department of Management Services~~ with any information the office requests for the purpose of implementing the provisions of subsection (2).

(2) The State Technology Office ~~of the Department of Management Services~~ is hereby authorized and directed to develop and maintain a statewide system of regional law enforcement communications. In formulating such a system, the office shall divide the state into appropriate regions and shall develop a program which shall include, but not be limited to, the following provisions:

(a) The communications requirements for each county and municipality comprising the region.

(b) An interagency communications provision which shall depict the communication interfaces between municipal, county, and state law enforcement entities which operate within the region.

(c) Frequency allocation and use provision which shall include, on an entity basis, each assigned and planned radio channel and the type of operation, simplex, duplex, or half-duplex, on each channel.

(3) The office shall adopt any necessary rules and regulations for implementing and coordinating the statewide system of regional law enforcement communications.

(4) The Chief Information Officer of the State Technology Office or his or her designee is designated as the director of the statewide system of regional law enforcement communications and, for the purpose of carrying out the provisions of this section, is authorized to coordinate the activities of the system with other interested state agencies and local law enforcement agencies.

(5) No law enforcement communications system shall be established or present system expanded without the prior approval of the State Technology Office ~~of the Department of Management Services~~.

(6) Within the limits of its capability, the Department of Law Enforcement is encouraged to lend assistance to the State Technology Office ~~of the Department of Management Services~~ in the development of the statewide system of regional law enforcement communications proposed by this section.

Section 18. Section 282.20, Florida Statutes, is amended to read:

282.20 Technology Resource Center.—

(1)(a) The State Technology Office ~~of the Department of Management Services~~ shall operate and manage the Technology Resource Center.

(b) For the purposes of this section, the term:

~~1. "Office" means the State Technology Office of the Department of Management Services.~~

1.~~2.~~ "Information-system utility" means a full-service information-processing facility offering hardware, software, operations, integration, networking, and consulting services.

2.~~3.~~ "Customer" means a state agency or other entity which is authorized to utilize the SUNCOM Network pursuant to this part.

(2) The Technology Resource Center shall:

(a) Serve the office and other customers as an information-system utility.

(b) Cooperate with customers to offer, develop, and support a wide range of services and applications needed by users of the Technology Resource Center.

(c) Cooperate with the Florida Legal Resource Center of the Department of Legal Affairs and other state agencies to develop and provide access to repositories of legal information throughout the state.

(d) Cooperate with the office to facilitate interdepartmental networking and integration of network services for its customers.

(e) Assist customers in testing and evaluating new and emerging technologies that could be used to meet the needs of the state.

(3) The office may contract with customers to provide any combination of services necessary for agencies to fulfill their responsibilities and to serve their users.

~~(4) Acceptance of any new customer other than a state agency which is expected to pay during the initial 12 months of use more than 5 percent of the previous year's revenues of the Technology Resource Center shall be contingent upon approval of the Office of Planning and Budgeting in a manner similar to the budget amendment process in s. 216.181.~~

(4)~~(5)~~ The Technology Resource Center may plan, design, establish pilot projects for, and conduct experiments with information technology resources, and may implement enhancements in services when such implementation is cost-effective. Funding for experiments and pilot projects shall be derived from service revenues and may not exceed 5 percent of the service revenues for the Technology Resource Center for any single fiscal year. Any experiment, pilot project, plan, or design must be approved by the Chief Information Officer ~~of the State Technology Office~~.

(5)~~(6)~~ Notwithstanding the provisions of s. 216.272, the Technology Resource Center may spend ~~the~~ funds in the reserve account of *the Technology Enterprise Operating Trust Fund* ~~its working capital trust fund~~ for enhancements to center operations or for information technology resources. Any expenditure of reserve account funds must be approved by the Chief Information Officer ~~of the State Technology Office~~. Any funds remaining in the reserve account at the end of the fiscal year may be carried forward and spent as approved by the Chief Information Officer ~~of the State Technology Office~~, provided that such approval conforms to any applicable provisions of chapter 216.

Section 19. Section 282.21, Florida Statutes, is amended to read:

282.21 The State Technology *Office's* ~~Office of the Department of Management Services'~~ electronic access services.—The State Technology Office ~~of the Department of Management Services~~ may collect fees for providing remote electronic access pursuant to s. 119.085. The fees may be imposed on individual transactions or as a fixed subscription for a designated period of time. All fees collected under this section shall be deposited in the appropriate trust fund of the program or activity that made the remote electronic access available.

Section 20. Subsections (1) and (2) of section 282.22, Florida Statutes, are amended to read:

282.22 ~~The~~ State Technology Office*;* ~~of the Department of Management Services~~ production*,* ~~and~~ dissemination*, and ownership* of materials and products.—

(1) It is the intent of the Legislature that when materials, products, information, and services are *acquired* ~~collected~~ or developed by or under the direction of the State Technology Office ~~of the Department of Management Services~~, through research and development or other efforts, including those subject to copyright, patent, or trademark, they shall be made available for use by state and local government entities at the earliest practicable date and in the most economical and efficient manner possible and consistent with chapter 119.

(2) To accomplish this objective the office is authorized to publish or partner with private sector entities to produce or have produced materials and products and to make them readily available for appropriate use. The office is authorized to charge an amount or receive value-added services adequate to cover the essential cost of producing and disseminating such materials, information, services, or products and is authorized to sell services~~, when appropriate, to any entity who is authorized to use the SUNCOM Network pursuant to this part and to the public~~.

Section 21. Section 282.23, Florida Statutes, is created to read:

282.23 State Strategic Information Technology Alliance.—

(1) The State Technology Office, in consultation with the Department of Management Services, may establish a State Strategic Information Technology Alliance for the acquisition and use of information technology and related material in accordance with competitive procurement provisions of chapter 287.

(2) The State Technology Office, in consultation with the Department of Management Services, shall adopt rules implementing policies and procedures applicable to establishing the strategic alliances with prequalified contractors or partners to provide the state with efficient, cost-effective, and advanced information technology.

Section 22. Section 282.3041, Florida Statutes, is repealed:

~~282.3041 State agency responsibilities. The head of each state agency, in consultation with the State Technology Office, is responsible and accountable for enterprise resource planning and management within the agency in accordance with legislative intent and as defined in this part.~~

Section 23. Section 282.3055, Florida Statutes, is amended to read:

282.3055 Agency Chief Information Officer; appointment; duties.—

(1)(a) To assist the *State Technology Officer* ~~agency head~~ in carrying out the enterprise resource planning and management responsibilities, the *Chief Information Officer may* ~~agency head shall~~ appoint~~, in consultation with the State Technology Office,~~ or contract for *an Agency* ~~a~~ Chief Information Officer ~~at a level commensurate with the role and importance of information technology resources in the agency~~. This position may be full time or part time.

(b) The *Agency* Chief Information Officer must, at a minimum, have knowledge and experience in both management and information technology resources.

(2) The duties of the *Agency* Chief Information Officer include, but are not limited to:

(a) Coordinating and facilitating agency enterprise resource planning and management projects and initiatives.

(b) Preparing an agency annual report on enterprise resource planning and management pursuant to s. 282.3063.

(c) Developing and implementing agency enterprise resource planning and management policies, procedures, and standards, including specific policies and procedures for review and approval of the agency's purchases of information technology resources *in accordance with the office's policies and procedures*.

(d) Advising agency senior management as to the enterprise resource planning and management needs of the agency for inclusion in planning documents required by law.

(e) Assisting in the development and prioritization of the enterprise resource planning and management schedule of the agency's legislative budget request.

Section 24. Subsection (1) of section 282.3063, Florida Statutes, is amended to read:

282.3063 Agency Annual Enterprise Resource Planning and Management Report.—

(1) By September 1 of each year, and for the State University System within 90 days after completion of the expenditure analysis developed pursuant to s. 240.271(4), each *Agency* Chief Information Officer shall prepare and submit to the State Technology Office an Agency Annual Enterprise Resource Planning and Management Report. Following consultation with the State Technology Office and the *Agency* Chief Information Officers Council, the Executive Office of the Governor and the fiscal committees of the Legislature shall jointly develop and issue instructions for the format and contents of the report.

Section 25. Subsections (1) and (2) of section 282.315, Florida Statutes, are amended to read:

282.315 *Agency* Chief Information Officers Council; creation.—The Legislature finds that enhancing communication, consensus building, coordination, and facilitation of statewide enterprise resource planning and management issues is essential to improving state management of such resources.

(1) There is created *an Agency* ~~a~~ Chief Information Officers Council to:

(a) Enhance communication among the *Agency* Chief Information Officers ~~of state agencies~~ by sharing enterprise resource planning and management experiences and exchanging ideas.

(b) Facilitate the sharing of best practices that are characteristic of highly successful technology organizations, as well as exemplary information technology applications of state agencies.

(c) Identify efficiency opportunities among state agencies.

(d) Serve as an educational forum for enterprise resource planning and management issues.

(e) Assist the State Technology Office in identifying critical statewide issues and, when appropriate, make recommendations for solving enterprise resource planning and management deficiencies.

(2) Members of the council shall include the *Agency* Chief Information Officers ~~of all state agencies~~, including the Chief Information Officers of the agencies and governmental entities enumerated in s. 282.3031, except that there shall be one Chief Information Officer selected by the state attorneys and one Chief Information Officer selected by the public defenders. The chairs, or their designees, of ~~the Geographic Information Board,~~ the Florida Financial Management Information System Coordinating Council, the Criminal and Juvenile Justice Information Systems Council, and the Health Information Systems Council shall represent their respective organizations on the Chief Information Officers Council as voting members.

Section 26. Subsection (2) of section 282.318, Florida Statutes, is amended to read:

282.318 Security of data and information technology resources.—

(2)(a) ~~Each agency head, in consultation with~~ The State Technology Office, *in consultation with each agency head,* is responsible and accountable for assuring an adequate level of security for all data and information technology resources of *each* ~~the~~ agency and, to carry out this responsibility, shall, at a minimum:

1. Designate an information security manager who shall administer the security program of *each* ~~the~~ agency for its data and information technology resources.

2. Conduct, and periodically update, a comprehensive risk analysis to determine the security threats to the data and information technology resources of *each* ~~the~~ agency. The risk analysis information is confidential and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

3. Develop, and periodically update, written internal policies and procedures to assure the security of the data and information technology resources of *each* ~~the~~ agency. The internal policies and procedures which, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are confidential information and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

4. Implement appropriate cost-effective safeguards to reduce, eliminate, or recover from the identified risks to the data and information technology resources of *each* ~~the~~ agency.

5. Ensure that periodic internal audits and evaluations of *each* ~~the~~ security program for the data and information technology resources of the agency are conducted. The results of such internal audits and evaluations are confidential information and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

6. Include appropriate security requirements, as determined by the *State Technology Office, in consultation with each* agency *head*, in the written specifications for the solicitation of information technology resources.

(b) In those instances in which the State Technology Office ~~of the Department of Management Services~~ develops state contracts for use by state agencies, the *office* ~~department~~ shall include appropriate security requirements in the specifications for the solicitation for state contracts for procuring information technology resources.

Section 27. Section 282.322, Florida Statutes, is amended to read:

282.322 *High-risk information technology projects; reporting, monitoring, and assessment* ~~Special monitoring process for designated information resources management projects.~~—*The Enterprise Project Management Office of the State Technology Office shall report any information technology projects the office identifies as high-risk to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the appropriations committee chairs of the Senate and the House of Representatives. In addition to monitoring and reporting on such high-risk information technology projects, the Enterprise Project Management Office shall assess the levels of risks associated with proceeding to the next stage of the project.* ~~For each information resources management project which is designated for special monitoring in the General Appropriations Act, with a proviso requiring a contract with a project monitor, the Technology Review Workgroup established pursuant to s. 216.0446, in consultation with each affected agency, shall be responsible for contracting with the project monitor. Upon contract award, funds equal to the contract amount shall be transferred to the Technology Review Workgroup upon request and subsequent approval of a budget amendment pursuant to s. 216.292. With the concurrence of the Legislative Auditing Committee, the office of the Auditor General shall be the project monitor for other projects designated for special monitoring. However, nothing in this section precludes the Auditor General from conducting such monitoring on any project designated for special monitoring. In addition to monitoring and reporting on significant communications between a contracting agency and the appropriate federal authorities, the project monitoring process shall consist of evaluating each major stage of the designated project to determine whether the deliverables have been satisfied and to assess the level of risks associated with proceeding to the next stage of the project. The major stages of each designated project shall be determined based on the agency's information systems development methodology. Within 20 days after an agency has completed a major stage of its designated project or at least 90 days, the project monitor shall issue a written report, including the findings and recommendations for correcting deficiencies, to the agency head, for review and comment. Within 20 days after receipt of the project monitor's report, the agency head shall submit a written statement of explanation or rebuttal concerning the findings and recommendations of the project monitor, including any corrective action to be taken by the agency. The project monitor shall include the agency's statement in its final report, which shall be forwarded, within 7 days after receipt of the agency's statement, to the agency head, the inspector general's office of the agency, the Executive Office of the Governor, the appropriations committees of the Legislature, the Joint Legislative Auditing Committee, the Technology Review Workgroup, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The Auditor General shall also receive a copy of the project monitor's report for those projects in which the Auditor General is not the project monitor.~~

Section 28. Paragraph (f) of subsection (2) of section 216.163, Florida Statutes, is amended to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(2) The Governor's recommended budget shall also include:

(f) The Governor's recommendations for *high-risk* ~~critical~~ information *technology* ~~resource management~~ projects which should be subject to ~~special~~ monitoring under s. 282.322. These recommendations

shall include proviso language which specifies whether funds are specifically provided to contract for project monitoring, or whether the Auditor General will conduct such project monitoring. When funds are recommended for contracting with a project monitor, such funds may equal 1 percent to 5 percent of the project's estimated total costs. These funds shall be specifically appropriated and nonrecurring.

Section 29. Paragraph (b) of subsection (1) and paragraph (o) of subsection (3) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(1)

(b) If the nature or volume of public records requested to be inspected, examined, or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both. "Information technology resources" *means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training* ~~shall have the same meaning as in s. 282.303(12)~~.

(3)

(o) Data processing software obtained by an agency under a licensing agreement which prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software which is sensitive are exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive shall not prohibit an agency head from sharing or exchanging such software with another public agency. As used in this paragraph:

1. "Data processing software" *means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs* ~~has the same meaning as in s. 282.303(7)~~.

2. "Sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

a. Collect, process, store, and retrieve information which is exempt from the provisions of subsection (1);

b. Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or

c. Control and direct access authorizations and security measures for automated systems.

Section 30. Paragraph (b) of subsection (1) of section 119.083, Florida Statutes, is amended to read:

119.083 Definitions; copyright of data processing software created by governmental agencies; fees; prohibited contracts.—

(1) As used in this section:

(b) "Data processing software" has the same meaning as in s. *119.07(3)(o)* ~~282.303~~.

Section 31. *(1) Each state agency that entered into a memorandum of agreement with the State Technology Office by March 15, 2001, regarding consolidation of information technology resources and staff, shall transfer the positions identified in the memoranda and the associated rate and the amount of approved budget to the State Technology Office on October 1, 2001. The total number of positions transferred to the State Technology Office shall not exceed 1,760 full-time positions. Such transfers shall be subject to approval by the Legislative Budget Commission pursuant to chapter 216, Florida Statutes.*

(2) Each state agency required to transfer positions pursuant to subsection (1) shall also transfer administrative support personnel and associated rate and the amount of approved budget to the State Technology Office. The number of administrative support positions transferred by each agency shall not exceed 5 percent of the number of positions transferred pursuant to subsection (1). Such transfers shall take effect July 15, 2001. Such transfers shall be subject to approval by the Legislative Budget Commission pursuant to chapter 216, Florida Statutes.

(3) The State Technology Office and the individual agencies may request subsequent transfers of full-time positions and associated rate and funds during the fiscal year to meet the levels of service agreed to between the State Technology Office and the agencies. Such transfers shall be subject to approval by the Legislative Budget Commission pursuant to chapter 216, Florida Statutes.

(4) The State Technology Office is authorized to charge back to each participating agency an amount equal to the total of all direct and indirect costs of administering the agreement with the agency and the total of all direct and indirect costs of rendering the performances required of the State Technology Office under such agreements.

(5) Any resources transferred to the State Technology Office which were dedicated to a federally funded system shall remain allocated to that system until the appropriate federal agency or authority confirms in writing that another plan for supporting the system will not result in federal sanctions.

(6) The corresponding amounts necessary to execute subsections (1)-(3) are appropriated to the state agencies for transfer to the State Technology Office. Such amounts and specific funds shall be equivalent to the amount of approved budget reduced from state agencies in subsections (1)-(3), subject to approval by the Legislative Budget Commission.

Section 32. *Section 282.404, Florida Statutes, is repealed.*

Section 33. Subsection (6) of Section 11.90, Florida Statutes, is created to read:

(6) The Commission shall review information resources management needs identified in agency long-range program plans for consistency with the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office. The Commission shall also review proposed budget amendments associated with information technology that involve more than one agency, that have an outcome that impacts another agency, or that exceed $500,000 in total cost over 1-year period.

Section 34. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through page 6, line 11,
remove from the title of the bill: all of said lines

and insert in lieu thereof:

An act relating to information technology; amending s. 20.22, F.S.; creating the State Technology Office within the Department of Management Services; requiring the office to operate and manage the Technology Resource Center; amending s. 110.205, F.S.; providing that specified officers within the State Technology Office are exempt from career service; providing that the office shall set the salaries and benefits for such officers in accordance with the rules of the Senior Management Service; providing for the personal secretary to specified officers within the State Technology Office to be exempt from career service; providing for all managers, supervisors, and confidential employees of the State Technology Office to be exempt from career service; providing that the office shall set the salaries and benefits for those positions in accordance with the rules of the Selected Exempt

Service; amending s. 186.022, F.S.; revising the entities required to annually develop and submit an information technology strategic plan; providing for the State Technology Office to administer and approve development of information technology strategic plans; amending s. 216.013, F.S.; revising provisions relating to the review of long-range program plans for executive agencies by the Executive Office of the Governor; providing that the Executive Office of the Governor shall consider the findings of the State Technology Office with respect to the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office; amending s. 216.0446, F.S., relating to review of agency information resources management needs; eliminating the Technology Review Workgroup; providing for assumption of the duties of the Technology Review Workgroup by the State Technology Office; requiring the reporting of specified information to the Executive Office of the Governor; providing powers and duties of the State Technology Office; amending s. 216.181, F.S., relating to approved budgets for operations and fixed capital outlay; providing requirements with respect to an amendment to the original approved operating budget for specified information technology projects or initiatives; amending s. 216.235, F.S.; transferring specified responsibilities with respect to the Innovation Investment Program Act from the Department of Management Services to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor; revising the membership of the State Innovation Committee; amending s. 216.292, F.S.; authorizing state agencies to transfer positions and appropriations for fiscal year 2001-2002 for the purpose of consolidating information technology resources to the State Technology Office; amending s. 282.005, F.S.; revising legislative findings and intent with respect to the Information Resources Management Act of 1997; providing that the State Technology Office has primary responsibility and accountability for information technology matters within the state except as to information technology or information technology personnel that a constitutional officer under s. 4 Art. 4 deems necessary for the performance of his or her constitutional or statutory duties; amending and renumbering s. 282.303, F.S.; revising definitions; defining "information technology"; amending s. 282.102, F.S.; revising powers and duties of the State Technology Office; providing that the office shall be a separate budget entity within the Department of Management Services; providing that the Chief Information Officer shall be considered an agency head; providing for administrative support and service from Department of Management Services; authorizing the office to perform, in consultation with a state agency, the enterprise resource planning and management for the agency; authorizing the office to apply for, receive, and hold specified patents, copyrights, trademarks, and service marks; authorizing the office to purchase, lease, hold, sell, transfer, license, and dispose of specified real, personal, and intellectual property; providing for deposit of specified fees in the Law Enforcement Radio Operating Trust Fund; providing for a State Chief Privacy Officer; amending s. 282.103, F.S., to conform; authorizing the State Technology Office to grant an agency exemption from required use of specified SUNCOM Network services; amending s. 282.104, F.S., to conform; amending s. 282.105, F.S., to conform; amending s. 282.106, F.S., to conform; amending s. 282.1095, F.S., relating to the state agency law enforcement radio system; providing conforming amendments; renaming the State Agency Law Enforcement Radio System Trust Fund as the Law Enforcement Radio Operating Trust Fund; requiring the office to establish policies, procedures, and standards for a comprehensive plan for a statewide radio communications system; eliminating provisions relating to establishment and funding of specified positions; amending s. 282.111, F.S., to conform; amending s. 282.20, F.S., relating to the Technology Resource Center; providing conforming amendments; removing provisions relating to the acceptance of new customers by the center; authorizing the center to spend funds in the reserve account of the Technology Enterprise Operating Trust Fund; amending s. 282.21, F.S., to conform; amending s. 282.22, F.S.; revising terminology; removing specified restrictions on the office's authority to sell services; creating s. 282.23, F.S.; authorizing the State Technology Office, in consultation with the Department of Management Services, to establish a State Strategic Information Technology Alliance; providing purposes of the alliance; providing for the establishment of policies and procedures; repealing s. 282.3041, F.S., which provides that the head of each state agency is responsible and accountable for enterprise resource planning and management within the agency; amending s. 282.3055, F.S.; authorizing the Chief Information Officer to appoint or contract for Agency Chief Information Officers to assist in carrying out enterprise resource planning and management responsibilities; amending s. 282.3063, F.S.; requiring Agency Chief Information Officers to prepare and submit an Agency Annual Enterprise Resource Planning and Management Report; amending s. 282.315, F.S.; renaming the Chief Information Officers Council as the Agency Chief Information Officers Council; revising the voting membership of the council; amending amending s. 282.318, F.S., to conform; amending s. 282.322, F.S.; eliminating provisions relating to the special monitoring process for designated information resources management projects; requiring the Enterprise Project Management Office of the State Technology Office to report on, monitor, and assess risk levels of specified high-risk technology projects; amending s. 216.163, F.S.; providing that the Governor's recommended budget shall include recommendations for specified high-risk information technology projects; amending s. 119.07, F.S.; defining "information technology resources" and "data processing software"; amending ss. 119.083, F.S.; correcting cross references; requiring certain state agencies to transfer described positions and administrative support personnel to the State Technology Office by specified dates; providing limits on the number of positions and administrative support personnel transferred; providing that the State Technology Office and the relevant agencies are authorized to request subsequent transfers of positions, subject to approval by the Legislative Budget Commission; providing requirements with respect to transferred resources which were dedicated to a federally funded system; providing appropriations; repealing s. 282.404, F.S.; abolishing the Florida Geographic Information Board within the State Technology Office; provides for Legislative Budgeting Commission review of certain agency plans, State Technology Office policies, and certain budget amendments; providing an effective date.

Rep. Hart moved the adoption of the amendment.

Representative(s) Hart and Lacasa offered the following:

(Amendment Bar Code: 090221)

Amendment 1 to Amendment 8—On page 11, line 26 through page 13, line 21,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 5. Section 216.0446, Florida Statutes, is amended to read:

216.0446 Review of information resources management needs.—

(1) There is created within the Legislature the Technology Review Workgroup. The workgroup *and the State Technology Office* shall *independently* review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information resources management needs and with respect to agencies' legislative budget requests for information *technology and related* resources ~~management~~. The Technology Review Workgroup shall *report such recommendations, together with the findings and conclusions on which such recommendations are based,*~~be responsible~~ to the *Legislative Budget Commission* ~~chairs of the legislative appropriations committees~~. *The State Technology Office shall report such recommendations, together with the findings and conclusions on which such recommendations are based, to the Executive Office of the Governor and to the chairs of the legislative appropriations committees*.

(2) In addition to its primary duty specified in subsection (1), the Technology Review Workgroup shall have powers and duties that include, but are not limited to, the following:

(a) To evaluate the information resource management needs identified in the agency long-range program plans for consistency with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies recommended by the State Technology *Office* ~~Council~~, and make

recommendations to the *Legislative Budget Commission* ~~chairs of the legislative appropriations committees~~.

(b) To review and make recommendations to the *Legislative Budget Commission* ~~chairs of the legislative appropriations committees~~ on proposed budget amendments and agency transfers associated with information *technology* ~~resources management~~ initiatives or projects that involve more than one agency, that have an outcome that impacts another agency, ~~or~~ that exceed $500,000 in total cost over a 1-year period*, or that are requested by the Legislative Budget Commission to be reviewed*.

Section 6. Subsection (5)of section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(5) An amendment *to the original operating budget* for an information *technology* ~~resources management~~ project or initiative that involves more than one agency, has an outcome that impacts another agency, or exceeds $500,000 in total cost over a 1-year period, except for those projects that are a continuation of hardware or software maintenance or software licensing agreements, or that are for desktop replacement that is similar to the technology currently in use must be reviewed by the Technology Review Workgroup pursuant to s. 216.0466 and approved by the Executive Office of the Governor for the executive branch or by the Chief Justice for the judicial branch, and shall be subject to the notice and review procedures set forth in s. 216.177.

Rep. Hart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Hart and Lacasa offered the following:

(Amendment Bar Code: 640861)

Amendment 2 to Amendment 8 (with title amendment)—On page 45, line 21, through page 47, line 18, of the amendment
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 27. 282.322 Special monitoring process for designated information resources management projects.—

*(1)*For each information resources management project which is designated for special monitoring in the General Appropriations Act, with a proviso requiring a contract with a project monitor, the Technology Review Workgroup established pursuant to s. 216.0446, in consultation with each affected agency, shall be responsible for contracting with the project monitor. Upon contract award, funds equal to the contract amount shall be transferred to the Technology Review Workgroup upon request and subsequent approval of a budget amendment pursuant to s. 216.292. With the concurrence of the Legislative Auditing Committee, the office of the Auditor General shall be the project monitor for other projects designated for special monitoring. However, nothing in this section precludes the Auditor General from conducting such monitoring on any project designated for special monitoring. In addition to monitoring and reporting on significant communications between a contracting agency and the appropriate federal authorities, the project monitoring process shall consist of evaluating each major stage of the designated project to determine whether the deliverables have been satisfied and to assess the level of risks associated with proceeding to the next stage of the project. The major stages of each designated project shall be determined based on the agency's information systems development methodology. Within 20 days after an agency has completed a major stage of its designated project or at least 90 days, the project monitor shall issue a written report, including the findings and recommendations for correcting deficiencies, to the agency head, for review and comment. Within 20 days after receipt of the project monitor's report, the agency head shall submit a written statement of explanation or rebuttal concerning the findings and recommendations of the project monitor, including any corrective action to be taken by the agency. The project monitor shall include the agency's statement in its final report, which shall be forwarded, within 7 days after receipt of the agency's statement, to the agency head, the inspector general's office of the agency, the Executive Office of the Governor, the appropriations committees of the Legislature, the Joint Legislative Auditing Committee, the Technology Review Workgroup, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The Auditor General shall also receive a copy of the project monitor's report for those projects in which the Auditor General is not the project monitor.

(2) The Enterprise Project Management Office of the State Technology Office shall report any information technology projects the office identifies as high-risk to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriations committees. Within the limits of current appropriations, the Enterprise Project Management Office shall monitor and report on such high-risk information technology projects, and assess the levels of risks associated with proceeding to the next stage of the project.

And the title is amended as follows:

On page 56, lines 28-31 of the amendment
remove: all of said lines

and insert in lieu thereof: s. 282.322, F.S.; requiring the Enterprise Project

Rep. Hart moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 8**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 379 was taken up. On motion by Rep. Allen, SB 814 was substituted for CS/HB 379. Under Rule 5.15, the House bill was laid on the table and—

SB 814—A bill to be entitled An act relating to the entertainment industry; amending s. 288.1251, F.S.; renaming the Office of the Film Commissioner as the Office of Film and Entertainment; renaming the Film Commissioner as the Commissioner of Film and Entertainment; authorizing receipt and expenditure of certain grants and donations; requiring such funds to be deposited in the Grants and Donations Trust Fund of the Executive Office of the Governor; amending s. 288.1252, F.S.; renaming the Florida Film Advisory Council as the Florida Film and Entertainment Advisory Council; adding a representative of Workforce Florida, Inc., as an ex officio, nonvoting member of the council; requiring the council chair to be elected from the council's appointed membership; amending ss. 212.097 and 212.098, F.S.; expanding the definition of "eligible business" under the Urban High-Crime-Area Job Tax Credit Program and the Rural Job Tax Credit Program to include certain businesses involved in motion picture production and allied services; amending ss. 14.2015, 213.053, 288.1253, and 288.1258, F.S.; conforming provisions to changes made by the act; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1187 was taken up. On motion by Rep. Wishner, the rules were waived and SB 540 was substituted for HB 1187. Under Rule 5.15, the House bill was laid on the table and—

SB 540—A bill to be entitled An act relating to criminal activities; creating the White Collar Crime Victim Protection Act; providing legislative intent; providing definitions; specifying crimes and acts that constitute a white collar crime; providing that a person commits an aggravated white collar crime if the white collar crime is committed against certain persons or against a state agency or political subdivision; providing enhanced penalties for aggravated white collar crimes; requiring that a defendant convicted of an aggravated white collar crime pay court costs and restitution; requiring that payment of

restitution be a condition of probation; amending s. 910.15, F.S.; providing that a communication made by or through the use of the Internet was made in every county of the state for purposes of prosecuting certain fraudulent practices; amending s. 921.0022, F.S.; adding certain aggravated white collar crimes to the Criminal Punishment Code offense severity ranking chart; providing for severability; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1673—A bill to be entitled An act relating to criminal penalties; providing a short title; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence involving physical injury to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic battery; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers' intervention program; requiring that the offender pay the cost of attending the program; amending s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 031181)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *This act may be cited as the "Family Protection Act."*

Section 2. Paragraph (f) of subsection (9) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(9) For each report it receives, the department shall perform an onsite child protective investigation that includes a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence in order to:

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent. *The training provided to staff members who conduct child protective investigations must include instruction on how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.*

Section 3. Section 741.283, Florida Statutes, is created to read:

741.283 Minimum term of imprisonment for domestic violence.—If a person is adjudicated guilty of a crime of domestic violence, as defined in s. 741.28, and the person has intentionally caused bodily harm to another person, the court shall order the person to serve a minimum of 5 days in the county jail as part of the sentence imposed, unless the court sentences the person to a nonsuspended period of incarceration in a state correctional facility. This section does not preclude the court from sentencing the person to probation, community control, or an additional period of incarceration.

Section 4. Section 784.03, Florida Statutes, is amended to read:

784.03 Battery; felony battery.—

(1)(a) The offense of battery occurs when a person:

1. Actually and intentionally touches or strikes another person against the will of the other; or

2. Intentionally causes bodily harm to another person.

(b) Except as provided in subsection (2), a person who commits battery commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who has *one* ~~two~~ prior *conviction* ~~convictions~~ for battery, *aggravated battery, or felony battery and* who commits *any second* ~~a third~~ or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld *or a plea of nolo contendere is entered*.

Section 5. Section 938.08, Florida Statutes, is created to read:

938.08 Additional cost to fund programs in domestic violence.—In addition to any sanction imposed for a violation of s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085, 794.011, or for any offense of domestic violence described in s. 741.28, the court shall impose a surcharge of $201. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. The sum of $85 of the surcharge shall be deposited into the Domestic Violence Trust Fund established in s. 741.01. The clerk of the court shall retain $1 of each surcharge that the clerk of the court collects as a service charge of the clerk's office. The remainder of the surcharge shall be provided to the governing board of the county to be used to defray the costs of incarcerating persons sentenced under s. 741.283 and to provide additional training to law enforcement personnel in combating domestic violence.

Section 6. Subsection (12) is added to section 948.03, Florida Statutes, to read:

948.03 Terms and conditions of probation or community control.—

(12) As a condition of probation, community control, or any other court-ordered community supervision, the court shall order a person convicted of an offense of domestic violence, as defined in s. 741.28, to attend and successfully complete a batterers' intervention program unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. Effective July 1, 2002, the batterers' intervention program must be a program certified under s. 741.32 and the offender must pay the cost of attending the program.

Section 7. Subsection (2) of section 741.01, Florida Statutes, is amended to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(2) The fee charged for each marriage license issued in the state shall be increased by the sum of $30. This fee shall be collected upon receipt of the application for the issuance of a marriage license. The Executive Office of the Governor shall establish a Domestic Violence Trust Fund for the purpose of collecting and disbursing funds generated from the increase in the marriage license fee. Such funds which are generated shall be directed to the Department of Children and Family Services for the specific purpose of funding domestic violence centers, and the funds shall be appropriated in a "grants-in-aid" category to the Department of Children and Family Services for the purpose of funding domestic violence centers. *From the proceeds of the surcharge deposited into the Domestic Violence Trust Fund as required under s. 938.08, the Executive Office of the Governor may spend up to $500,000 each year for the purpose of administering a statewide public-awareness campaign regarding domestic violence.*

Section 8. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has had adjudication withheld on, or has pled nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend a batterers' intervention program as a condition of probation. If a person is admitted to a pretrial diversion program and has been charged with an act of domestic violence, as defined in s. 741.28, the court shall order as a condition of the program that the defendant attend a batterers' intervention program. The court must impose the condition of the batterers' intervention program for a defendant *admitted to* ~~placed on probation or~~ pretrial diversion under this section, but the court, in its discretion, may determine not to impose the condition if it states on the record why a batterers' intervention program might be inappropriate. *The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. Effective July 1, 2002, the batterers' intervention program must* ~~It is preferred, but not mandatory, that such programs~~ be *a* certified *program* under s. 741.32. The imposition of probation under this section shall not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 9. This act shall take effect July 1, 2001.

And the title is amended as follows:

remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to acts of violence; providing a short title; amending s. 39.301, F.S.; requiring that staff who conduct child protective investigations receive training on removing a perpetrator of domestic violence from the home by use of injunction; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence that intentionally caused bodily harm to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic violence and other assault, battery, and stalking offenses; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; providing for the clerk of the court to retain a service charge; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers' intervention program; requiring that the offender pay the cost of attending the program; amending s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; amending s. 741.281, F.S.; requiring the court to impose the batterers' intervention program as a condition of probation; providing for an exception; requiring that the batterers' intervention program be certified; providing an effective date.

Rep. Kyle moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 589—A bill to be entitled An act relating to local government utilities assistance; providing a short title; providing legislative findings; providing definitions; establishing a pilot Local Government Utilities Assistance Program; providing for administration by the Department of Environmental Protection; providing for criteria for acquiring certain private water-wastewater utilities; providing for transfer of certain moneys from the Solid Waste Management Trust Fund to the program; providing for distribution of such moneys for certain purposes; providing for financial assistance for certain purposes under certain circumstances; requiring the Department of Environmental Protection to submit a report on the pilot program to the Governor and Legislature; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House returned to consideration of the list of bills provided to the Members on April 26th.

Rep. Goodlette suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 204].

CS/HB 1425—A bill to be entitled An act relating to law enforcement; amending s. 943.031, F.S.; renaming the Florida Violent Crime Council as the Florida Violent Crime and Drug Control Council; revising membership; providing circumstances for additional meetings; prescribing the duties and responsibilities of the Florida Violent Crime and Drug Control Council; providing statutory limits on funding of investigative efforts by the council; authorizing the Victim and Witness Protection Review Committee to conduct meetings by teleconference under certain circumstances; amending s. 943.17, F.S.; conforming a reference; amending s. 943.042, F.S.; renaming the Violent Crime Emergency Account as the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account; revising provisions relating to use of emergency supplemental funds; clarifying limits on disbursement of funds for certain purposes; requiring the Department of Law Enforcement to adopt rules pertaining to certain investigations; requiring reports by recipient agencies; providing circumstances for limitation or termination of funding or return of funds by recipient agencies; amending s. 943.0585, F.S., relating to court-ordered expunction of certain criminal history records; adding sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.059, F.S., relating to court-ordered sealing of certain criminal history records; adding offenses relating to sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.325, F.S.; permitting collection of approved biological specimens other than blood for purposes of DNA testing; permitting collection of specimens from certain persons who have never been incarcerated; limiting liability; authorizing use of force to collect specimens under certain circumstances; amending s. 760.40, F.S., to conform to changes made by s. 943.325, F.S.; creating s. 843.167, F.S.; prohibiting the interception of police communications for certain purposes; prohibiting disclosure of police communications; providing presumptions; providing penalties; amending s. 943.053, F.S.; providing clarification of the manner in which the Department of Law Enforcement determines the actual cost of producing criminal history information; creating s. 943.0582, F.S.; providing for prearrest, postarrest, or teen court diversion program expunction under certain circumstances; providing definitions; providing for retroactive effect; amending s. 985.3065, F.S.; providing for postarrest diversion programs; providing for expunction of certain records pursuant to s. 943.0582, F.S.; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1067—A bill to be entitled An act relating to public records; creating ss. 458.353 and 459.028, F.S.; providing exemptions from public records requirements for information contained in reports made by physicians and osteopathic physicians of adverse incidents occurring in office practice settings; providing for future review and repeal; providing findings of public necessity; providing an effective date.

—was read the second time by title.

The Committee on Health Regulation offered the following:

(Amendment Bar Code: 281165)

Amendment 1—On page 1, lines 22-25, and on page 2, lines 11-14, remove from the bill: *In addition, the information is not discoverable or admissible in a civil or administrative action, unless the action is a disciplinary proceeding by the department or the appropriate regulatory board.*

Rep. Kyle moved the adoption of the amendment, which was adopted.

The Committee on State Administration offered the following:

(Amendment Bar Code: 663469)

Amendment 2—On page 1, lines 27 and 28, and

On page 2, lines 16 and 17
remove from the bill: *that is made available for the department or a regulatory board*

Rep. Kyle moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 437 was taken up. On motion by Rep. Farkas, SB 654 was substituted for CS/HB 437. Under Rule 5.15, the House bill was laid on the table and—

SB 654—A bill to be entitled An act relating to pharmacy practice; creating s. 465.0075, F.S.; authorizing licensure of pharmacists by endorsement and providing requirements therefor, including a fee; providing for legislative review; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 235 was taken up. On motion by Rep. Prieguez, the rules were waived and CS for SB 1788 was substituted for HB 235. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1788—A bill to be entitled An act relating to dentistry; amending s. 627.419, F.S.; providing for appeals from certain adverse determinations relating to dental service claims; amending s. 456.031, F.S.; providing an alternative by which licensees under ch. 466, F.S., may comply with a general requirement that they take domestic-violence education courses; amending s. 456.033, F.S.; providing an alternative by which such licensees may comply with a general requirement that they take AIDS/HIV education courses; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1529—A bill to be entitled An act relating to controlled substances; authorizing the creation of a pilot program in Orange County to intercept illegal drug shipments through package delivery services; amending ss. 823.01 and 823.10, F.S.; providing that a person who willfully maintains a place where controlled substances are unlawfully kept, sold, or delivered commits the offense of keeping or maintaining a public nuisance; providing a penalty; amending s. 877.111, F.S., relating to inhalation, ingestion, sale, purchase, or transfer of certain harmful chemical substances; providing exceptions to applications of offenses relating to unlawful distribution, sale, purchase, transfer, or possession of nitrous oxide; amending s. 893.03, F.S., relating to controlled substance standards and schedules; adding 4-methoxymethamphetamine, 1,4-Butanediol, Gamma-butyrolactone (GBL), Gamma-hydroxybutyric acid (GHB), methaqualone, and mecloqualone to Schedule I; deleting 1,4-Butanediol and Gamma-hydroxybutyric acid (GHB) from Schedule II; adding drug products containing Gamma-hydroxybutyric acid (GHB) which are approved under the Federal Food, Drug, and Cosmetic Act to Schedule III; reenacting ss. 39.01(30)(a) and (g), 316.193(5), 327.35(5), 440.102(11)(b), 458.326(3), 465.035(2), 782.04(1)(a) and (4)(l), 817.563, 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.0356(2)(a) and (5), 893.12(2)(b), (c), and (d), and 893.13(1)(a), (c), (d), (e), and (f), (2)(a), (4), (5)(a) and (b), and (7)(a), F.S., relating to harm to a child's health or welfare, driving under the influence, boating under the influence, drug-free workplace program requirements, treatment of intractable pain, facsimile prescriptions, medical review committee liability, murder, sale of substance in lieu of controlled substance, counterfeit controlled substances, open house parties, the definition of controlled substance, control of new substances by the Attorney General, contraband, and prohibited acts involving controlled substances, respectively, to incorporate the amendment to s. 893.03, F.S., in references thereto; amending s. 893.033, F.S., relating to listed chemicals; adding chloroephedrine and chloropseudoephedrine to the list of precursor chemicals; amending s. 893.135, F.S., relating to drug trafficking; creating offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD); providing penalties; amending scheduling references for trafficking in Gamma-hydroxybutyric acid (GHB) and 1,4-Butanediol; reenacting ss. 397.451(7), 414.095(1), 772.12(2)(a), 775.087(2) and (3), 782.04(1)(a), (3)(a), and (4)(a), 893.1351(1), 903.133, 907.041(4)(c), 921.0024(1)(b), 921.141(8), 921.142(2), 943.0585, and 943.059, F.S., relating to substance abuse service provider owners and directors, applicants for temporary cash assistance, drug dealer liability, possession or use of a weapon while trafficking, murder, lease or rent for trafficking purposes, denial of bail for certain felony convictions, pretrial detention, the punishment code worksheet, proceedings to determine sentence of death or life imprisonment for capital felonies, proceedings to determine sentence of death or life imprisonment for capital drug trafficking felonies, court-ordered expunction of criminal history records, and court-ordered sealing of criminal history records, respectively, to incorporate the amendment to s. 893.135, F.S., in references thereto; amending s. 921.0022, F.S.; adding offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD) to the sentencing guidelines; revising cross references; providing effective dates.

—was read the second time by title.

On motion by Rep. Simmons, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Simmons offered the following:

(Amendment Bar Code: 750387)

Amendment 1—On page 4, line 19, through page 5, line 2,
remove from the bill: all of said lines

and insert in lieu thereof:

823.10 Place where controlled substances are illegally kept, sold, or used declared a public nuisance.—

(1) Any store, shop, warehouse, dwelling house, building, *structure,* vehicle, ship, boat, vessel, or aircraft, or any place whatever, which is visited by persons for the purpose of unlawfully using any substance controlled under chapter 893 or any drugs as described in chapter 499, or which is used for the illegal keeping, selling, or delivering of the same, shall be deemed a public nuisance. No person shall keep or maintain such public nuisance or aid and abet another in keeping or maintaining such public nuisance. *Any person who willfully keeps or maintains a public nuisance or willfully aids or abets another in keeping or maintaining a public nuisance, and such public nuisance is a warehouse, structure, or building, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Rep. Simmons moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 593 was taken up. On motion by Rep. Bowen, SB 810 was substituted for HB 593. Under Rule 5.15, the House bill was laid on the table and—

SB 810—A bill to be entitled An act relating to law enforcement officers; amending s. 901.252, F.S.; providing authority to municipal law enforcement officers to patrol property and facilities leased by the municipality but located outside its territorial jurisdiction; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 259 was taken up. On motion by Rep. Slosberg, SB 766 was substituted for HB 259. Under Rule 5.15, the House bill was laid on the table and—

SB 766—A bill to be entitled An act relating to driver's licenses; amending s. 322.28, F.S.; revising provisions relating to the penalty for

a second or subsequent conviction for operating a vehicle under the influence; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1691 was taken up. On motion by Rep. Atwater, SB 272 was substituted for HB 1691. Under Rule 5.15, the House bill was laid on the table and—

SB 272—A bill to be entitled An act relating to law enforcement officers; amending s. 817.564, F.S.; providing an exemption from civil or criminal liability for the sale of imitation controlled substances by law enforcement officers and other persons acting at their direction; providing an effective date.

—was read the second time by title.

Representative(s) Barreiro and Atwater offered the following:

(Amendment Bar Code: 893235)

Amendment 1 (with title amendment)—On page 1, line 31, of the bill

insert:

Section 2. *Law enforcement officers, civil or criminal action against; employer payment of costs and attorney's fees.—*

(1) For the purpose of this act, "law enforcement officer" means any person employed full time by any municipality or the state or any political subdivision thereof or any deputy sheriff whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state.

(2) The employing agency of any law enforcement officer shall pay the legal costs and reasonable attorney's fees for any law enforcement officer in any civil or criminal action commenced against such law enforcement officer in any court when the action arose out of the performance of the officer's official duties and:

(a) The plaintiff requests dismissal of the suit; or

(b) Such law enforcement officer is found to be not liable or not guilty.

And the title is amended as follows:

On page 1, line 7,

after the semicolon insert: defining "law enforcement officer"; requiring the employing agency to pay legal costs and attorney's fees under certain circumstances;

Rep. Barreiro moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 569 was taken up. On motion by Rep. Garcia, the rules were waived and CS for SB 888 was substituted for HB 569. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 888—A bill to be entitled An act relating to violations of probation or community control; amending s. 948.06, F.S.; providing for tolling the period of probation or community control for an offender following the filing of an affidavit alleging a violation of probation or community control and issuance of a warrant; providing for a previously imposed period of probation or community control to be reinstated following dismissal of the affidavit; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

THE SPEAKER IN THE CHAIR

HB 811 was taken up. On motion by Rep. Clarke, SB 720 was substituted for HB 811. Under Rule 5.15, the House bill was laid on the table and—

SB 720—A bill to be entitled An act relating to criminal history records; amending ss. 943.0585, 943.059, F.S.; prohibiting a court from expunging or sealing the criminal history record of a person who has been found guilty of or pled guilty or nolo contendere to distributing or showing obscene material to a minor or who has been found guilty of or pled guilty or nolo contendere to certain activities involving computer pornography; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 261 was taken up. On motion by Rep. Jordan, the rules were waived and CS for SB 252 was substituted for HB 261. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 252—A bill to be entitled An act relating to release of employee information by employers; providing specified requirements of employers with respect to a background investigation of an applicant for employment or appointment as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer; providing requirements relating to an authorization to release information; defining the terms "employing agency" and "employment information"; providing for injunctive relief; providing qualified immunity from civil liability for release; providing for fees to cover certain costs incurred by the employer; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1485—A bill to be entitled An act relating to sexual offenders; amending s. 947.1405, F.S.; prohibiting sexual offenders subject to conditional release supervision from living within a specified distance of certain places where children congregate; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 211761)

Amendment 1—On page 1, line 29
remove from the bill: *1 mile* ~~1,000 feet~~

and insert in lieu thereof: 1,000 feet

Rep. Kravitz moved the adoption of the amendment, which was adopted.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 623169)

Amendment 2 (with title amendment)—On page 3, between lines 8 and 9 of the bill

insert:

Section 2. A new section is added to chapter 794, Florida Statutes to read:

794.xxx Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 for offenses which occur on or after the October 1, 2001.

And the title is amended as follows:

On page 1, line 6, after the semicolon

insert: creating a new section to chapter 794; prohibiting persons convicted of certain sex crimes from residing within 1,000 feet of a school, day care center, park, or playground;

Rep. Kravitz moved the adoption of the amendment, which was adopted.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 931141)

Amendment 3 (with title amendment)—On page 3, between lines 8 and 9 of the bill

insert:

Section 2. A new section is added to chapter 794, Florida Statutes to read:

794.xxx Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply retroactively to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 regardless of when the offense occurred.

And the title is amended as follows:

On page 1, line 6, after the semicolon

insert: creating a new section to chapter 794; prohibiting persons convicted of certain sex crimes from residing within 1,000 feet of a school, day care center, park, or playground;

Rep. Kravitz moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 973—A bill to be entitled An act relating to totally and permanently disabled persons; amending s. 196.202, F.S.; reducing the number of physicians required to certify a total and permanent disability for certain purposes; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1089 was taken up. On motion by Rep. Bilirakis, the rules were waived and SB 1424 was substituted for HB 1089. Under Rule 5.15, the House bill was laid on the table and—

SB 1424—A bill to be entitled An act relating to real estate professionals; amending s. 475.25, F.S.; providing an exception to provisions governing the return of escrowed personal property; amending s. 475.22, F.S.; requiring supervisors of registered assistant real estate appraisers to sign appraisals and make certain disclosures; creating s. 475.6221, F.S.; requiring registered assistant real estate appraisers to be supervised by licensed or certified appraisers; providing supervisory guidelines; prohibiting direct payments for services to registered assistant real estate appraisers with the supervising appraiser's agreement; providing an effective date.

—was read the second time by title.

Representative(s) Bilirakis offered the following:

(Amendment Bar Code: 412311)

Amendment 1—In the title, on page 1, line 5,
remove from the bill: 475.22

and insert in lieu thereof: 475.622

Rep. Bilirakis moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1833 was taken up. On motion by Rep. Crow, the rules were waived and CS for SB 178 was substituted for HB 1833. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 178—A bill to be entitled An act relating to duration of real property liens; amending s. 55.10, F.S.; revising the period of duration of certain liens; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1207 was taken up. On motion by Rep. Carassas, SB 1126 was substituted for HB 1207. Under Rule 5.15, the House bill was laid on the table and—

SB 1126—A bill to be entitled An act relating to nonprofit civic organizations; amending s. 561.422, F.S.; authorizing nonprofit civic organizations to purchase alcoholic beverage permits for three events per calendar year; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 767 was taken up. On motion by Rep. Brown, the rules were waived and CS for CS for SB 108 was substituted for CS/HB 767. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 108—A bill to be entitled An act relating to the transfer of structured settlements; specifying the purpose of the act; providing definitions; providing requirements for the direct or indirect transfer of structured-settlement-payment rights; requiring that any such transfer be approved by a court; requiring that the court make certain findings with respect to the transfer; authorizing an interested party to file an objection to a proposed transfer; providing requirements for an order approving a transfer; requiring that an obligor make certain disclosures to a claimant in negotiating a settlement of claims; requiring a transferee to provide certain notice with respect to a proposed transfer of structured-settlement-payment rights; providing for penalties to be imposed for certain violations of the act; authorizing the state attorney to bring an action for injunctive relief; providing an effective date.

—was read the second time by title.

Representative(s) Brown and Bennett offered the following:

(Amendment Bar Code: 234485)

Amendment 1 (with title amendment)—On page 1, line 24,

insert:

Section 1. Subsections (8), (9), (10), (14), and (15) of section 626.9911, Florida Statutes, are amended to read:

626.9911 Definitions.—As used in this act, the term:

(8) "Related provider trust" means a *titling trust or other* trust established by a *licensed* viatical settlement provider *or financing entity* for the sole purpose of *holding the ownership or beneficial interest in purchased policies in connection with a financing transaction* ~~entering~~

~~into or owning viatical settlement contracts~~. *The trust must have a written agreement with a licensed viatical settlement provider or financing entity under which the licensed viatical settlement provider or financing entity is responsible for insuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files relating to viatical settlement transactions available to the department as if those records and files were maintained directly by the licensed viatical settlement provider.* This term does not include an independent third-party trustee or escrow agent or a trust that does not enter into agreements with a viator. A related provider trust shall be subject to all provisions of this act that apply to the viatical settlement provider who established the related provider trust, except s. 626.9912, which shall not be applicable. A viatical settlement provider may establish no more than one related provider trust, and the sole trustee of such related provider trust shall be the viatical settlement provider licensed under s. 626.9912. The name of the licensed viatical settlement provider shall be included within the name of the related provider trust.

(9) "Viatical settlement purchase agreement" means a contract or agreement, entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in a life insurance policy, which is entered into for the purpose of deriving an economic benefit. *The term also includes purchases made by viatical settlement purchasers from any person other than the provider who effectuated the viatical settlement contract.*

(10) "Viatical settlement purchaser" means a person *who gives a sum of money as consideration for a life insurance policy or an equitable or legal interest in the death benefits of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit, including purchases made in the secondary market, that is, purchases from any person other than the provider who effectuated the viatical settlement contract or an entity affiliated with the provider. The term does not include*~~, other than~~ a licensee under this part, an accredited investor as defined in Rule 501, Regulation D of the Securities Act Rules, or a qualified institutional buyer as defined by Rule 144(a) of the Federal Securities Act, ~~or~~ a special purpose entity*, a financing entity, or a contingency insurer* ~~who gives a sum of money as consideration for a life insurance policy or an equitable or legal interest in the death benefits of a life insurance policy which has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit~~. The above references to Rule 501, Regulation D and Rule 144(a) of the Federal Securities Act are used strictly for defining purposes and shall not be interpreted in any other manner. Any person who claims to be an accredited investor shall sign an affidavit stating that he or she is an accredited investor, the basis of that claim, and that he or she understands that as an accredited investor he or she will not be entitled to certain protections of the Viatical Act. This affidavit must be kept with other documents required to be maintained by this act.

(14) "Special purpose entity" means an entity established by a licensed viatical settlement provider *or by a financing entity*, which may be a corporation, partnership, trust, *limited liability company,* or other similar entity formed solely to *provide, either directly or indirectly, access to* ~~act as a vehicle to permit a lender to the provider to access~~ institutional capital markets *to a viatical settlement* ~~for the~~ provider *or financing entity*. A special purpose entity shall not enter into a viatical settlement contract or a viatical settlement purchase agreement.

(15) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, or purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any *entity* ~~person~~ that ~~may be a party to a viatical settlement contract and that~~ has direct ownership in a policy or certificate that is the subject of a viatical settlement contract, but whose *principal* ~~sole~~ activity related to the transaction is providing funds or credit enhancement to effect the viatical settlement *or the purchase of one or more viatical policies* and who has an agreement in writing with *one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts* ~~a licensed viatical settlement provider to act as a participant in a financing transaction~~. The term does not include a nonaccredited investor*, a viatical settlement purchaser,* or other natural person. *A financing entity may not enter into a viatical settlement contract.*

Section 2. Subsection (1) of section 626.9921, Florida Statutes, is amended to read:

626.9921 Filing of forms; required procedures; approval.—

(1) A viatical settlement contract form, viatical settlement purchase agreement form, escrow form, or related form may be used in this state only after ~~the viatical settlement provider or any related provider trust has filed~~ the form *has been filed* with the department and only after the form has been approved by the department.

Section 3. Subsection (3) is added to section 626.99235, Florida Statutes, to read:

626.99235 Disclosures to viatical settlement purchasers; misrepresentations.—

(3) The requirements of this section also apply to purchases made from any person other than the provider who effectuated the viatical settlement contract which are the subject of a viatical settlement purchase agreement.

Section 4. Section 626.99236, Florida Statutes, is amended to read:

626.99236 Further disclosures to viatical settlement purchasers.—

(1) No later than 5 days prior to the assignment, transfer, sale, devise, or bequest of the death benefit or ownership of all or a portion of the insurance policy or certificate of insurance to the purchaser, the viatical settlement provider *and the viatical settlement sales agent, themselves* ~~itself~~ or through another person, shall provide in writing the following disclosures to any viatical settlement purchaser:

(a) All the life expectancy certifications obtained by the provider.

(b) The name and address of the insurance company, the policy number, and the date of original issue of the viaticated policy.

(c) The experience and qualifications of the person issuing the life expectancy certification, and that person's relationship to the viatical settlement provider, the viatical settlement broker, the viatical settlement sales agent, and the viator.

(d) The name and address of any person providing escrow services, and that person's relationship to the viatical settlement provider, the viatical settlement broker, the viatical settlement sales agent, and the viator.

(e) The type of life insurance policy offered or sold, including a statement as to whether the policy is whole life, term life, universal life, or a group policy certificate; a statement as to whether the policy is in lapse status or has lapsed in the last 2 years; and a statement as to whether the purchaser is entitled to benefits contained in the policy other than the death benefit of the policy.

(f) The procedure to be used by the provider to provide the status of the health condition of the insured to a purchaser.

(2) The viatical settlement purchase agreement is voidable by the purchaser at any time within 3 days after the disclosures mandated by this section are received by the purchaser.

(3) At the time the disclosures in subsection (1) are made, the viatical settlement purchaser shall be advised to seek independent financial advice from a person not compensated by the viatical settlement provider or viatical settlement broker or the viatical settlement sales agent. The viatical settlement purchaser shall sign an affidavit that he or she has received the disclosures and understands their importance.

(4) A viatical settlement purchase transaction, which involves a purchase from any person other than the provider who effectuated the viatical settlement contract that is the subject of a viatical settlement purchase agreement, may be completed only through the use of an independent third-party trustee or escrow agent. All funds to be paid by

the purchaser must be deposited by the purchaser with the independent third-party trustee or escrow agent. The independent third-party trustee or escrow agent shall not release the deposited funds to the seller until after the 3-day voidable period established by subsection (2) has expired.

(5) The requirements of subsections (1), (2), and (3) also apply to purchases made from any person other than the provider who effectuated the viatical settlement contract that are the subject of a viatical settlement purchase agreement.

Section 5. Subsection (10) is added to section 626.9924, Florida Statutes, to read:

626.9924 Viatical settlement contracts; procedures; rescission.—

(10) The viatical settlement provider who effectuated the viatical settlement contract with the viator (the "initial provider") is responsible for tracking the insured, including but not limited to, keeping track of the insured's whereabouts and health status, submission of death claims or assisting the beneficiary in the submission of death claims, and the status of the payment of premiums until the death of the insured. This responsibility may be contracted out to a third party; however, the ultimate responsibility remains with the initial provider. This responsibility continues with the initial provider, notwithstanding any transfers of the viaticated policy in the secondary market. This subsection applies only to those viaticated policies that are or are to become the subject of viatical settlement purchase agreements.

Section 6. Subsection (3) is added to section 626.99245, Florida Statutes, to read:

626.99245 Conflict of regulation of viaticals.—

(3) This section does not affect the requirement of ss. 626.9911(6) and 626.9912(1) that a viatical settlement provider doing business from this state must obtain a viatical settlement license from the department. As used in this subsection, the term "doing business from this state" includes effectuating viatical settlement contracts and effectuating viatical settlement purchase agreements from offices in this state, regardless of the state of residence of the viator or the viatical settlement purchaser.

And the title is amended as follows:

On page 1, lines 2 and 3,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: An act relating to financial settlements; amending s. 626.9911, F.S.; revising definitions; amending s. 626.9921, F.S.; providing for approval of forms; amending s. 626.99235, F.S.; providing for applicability; amending s. 626.99236, F.S.; requiring certain purchases to be handled by an independent third-party trustee; amending s. 626.9924, F.S.; revising procedures for tracking the insured; amending s. 626.99245, F.S.; clarifying the application of licensing requirements to viatical settlement providers; specifying the purpose of the act;

Rep. Brown moved the adoption of the amendment, which was adopted.

On motion by Rep. Brown, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Brown offered the following:

(Amendment Bar Code: 983481)

Amendment 2 (with title amendment)—On page 5, line 1 through page 11, line 29
remove from the bill: all of said lines

and insert in lieu thereof: *(p) "Structured-settlement-payment rights" means rights to receive periodic payments, including lump-sum payments under a structured settlement, whether from the structured-settlement obligor or the annuity issuer, if:*

1. The payee or any other interested party is domiciled in this state;

2. The structured settlement agreement was approved by a court of this state; or

3. The settled claim was pending before the courts of this state when the parties entered into the structured-settlement agreement.

(q) "Terms of the structured settlement" means the terms of the structured-settlement agreement; the annuity contract; a qualified-assignment agreement; or an order or approval of a court or other government authority authorizing or approving the structured settlement.

(r) "Transfer" means a sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration.

(s) "Transfer agreement" means the agreement providing for transfer of structured-settlement-payment rights from a payee to a transferee.

(t) "Transferee" means a person who is receiving or who will receive structured-settlement-payment rights resulting from a transfer.

(3) CONDITIONS TO TRANSFERS OF STRUCTURED-SETTLEMENT-PAYMENT RIGHTS AND STRUCTURED-SETTLEMENT AGREEMENTS.—

(a) A direct or indirect transfer of structured-settlement-payment rights is not effective and a structured-settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee of structured-settlement-payment rights unless the transfer is authorized in advance in a final order by a court of competent jurisdiction which is based on the written express findings by the court that:

1. The transfer complies with this section and does not contravene other applicable law;

2. At least 10 days before the date on which the payee first incurred an obligation with respect to the transfer, the transferee provided to the payee a disclosure statement in bold type, no smaller than 14 points in size, which specifies:

a. The amounts and due dates of the structured-settlement payments to be transferred;

b. The aggregate amount of the payments;

c. The discounted present value of the payments, together with the discount rate used in determining the discounted present value;

d. The gross amount payable to the payee in exchange for the payments;

e. An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, referral fees, administrative fees, legal fees, and notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;

f. The net amount payable to the payee after deducting all commissions, fees, costs, expenses, and charges described in sub-subparagraph e.;

g. The quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments, which must be disclosed in the following statement: "The net amount that you will receive from us in exchange for your future structured-settlement payments represent __ percent of the estimated current value of the payments based upon the discounted value using the applicable federal rate";

h. The effective annual interest rate, which must be disclosed in the following statement: "Based on the net amount that you will receive from us and the amounts and timing of the structured-settlement payments that you are turning over to us, you will, in effect, be paying interest to us at a rate of __ percent per year"; and

i. The amount of any penalty and the aggregate amount of any liquidated damages, including penalties, payable by the payee in the event of a breach of the transfer agreement by the payee;

3. The payee has established that the transfer is in the best interests of the payee, taking into account the welfare and support of the payee's dependents;

4. The payee has received, or waived his or her right to receive, independent professional advice regarding the legal, tax, and financial implications of the transfer;

5. The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured-settlement obligor and has filed a copy of the notice with the court;

6. The transfer agreement provides that if the payee is domiciled in this state, any disputes between the parties will be governed in accordance with the laws of this state and that the domicile state of the payee is the proper venue to bring any cause of action arising out of a breach of the agreement; and

7. The court has determined that the net amount payable to the payee is fair, just, and reasonable under the circumstances then existing.

(b) If a proposed transfer would contravene the terms of the structured settlement, upon the filing of a written objection by any interested party and after considering the objection and any response to it, the court may grant, deny, or impose conditions upon the proposed transfer which the court deems just and proper given the facts and circumstances and in accordance with established principles of law. Any order approving a transfer must require that the transferee indemnify the annuity issuer and the structured-settlement obligor for any liability, including reasonable costs and attorney's fees, which arises from compliance by the issuer or obligor with the order of the court.

(c) Any provision in a transfer agreement which gives a transferee power to confess judgment against a payee is unenforceable to the extent that the amount of the judgment would exceed the amount paid by the transferee to the payee, less any payments received from the structured-settlement obligor or payee.

(d) In negotiating a structured settlement of claims brought by or on behalf of a claimant who is domiciled in this state, the structured-settlement obligor must disclose in writing to the claimant or the claimant's legal representative all of the following information that is not otherwise specified in the structured-settlement agreement:

1. The amounts and due dates of the periodic payments to be made under the structured-settlement agreement. In the case of payments that will be subject to periodic percentage increases, the amounts of future payments may be disclosed by identifying the base payment amount, the amount and timing of scheduled increases, and the manner in which increases will be compounded;

2. The amount of the premium payable to the annuity issuer;

3. The discounted present value of all periodic payments that are not life-contingent, together with the discount rate used in determining the discounted present value;

4. The nature and amount of any costs that may be deducted from any of the periodic payments;

5. Where applicable, that any transfer of the periodic payments is prohibited by the terms of the structured settlement and may otherwise be prohibited or restricted under applicable law; and

6. That any transfer of the periodic payments by the claimant may subject the claimant to serious adverse tax consequences.

(4) JURISDICTION; PROCEDURE FOR APPROVAL OF TRANSFERS.—At least 20 days before the scheduled hearing on an application for authorizing a transfer of structured-settlement-payment rights under this section, the transferee must file with the court and all interested parties a notice of the proposed transfer and the application for its authorization. The notice must include:

(a) A copy of the transferee's application to the court;

(b) A copy of the transfer agreement;

(c) A copy of the disclosure statement required under subsection (3);

(d) Notification that an interested party may support, oppose, or otherwise respond to the transferee's application, in person or by counsel, by submitting written comments to the court or by participating in the hearing; and

(e) Notification of the time and place of the hearing and notification of the manner in which and the time by which any written response to the application must be filed in order to be considered by the court. A written response to an application must be filed within 15 days after service of the transferee's notice.

(5) WAIVER PROHIBITED; NO PENALTIES INCURRED.—

(a) The provisions of this section may not be waived.

(b) If a transfer of structured-settlement-payment rights fails to satisfy the conditions of subsection (3), the payee who proposed the transfer does not incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee.

(6) NONCOMPLIANCE.—

(a) If a transferee violates the requirements for stipulating the discount and finance charge provided for in subsection (3), neither the transferee nor any assignee may collect from the transferred payments, or from the payee, any amount in excess of the net advance amount, and the payee may recover from the transferee or any assignee:

1. A refund of any excess amounts previously received by the transferee or any assignee;

2. A penalty in an amount determined by the court, but not in excess of three times the aggregate amount of the discount and finance charge; and

3. Reasonable costs and attorney's fees.

(b) If the transferee violates the disclosure requirements in subsection (3), the transferee and any assignee are liable to the payee for:

1. A penalty in an amount determined by the court, but not in excess of three times the amount of the discount and finance charge; and

2. Reasonable costs and attorney's fees.

(c) A transferee or assignee is not liable for any penalty in any action brought under this section if the transferee or assignee establishes by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the transferee's maintenance of procedures reasonably designed to avoid such errors.

(d) Notwithstanding any other law, an action may not be brought under this section more than 1 year after the due date of:

1. The last transferred structured-settlement payment, in the case of a violation of the requirements for stipulating the discount and finance charge provided for in subsection (3).

2. The first transferred structured-settlement payment, in the case of a violation of the disclosure requirements of subsection (3).

(e) When any interested party has reason to believe that any transferee has violated this section, any interested party may bring a civil action for injunctive relief, penalties, and any other relief that is appropriate to secure compliance with this section.

And the title is amended as follows:

On page 1, lines 19-20
remove from the title of the bill: all of said lines

and insert in lieu thereof: violations of the act; authorizing an interested party to bring an action for injunctive

Rep. Brown moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 791 was taken up. On motion by Rep. Hogan, the rules were waived and SB 150 was substituted for HB 791. Under Rule 5.15, the House bill was laid on the table and—

SB 150—A bill to be entitled An act relating to property exempt from legal process; amending s. 222.25, F.S.; exempting certain debtor's interests from attachment, garnishment, or legal process; providing that such exemption does not apply to debts owed for child support or spousal support; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/CS/HB 615 was taken up. On motion by Rep. Kallinger, the rules were waived and SB 1516 was substituted for CS/CS/HB 615. Under Rule 5.15, the House bill was laid on the table and—

SB 1516—A bill to be entitled An act relating to surety bonds; amending ss. 235.32, 255.05, F.S.; prohibiting public entities from directing that contractors building public facilities obtain surety bonds from a specific agent or bonding company; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 623—A bill to be entitled An act relating to government accountability and legal proceedings; amending s. 11.066, F.S.; providing that property of the state or a monetary recovery made on behalf of the state is not subject to a lien; amending s. 112.3175, F.S.; providing that certain contracts executed in violation of part III of ch. 112, F.S., are presumed void or voidable; amending s. 287.058, F.S.; clarifying current requirement that contractor on certain state contracts must allow access to public records unless the records are exempt; amending s. 287.059, F.S.; providing additional requirements for contracts for private attorney services; providing requirements for contingency fee contracts; providing for binding arbitration in fee disputes; providing requirements if multiple law firms are parties to a contract; providing requirements for private attorneys with respect to maintaining documents and records and making such documents and records available for inspection; creating s. 60.08, F.S.; providing for injunctions without bond when sought by the state or its agencies; amending s. 86.091, F.S.; providing that the State of Florida, the Governor, any state department, agency, officer, or employee shall not be made a party in certain proceedings; amending s. 16.01, F.S.; clarifying that certain provisions are not intended to authorize the joinder of the Attorney General as party; amending s. 48.121, F.S.; clarifying that the section is not intended to authorize the joinder of the Attorney General or a state attorney as a party; amending s. 45.062, F.S.; providing additional requirements with respect to notification of certain settlements or orders; providing that certain settlements or orders shall be contingent upon and subject to legislative appropriation or statutory amendment; providing for the disposition of funds; providing legislative intent; amending s. 216.023, F.S.; providing for an inventory of all litigation in which an agency is involved which may require additional appropriations to the agency or amendments to the law under which the agency operates as a part of legislative budget requests; amending s. 284.385, F.S.; revising provisions relating to the reporting and handling of claims by the Department of Insurance covered by the State Risk Management Trust Fund; providing for severability; providing an effective date.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 293303)

Amendment 1—On page 4, line 17 after the word "from", of the bill

insert: *s. 24, (a) Art. I of the State Constitution and*

The Council for Smarter Government offered the following:

(Amendment Bar Code: 342625)

Amendment 2 (with title amendment)—On page 13, between lines 23 and 24, of the bill

insert: Section 8. Sections 45.051, Florida Statutes, is amended to read : 45.051 Execution of supersedeas bond when required of the state or its political subdivisions.—

(1) When a supersedeas bond is required by the appellate court under Rule 9.310(b)(2), Florida Rules of Appellate Procedure or an appeal or other proceeding is taken in any court and there is no court rule or statute exempting the parties from giving supersedeas, cost, or other required bond, the parties are authorized to make and execute the required bond with a corporate surety thereon duly licensed to do business in this state. The premium or other cost for the bond may be paid from the general necessary and regular appropriation of the party taking the appeal, in the case of the state or any of its officers, boards, commissioners or other agencies, and from the county general fund, district school general fund, or otherwise as the case may be, in the case of a political subdivision of the state or any of its officers, boards, commissions or other agencies. The officers of the state and its political subdivisions and the executive officers of their boards, commissions, and other agencies aforesaid, are authorized to make and execute the bonds on behalf of the parties.

(2) In connection with an appeal taken by a state employee or official of a judgement against that employee or official in an individual capacity, as part of the legal defense being provided by the state risk management program, the Division of Risk Management may enter into an indemnification agreement for the purpose of securing an appellate supersedeas bond, provided that, under any such agreement, the liability of the State of Florida is limited to the amount of the judgment being appealed and any costs imposed by law or the appropriate court.

And the title is amended as follows:

On page 2, line 5,
remove from the title of the bill: said line

and insert in lieu thereof: party; amending s. 45.051, F.S.; authorizing the Division of Risk Management to enter into indemnification agreements for supersedeas bonds; amending s. 45.062.; providing

On motion by Rep. Mack, the council amendments failed of adoption *en bloc*.

On motion by Rep. Mack, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Mack offered the following:

(Amendment Bar Code: 264393)

Amendment 3 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (5) is added to section 11.066, Florida Statutes, to read:

11.066 Suits seeking monetary damages against the state or its agencies; payment of judgments; appropriations required.—

(5) The property of the state, the property of any state agency, or any monetary recovery made on behalf of the state or any state agency is not subject to a lien of any kind.

Section 2. Section 112.3175, Florida Statutes, is amended to read:

112.3175 Remedies; contracts voidable.—

(1) Any contract *that* ~~which~~ has been executed in violation of this part is voidable:

(a)~~(1)~~ By any party to the contract.

(b)~~(2)~~ In any circuit court, by any appropriate action, by:

1.~~(a)~~ The commission.

2.~~(b)~~ The Attorney General.

3.~~(c)~~ Any citizen materially affected by the contract and residing in the jurisdiction represented by the officer or agency entering into such contract.

(2) Any contract that has been executed in violation of this part is presumed void with respect to any former employee or former public official of a state agency and is voidable with respect to any private-sector third party who employs or retains in any capacity such former agency employee or former public official.

Section 3. Subsection (1) of section 287.058, Florida Statutes, is amended to read:

287.058 Contract document.—

(1) Every procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall, where applicable, include, but shall not be limited to:

(a) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(b) A provision that bills for any travel expenses be submitted in accordance with s. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.

(c) A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material ~~subject to the provisions of chapter 119 and~~ made or received by the contractor in conjunction with the contract*, unless the records are exempt from s. 24, (a) Art. I of the State Constitution and s. 119.07(1).*

(d) A provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(e) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(f) A provision specifying that the contract may be renewed on a yearly basis for a period of up to 2 years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer, specifying the terms under which the cost may change as determined in the invitation to bid or request for proposals, and specifying that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds.

In lieu of a written agreement, the department may authorize the use of a purchase order for classes of contractual services, provided the provisions of paragraphs (a)-(f) are included in the purchase order, invitation to bid, or request for proposals. The purchase order shall include an adequate description of the services, the contract period, and the method of payment. In lieu of printing the provisions of paragraphs (a)-(f) in the contract document or purchase order, agencies may incorporate the requirements of paragraphs (a)-(f) by reference.

Section 4. Section 287.059, Florida Statutes, is amended to read:

287.059 Private attorney services.—

(1) For purposes of this section, the term "agency" or "state agency" includes state officers, departments, boards, commissions, divisions, bureaus, councils, and units of organization, however designated, of the executive branch of state government, community and junior colleges, and multicounty special districts exclusive of those created by interlocal agreement or which have elected governing boards.

(2) No agency shall contract for private attorney services without the prior written approval of the Attorney General, except that such written approval is not required for private attorney services:

(a) Procured by the Executive Office of the Governor or any department under the exclusive jurisdiction of a single Cabinet officer.

(b) Provided by legal services organizations to indigent clients.

(c) Necessary to represent the state in litigation involving the State Risk Management Trust Fund pursuant to part II of chapter 284.

(d) Procured by the Board of Regents and the universities of the State University System.

(e) Procured by community and junior colleges and multicounty special districts.

(f) Procured by the Board of Trustees for the Florida School for the Deaf and the Blind.

(3) An agency requesting approval for the use of private attorney services shall first offer to contract with the Department of Legal Affairs for such attorney services at a cost pursuant to mutual agreement. The Attorney General shall decide on a case-by-case basis to accept or decline to provide such attorney services as staffing, expertise, or other legal or economic considerations warrant. If the Attorney General declines to provide the requested attorney services, the Attorney General's written approval shall include a statement that the private attorney services requested cannot be provided by the office of the Attorney General or that such private attorney services are cost-effective in the opinion of the Attorney General. The Attorney General shall not consider political affiliation in making such decision. The office of the Attorney General shall respond to the request of an agency for prior written approval within 10 working days after receiving such request. The Attorney General may request additional information necessary for evaluation of a request. The Attorney General shall respond to the request within 10 working days after receipt of the requested information. Those agencies exempt from written approval from the Attorney General, as described in paragraphs (2)(a)-(f), may contract with the Department of Legal Affairs for attorney services. The Attorney General shall determine on a case-by-case basis whether to provide such attorney services as staffing, expertise, or other legal considerations warrant. The Attorney General may adopt, by rule, a form on which agencies requesting written approval for private attorney services shall provide information concerning:

(a) The nature of the attorney services to be provided and the issues involved.

(b) The need for use of private attorneys, rather than agency staff attorneys, utilizing the criteria provided in subsection *(9)* ~~(8)~~.

(c) The criteria by which the agency selected the private attorney or law firm it proposes to employ, utilizing the criteria provided in subsection *(10)* ~~(9)~~.

(d) Competitive fees for similar attorney services.

(e) The agency's analysis estimating the number of hours for attorney services, the costs, the total contract amount, and, when appropriate, a risk or cost-benefit analysis.

(f) Which partners, associates, paralegals, research associates, or other personnel will be used, and how their time will be billed to the agency.

(g) Any other information which the Attorney General deems appropriate for the proper evaluation of the need for such private attorney services.

(4) When written approval has been received from the Attorney General, *the general counsel for the agency shall review the form and legality of the contract for private attorney services and shall indicate his or her approval by signing the contract* ~~written final approval must be obtained from the agency head, or designee of the agency head, prior to the contracting for private attorney services~~. *After a contract is approved and signed by the general counsel, in order to effectuate that contract the agency head must sign the contract. The agency head shall also maintain custody of the contract.*

(5) The agency head or a designee shall give written approval prior to contracting for private attorney services for all agencies exempt from written approval of the Attorney General as described in paragraphs (2)(a)-(f).

(6) The Attorney General shall, by rule, adopt a standard fee schedule for private attorney services using hourly rates or an alternative billing methodology. The Attorney General shall take into consideration the following factors:

(a) Type of controversy involved and complexity of the legal services needed.

(b) Geographic area where the attorney services are to be provided.

(c) Novelty of the legal questions involved.

(d) Amount of experience desired for the particular kind of attorney services to be provided.

(e) Other factors deemed appropriate by the Attorney General.

(f) The most cost-effective or appropriate billing methodology.

(7)(a) A contingency fee contract must be commercially reasonable. As used in this subsection, the term "commercially reasonable" means no more than the amount permissible pursuant to rule 4-1.5 of the rules regulating The Florida Bar and case law interpreting that rule.

(b) If the amount of the fee is in dispute, the counsel retained by the state shall participate in mandatory binding arbitration. Payment of all attorney's fees is subject to appropriation. Attorney's fees shall be forfeited if, during the pendency of the case, the counsel retained by the state takes a public position that is adverse to the state's litigation or settlement posture.

(8)~~(7)~~ All agencies, when contracting for private attorney services, must use the standard fee schedule for private attorney services as established pursuant to this section unless the head of the agency, or his or her designee, waives use of the schedule and sets forth the reasons for deviating from the schedule in writing to the Attorney General. Such waiver must demonstrate necessity based upon criteria for deviation from the schedule which the Attorney General shall establish by rule.

(9)~~(8)~~ The Attorney General shall develop guidelines that may be used by agencies to determine when it is necessary and appropriate to seek private attorney services in lieu of staff attorney services.

(10)~~(9)~~ Agencies are encouraged to use the following criteria when selecting outside firms for attorney services:

(a) The magnitude or complexity of the case.

(b) The firm's ratings and certifications.

(c) The firm's minority status.

(d) The firm's physical proximity to the case and the agency.

(e) The firm's prior experience with the agency.

(f) The firm's prior experience with similar cases or issues.

(g) The firm's billing methodology and proposed rate.

(h) The firm's current or past adversarial position, or conflict of interest, with the agency.

(i) The firm's willingness to use resources of the agency to minimize costs.

(11)~~(10)~~ The Attorney General shall develop a standard addendum to every contract for attorney services that must be used by all agencies, unless waived by the Attorney General, describing in detail what is expected of both the contracted private attorney and the contracting agency. *The addendum must address the internal system of governance if multiple law firms are parties to the contract and must, at a minimum, require that each firm identify one member who is authorized to legally bind the firm.*

(12)~~(11)~~ Contracts for attorney services shall be originally executed for 1 year only, except that multiyear contracts may be entered into provided they are subject to annual appropriations and annual written approval from the Attorney General as described in subsection (3). Any amendments to extend the contract period or increase the billing rate or overall contract amount shall be considered new contracts for purposes of the written approval process described in subsection (3).

(13)~~(12)~~ The office of the Attorney General shall periodically prepare and distribute to agencies a roster by geographic location of private attorneys under contract with agencies, their fees, and primary area of legal specialization.

(14)~~(13)~~ The office of the Attorney General is authorized to competitively bid and contract with one or more court reporting services, on a circuitwide basis, on behalf of all state agencies in accordance with s. 287.057(2). The office of the Attorney General shall develop requests for proposal for court reporter services in consultation with the Florida Court Reporters Association. All agencies shall utilize the contracts for court reporting services entered into by the Office of the Attorney General where in force, unless otherwise ordered by a court or unless an agency has a contract for court reporting services executed prior to May 5, 1993.

(15)~~(14)~~ The Attorney General's office may, by rule, adopt standard fee schedules for court reporting services for each judicial circuit in consultation with the Florida Court Reporters Association. Agencies, when contracting for court reporting services, must use the standard fee schedule for court reporting services established pursuant to this section, provided no state contract is applicable or unless the head of the agency or his or her designee waives use of the schedule and sets forth the reasons for deviating from the schedule in writing to the Attorney General. Such waiver must demonstrate necessity based upon criteria for deviation from the schedule which the Attorney General shall establish by rule. Any proposed fee schedule under this section shall be submitted to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Chief Justice of the Florida Supreme Court at least 60 days prior to publication of the notice to adopt the rule.

(16) Each private attorney who is under contract to provide attorney services for the state or a state agency shall, from the inception of the contractual relationship until at least 4 years after the contract expires or terminates, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall make all such records available for inspection and copying upon request in accordance with chapter 119.

Section 5. Section 60.08, Florida Statutes, is created to read:

60.08 Injunctions sought by the state pursuant to statute shall issue without bond.—In any action for injunctive relief sought by the state or one of its agencies as provided in ss. 501.207(1)(b), 542.23, and 895.05(5), any injunction sought shall issue without bond or surety and no bond or surety shall be required during the term of the injunction.

Section 6. Subsection (5) of section 16.01, Florida Statutes, is amended to read:

16.01 Residence, office, and duties of Attorney General.—The Attorney General:

(5) Shall appear in and attend to such suits or prosecutions in any other of the courts of this state or in any courts of any other state or of the United States. *This subsection is not intended to authorize the joinder of the Attorney General as a party in such suits or prosecutions.*

Section 7. Sections 45.051, Florida Statutes, is amended to read : 45.051 Execution of supersedeas bond when required of the state or its political subdivisions.—

(1) When a supersedeas bond is required by the appellate court under Rule 9.310(b)(2), Florida Rules of Appellate Procedure or an appeal or other proceeding is taken in any court and there is no court rule or statute exempting the parties from giving supersedeas, cost, or other required bond, the parties are authorized to make and execute the required bond with a corporate surety thereon duly licensed to do business in this state. The premium or other cost for the bond may be paid from the general necessary and regular appropriation of the party taking the appeal, in the case of the state or any of its officers, boards, commissioners or other agencies, and from the county general fund, district school general fund, or otherwise as the case may be, in the case of a political subdivision of the state or any of its officers, boards, commissions or other agencies. The officers of the state and its political subdivisions and the executive officers of their boards, commissions, and other agencies aforesaid, are authorized to make and execute the bonds on behalf of the parties.

(2) In connection with an appeal taken by a state employee or official of a judgement against that employee or official in an individual capacity, as part of the legal defense being provided by the state risk management program, the Division of Risk Management may enter into an indemnification agreement for the purpose of securing an appellate supersedeas bond, provided that, under any such agreement, the liability of the State of Florida is limited to the amount of the judgment being appealed and any costs imposed by law or the appropriate court.

Section 8. Section 48.121, Florida Statutes, is amended to read:

48.121 Service on the state.—When the state has consented to be sued, process against the state shall be served on the state attorney or an assistant state attorney for the judicial circuit within which the action is brought and by sending two copies of the process by registered or certified mail to the Attorney General. The state may serve motions or pleadings within 40 days after service is made. *This section is not intended to authorize the joinder of the Attorney General or a state attorney as a party in such suit or prosecution.*

Section 9. Section 45.062, Florida Statutes, is amended to read:

45.062 Settlements, conditions, or orders when an agency of the executive branch is a party.—

(1) In any civil action in which a state executive branch agency or officer is a party in state or federal court, the officer, agent, official, or attorney who represents or is acting on behalf of such agency or officer may not settle such action, consent to any condition, or agree to any order in connection therewith, if the settlement, condition, or order requires the expenditure of or the obligation to expend any state funds or other state resources, or the establishment of any new program, unless:

(a) The expenditure is provided for by an existing appropriation or program established by law; and

(b) Prior written notification is given within 5 business days of the date the settlement or presettlement agreement or order is to be made final to the President of the Senate, the Speaker of the House of Representatives, the Senate and House minority leaders, and the Attorney General. *Such notification shall specify how the agency involved will address the costs in future years within the limits of current appropriations.*

(2) The state executive branch agency or officer shall negotiate a closure date as soon as possible for the civil action.

(3) The state executive branch agency or officer may not pledge any current or future action of another branch of state government as a condition for settling the civil action.

(4) Any settlement that commits the state to spending in excess of current appropriations or to policy changes inconsistent with current state law shall be contingent upon and subject to legislative appropriation or statutory amendment. The state agency or officer may agree to use all efforts to procure legislative funding or statutory amendment.

(5) State agencies and officers shall report to each substantive and fiscal committee of the Legislature having jurisdiction over the reporting agency on all potential settlements that may commit the state to:

(a) Spend in excess of current appropriations; or

(b) Policy changes inconsistent with current state law.

The state agency or officer shall provide periodic updates to the appropriate legislative committees on these issues during the settlement process.

Section 10. Subsection (13) is added to section 216.023, Florida Statutes, to read:

216.023 Legislative budget requests to be furnished to Legislature by agencies.—

(13) As a part of the legislative budget request, the head of each state agency shall include an inventory of all litigation in which the agency is involved which may require additional appropriations to the agency or amendments to the law under which the agency operates. No later than March 1 following the submission of the legislative budget request, the head of the state agency shall provide an update of any additions or changes to the inventory. Such inventory shall include those items specified annually in the legislative budget instructions.

Section 11. Section 284.385, Florida Statutes, is amended to read:

284.385 Reporting and handling of claims.—All departments covered by the State Risk Management Trust Fund under this part shall immediately report all known or potential claims to the Department of Insurance for handling, except employment complaints which have not been filed with the Florida Human Relations Commission, Equal Employment Opportunity Commission, or any similar agency. When deemed necessary, the Department of Insurance shall assign or reassign the claim to counsel. The assigned counsel shall report regularly to the Department of Insurance *and to the covered department* on the status of any such claims or litigation as required by the Department of Insurance. No such claim shall be compromised or settled for monetary compensation without the prior approval of the Department of Insurance *and prior notification to the covered department*. All departments shall cooperate with the Department of Insurance in its handling of claims. The Department of Insurance, the Department of Management Services, and the Department of Banking and Finance, with the cooperation of the state attorneys and the clerks of the courts, shall develop a system to coordinate the exchange of information concerning claims for and against the state, its agencies, and its subdivisions, to assist in collection of amounts due to them. The covered department shall have the responsibility for the settlement of any claim for injunctive or affirmative relief under 42 U.S.C. s. 1983 or similar federal or state statutes. The payment of a settlement or judgment for any claim covered and reported under this part shall be made only from the State Risk Management Trust Fund.

Section 12. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 13. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 25, after the semicolon, through line 29, before the semicolon,

remove from the title of the bill: all of said lines

and On page 2, line 5,

remove from the title of the bill: all of said line

and insert in lieu thereof: party; amending s. 45.051, F.S.; authorizing the Division of Risk Management to enter into indemnification agreements for supersedeas bonds; amending s. 45.062.; providing

Rep. Mack moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1601—A bill to be entitled An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in board activities; providing an effective date.

—was read the second time by title.

The Committee on Workforce & Technical Skills offered the following:

(Amendment Bar Code: 290833)

Amendment 1—On page 1, line 24
remove from the bill: all of said line

and insert in lieu thereof: *current or former recipient of welfare transition services as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1),* and

Rep. Jennings moved the adoption of the amendment, which was adopted.

The Committee on Workforce & Technical Skills offered the following:

(Amendment Bar Code: 284243)

Amendment 2—On page 2, lines 28 and 29,
remove from the bill: all said lines

and insert in lieu thereof: *persons who are current or former recipients of welfare transition assistance as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1), or that such persons be included as ex*

Rep. Jennings moved the adoption of the amendment, which was adopted.

Representative(s) Bendross-Mindingall offered the following:

(Amendment Bar Code: 364071)

Amendment 3 (with title amendment)—On page 3, between lines 10 & 11,

insert:

Section 3. Subsections (6) and (10) of section 445.004, Florida Statutes, are amended to read:

445.004 Workforce Florida, Inc.; creation; purpose; membership; duties and powers.—

(6) Workforce Florida, Inc., may take action that it deems necessary to achieve the purposes of this section, including, but not limited to:

(a) Creating a state employment, education, and training policy that ensures that programs to prepare workers are responsive to present and future business and industry needs and complement the initiatives of Enterprise Florida, Inc.

(b) Establishing policy direction for a funding system that provides incentives to improve the outcomes of vocational education programs, and of registered apprenticeship and work-based learning programs, and that focuses resources on occupations related to new or emerging industries that add greatly to the value of the state's economy.

(c) Establishing a comprehensive policy related to the education and training of target populations such as those who have disabilities, are economically disadvantaged, receive public assistance, are not proficient in English, or are dislocated workers. This approach should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance.

(d) Designating Institutes of Applied Technology composed of public and private postsecondary institutions working together with business and industry to ensure that technical and vocational education programs use the most advanced technology and instructional methods available and respond to the changing needs of business and industry.

(e) Providing policy direction for a system to project and evaluate labor market supply and demand using the results of the Workforce Estimating Conference created in s. 216.136 and the career education performance standards identified under s. 239.233.

(f) Reviewing the performance of public programs that are responsible for economic development, education, employment, and training. The review must include an analysis of the return on investment of these programs.

(g) Expanding the occupations identified by the Workforce Estimating Conference to meet needs created by local emergencies or plant closings or to capture occupations within emerging industries.

(h) Expanding the utilization of faith-based and community-based organizations to work collaboratively in the delivery of services to Florida's citizens.

(10) The workforce development strategy for the state shall be designed by Workforce Florida, Inc., and shall be centered around the strategies of First Jobs/First Wages, Better Jobs/Better Wages, and High Skills/High Wages.

(a) First Jobs/First Wages is the state's strategy to promote successful entry into the workforce through education and workplace experience that lead to self-sufficiency and career advancement. The components of the strategy include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. *A minimum of 15 percent of all Workforce Investment Act youth services funds shall be expended for after-school care programs, through contracts with qualified faith-based and community-based organizations, on an equal basis with other private organizations, to provide after-school care programs to eligible children 14 through 18 years of age. Such programs shall include academic tutoring, mentoring, and other appropriate services. Similar services may be provided for eligible children 6 through 13 years of age using Temporary Assistance for Needy Families funds.*

(b) Better Jobs/Better Wages is the state's strategy for assisting employers in upgrading or updating the skills of their employees and for assisting incumbent workers in improving their performance in their current jobs or acquiring the education or training needed to secure a better job with better wages.

(c) High Skills/High Wages is the state's strategy for aligning education and training programs with high-paying, high-demand occupations that advance individuals' careers, build a more skilled workforce, and enhance Florida's efforts to attract and expand job-creating businesses.

Section 4. This act shall take effect July 1, 2001.

(Renumber subsequent sections)

And the title is amended as follows:

On page 1, line 7 after the semicolon,

insert: amending s. 445.004, F.S.; expanding the utilization of faith-based and community-based organizations; requiring certain funds to be expended for after-school care programs;

Rep. Bendross-Mindingall moved the adoption of the amendment, which was adopted.

Reconsideration

On motion by Rep. Jennings, the House reconsidered the vote by which **Amendment 3** was adopted. The question recurred on the adoption of the amendment.

Representative(s) Jennings offered the following:

(Amendment Bar Code: 874957)

Amendment 1 to Amendment 3 (with title amendment)—On page 3, line 22, after the period

insert: *Funds expended under this paragraph may not be used for religious or sectarian purposes. To provide after-school care programs under this paragraph, a community-based organization or a faith-based organization must be a nonprofit organization that holds a current exemption from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code or must be a religious organization that is not required to apply for recognition of its exemption from federal taxation under s. 501(c)(3) of the Internal Revenue Code.*

And the title is amended as follows:

On page 4, line 16, of the amendment after the semicolon

insert: providing limitations on provision of certain after-school care program;

Rep. Jennings moved the adoption of the amendment to the amendment.

Further consideration of **HB 1601**, with pending amendments, was temporarily postponed under Rule 11.10.

CS/CS/HB 453—A bill to be entitled An act relating to guaranteed energy performance savings contracting; amending s. 489.145, F.S.; changing provisions relating to energy efficiency contracting to provisions relating to guaranteed energy performance savings contracting; providing a short title; providing legislative intent; revising definitions, procedures, and contract provisions; providing criteria, requirements, procedures, and limitations for energy performance contracts; providing for program administration and contract review by the Department of Management Services and the Office of the Comptroller; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 789—A bill to be entitled An act relating to governmental data processing; creating s. 119.084, F.S.; providing definitions; authorizing governmental agencies to acquire, hold, and enforce copyrights for data processing software they create; authorizing sale or license of such software; authorizing establishment of sales price and licensing fee; providing requirements for electronic recordkeeping systems; providing for access to public records maintained in electronic recordkeeping systems; providing for fees to be charged for copying public records maintained in electronic recordkeeping systems; prohibiting contracts for public records databases that impair public access to public records; providing for future review and repeal; providing a finding of public necessity; providing for adoption of rules; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 853579)

Amendment 1 (with title amendment)—On page 4, line 29, through

Page 5, line 2
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, line 19
remove from the title of the bill: all of said line

and insert in lieu thereof: necessity;

Rep. Mealor moved the adoption of the amendment, which was adopted.

Representative(s) Mealor offered the following:

(Amendment Bar Code: 092971)

Amendment 2 (with title amendment)—On page 2, lines 4 & 5
remove from the bill: all of said lines,

and insert in lieu thereof:

(b) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.

And the title is amended as follows:

On page 1, lines 19, after the semicolon

insert: defining "data processing software";

Rep. Mealor moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 863—A bill to be entitled An act relating to the North Springs Improvement District, Broward County; amending chapter 71-580, Laws of Florida, as amended; increasing the board of supervisors to a total of five members; providing for elections by electors residing within the district; providing for the appointment of a city commissioner from the City of Coral Springs and a city commissioner from the City of Parkland as board members; providing for regular and special board meetings instead of landowner meetings; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 670881)

Amendment 1 (with title amendment)—On page 1, line 29, through page 3, line 2,
remove from the bill: all of said lines

and insert in lieu thereof:

qualify. *Board members shall be elected at an election conducted by the supervisor of elections on the first Tuesday in November of the year in which the board members' terms expire. The costs of such elections shall be paid by the district.*

(2) ~~A majority of~~ The members of the board shall be residents of ~~Broward County, and all members shall be residents of Florida. All members of the board shall be landowners within~~ the district *and shall be elected as follows:*~~.~~

(a) Two members shall be residents of the City of Coral Springs and shall be elected by a majority vote of registered electors casting votes at an election of those electors residing within the City of Coral Springs.

(b) Two members shall be residents of the City of Parkland and shall be elected by a majority vote of registered electors casting votes at an election of those electors residing within the City of Parkland.

(c) One member shall be elected at large by a majority vote of registered electors casting votes at an election of those electors residing within the district.

(3) At the general election to be held in November 2002, one new board member shall be elected by electors residing within the City of Coral Springs and one new board member shall be elected by electors residing within the City of Parkland. Existing board members' terms as of the effective date of this act shall be extended to November of the year in which their terms expire and, commencing upon the expiration of the terms of those board members, all subsequent board members thereafter shall meet the requirements and shall be elected as provided in subsections (1) and (2). ~~In the~~

And the title is amended as follows:

On page 1, lines 8-11,
remove from the title of the bill: all of said lines

and insert in lieu thereof: providing for regular and

Rep. Ritter moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 891—A bill to be entitled An act relating to the City of Daytona Beach, Volusia County; providing for the lease of certain submerged lands to the city by the state; providing for the duration of the lease; specifying the amount of the lease; providing for the purpose of the lease; providing that the lease is contingent upon the city's acquisition of the pier situated upon the leased lands; providing additional terms of the lease; prohibiting transfer of lease without legislative action; providing for severability; requiring written submission of acceptance of terms to the Department of Environmental Protection; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 784647)

Amendment 1—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *The lessor, the Board of Internal Improvement Trust Fund is hereby directed to lease the following described property to the lessee, the City of Daytona Beach, Florida:*

A parcel of sovereign submerged land in Volusia County, Florida, more particularly described as:

A portion of submerged land in the Atlantic Ocean adjacent to Block 2, Plan of Seabreeze Subdivision as recorded in Deed Book "O" Page 301, Public Records of Volusia County, Florida, and being more particularly described as follows. As a point of reference, commence at the northeast corner of Block 5, said plan of Seabreeze Subdivision, thence north 67 degrees 53 minutes 33 seconds east along the southerly original right of way line of Main Street and along its extension thereof, 488.65 feet more or less, to the mean high water line of the Atlantic Ocean Beach and to the point of beginning. Thence continue north 67 degrees 53 minutes 33 seconds east 1000.00 feet, thence south 22 degrees 06 minutes 27 seconds east 242.30 feet, thence south 67 degrees 53 minutes 33 seconds west, 979.07 feet, more or less to the aforementioned high water line, thence north 27 degrees 02 minutes 40 seconds west along the said mean high water line approximately 243.21 feet to the point of beginning.

Section 2. *The term of this lease runs for a period of 35 years commencing on the date the City of Daytona Beach acquires ownership of the pier and associated upland parcel. Such acquisition must occur no later than 10 years after the effective date of this bill. The lessee shall pay an initial annual lease fee of $5,000 to the Board of Trustees of the Internal Improvement Trust Fund. The annual lease fee shall increase by $5,000 at each successive 5-year interval during the lease term and shall be remitted to the Department of Environmental Protection as the agent for the lessor. The lease fee for any renewals of this lease, beyond the initial lease period, shall be determined pursuant to the terms of Chapter 18-21, F.A.C., in effect at the time of such renewal.*

Section 3. *The submerged lands described in this act are leased for the purpose of furthering the city's downtown redevelopment initiative, including the city's acquisition of the historic pier situated upon the leased lands and such uses may include nonwater-dependent activities. If the city is unable to acquire the historic pier or, once having purchased the pier, relinquishes ownership, this lease is void.*

Section 4. *This lease is specifically contingent upon the City of Daytona Beach acquiring ownership of the pier, and this lease shall not become effective unless and until such acquisition is secured.*

Section 5. *The lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the lessor. The lessee may not make any claim, including any advertisement, that said land may be purchased, sold, or resold.*

Section 6. *During the term of this lease, the lessee shall maintain a fee simple title interest in the riparian upland property and, if such interest is terminated, the lease may be terminated at the option of the lessor. Prior to sale or other transfer of the lessee's fee simple title interest in the upland property, lessee shall inform any potential buyer or transferee of the lessee's upland property interest of the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the lessor to effect an assignment of this lease, if authorized by further legislative action. Failure to do so will not relieve the lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.*

Section 7. *The lessee shall investigate all claims of every nature arising out of this lease at its expense and shall indemnify, defend and save, and hold harmless the State of Florida from all claims, actions, lawsuits, and demands arising out of this lease or the operation and activities associated with this lease.*

Section 8. *The lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease.*

Section 9. *The lessee is prohibited from mooring vessels or charging general admission fees for public access to any pier built or operated on the leased premises. The lessee shall not knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises. During the term of this lease and any renewals, extensions, modifications or assignments thereof, lessee shall prohibit the operation of entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere." The term "cruises to nowhere" means the activity of ships that leave and return to the State of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.*

Section 10. *The lessee shall maintain the leased premises in good condition and keep the structures and equipment located thereon in a good state of repair in the interests of public health, safety, and welfare. No structure shall be built or operated in any manner that would cause harm to wildlife. All garbage, debris, and sewage shall be disposed of in an appropriate upland facility. The leased premises shall be subject to inspection by the Department of Environmental Protection at any reasonable time.*

Section 11. *The lessee shall prohibit the mooring of any "liveaboard" vessel within the leased premises. The "liveaboard" is defined as a vessel moored or docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. In the event liveaboards are authorized by further legislative action, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.*

Section 12. *The lessee, at its cost, shall remove any structures and equipment from the leased premises at the end of the lease term. Any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on the leased premises shall be paid by lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the lessee in its riparian upland property enforceable in summary proceedings as provided by Law. If the lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment will be deemed forfeited to the Lessor, and the lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the lessee at such address on record as provided to the lessor by the lessee. However, such remedy shall be in addition to all other remedies available to the lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.*

Section 13. *In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere within adjacent riparian rights, lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within sixty (60) days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement.*

Section 14. *Prior to commencement of construction and/or activities authorized herein, the lessee shall obtain all necessary federal, state, and local permits.*

Section 15. *On or in conjunction with the use of the leased premises, the lessee shall at all times comply with all federal, state, and local laws and all administrative rules promulgated thereunder which are not inconsistent with this act.*

Section 16. *The lease shall not be amended, modified, assigned or otherwise transferred without further legislative action.*

Section 17. *The lease authorized by this act represents the entire and only agreement between the parties. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application.*

Section 18. *This lease shall not take effect until the lessee, the City of Daytona Beach, submits acceptance of the terms of this lease in writing to the Department of Environmental Protection, as staff to the Board of Trustees of the Internal Improvement Trust Fund.*

Section 19. This act shall take effect upon becoming a law.

Rep. Wiles moved the adoption of the amendment.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 254971)

Substitute Amendment 1—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *The lessor, the Board of Trustees of the Internal Improvement Trust Fund, is hereby directed to lease the following described property to the lessee, the City of Daytona Beach, Florida:*

A parcel of sovereign submerged land in Volusia County, Florida, more particularly described as:

A portion of submerged land in the Atlantic Ocean adjacent to Block 2, Plan of Seabreeze Subdivision as recorded in Deed Book "O" Page 301, Public Records of Volusia County, Florida, and being more particularly described as follows. As a point of reference, commence at the northeast corner of Block 5, said plan of Seabreeze Subdivision, thence north 67 degrees 53 minutes 33 seconds east along the southerly original right of way line of Main Street and along its extension thereof, 488.65 feet more or less, to the mean high water line of the Atlantic Ocean Beach and to the point of beginning. Thence continue north 67 degrees 53 minutes 33 seconds east 1000.00 feet, thence south 22 degrees 06 minutes 27 seconds east 242.30 feet, thence south 67 degrees 53 minutes 33 seconds west, 979.07 feet, more or less to the aforementioned high water line, thence north 27 degrees 02 minutes 40 seconds west along the said mean high water line approximately 243.21 feet to the point of beginning.

Section 2. *The term of this lease runs for a period of 35 years commencing on the date the City of Daytona Beach acquires ownership of the pier and associated upland parcel. Such acquisition must occur no later than 5 years after the effective date of this act. The lessee shall pay an initial annual lease fee of $5,000 to the Board of Trustees of the Internal Improvement Trust Fund. The annual lease fee shall increase by $5,000 at each successive 5-year interval during the lease term and shall be remitted to the Department of Environmental Protection as the agent for the lessor. The lease fee for any renewals of this lease, beyond the initial lease period, shall be determined pursuant to the terms of Chapter 18-21, F.A.C., in effect at the time of such renewal.*

Section 3. *The submerged lands described in this act are leased for the purpose of furthering the city's downtown redevelopment initiative, including the city's acquisition of the historic pier situated upon the leased lands and such uses may include nonwater-dependent activities. If the city is unable to acquire the historic pier or, once having purchased the pier, relinquishes ownership, this lease is void.*

Section 4. *This lease is specifically contingent upon the City of Daytona Beach acquiring ownership of the pier, and this lease shall not take effect unless and until such acquisition is secured.*

Section 5. *The lessee shall make no claim of title or interest to the lands described in section 1 by reason of the occupancy or use thereof, and all title and interest to the lands described in section 1 is vested in the lessor. The lessee may not make any claim, including any advertisement, that said lands may be purchased, sold, or resold.*

Section 6. *During the term of this lease, the lessee shall maintain a fee simple title interest in the riparian upland property and, if such interest is terminated, the lease may be terminated at the option of the lessor. Prior to sale or other transfer of the lessee's fee simple title interest in the upland property, the lessee shall inform any potential buyer or transferee of the lessee's upland property interest of the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the lessor to effect an assignment of this lease, if authorized by further legislative action. Failure to do so shall not relieve the lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees or penalty assessments incurred prior to the effective date of this act.*

Section 7. *The lessee shall investigate all claims of every nature arising out of this lease at its expense and shall indemnify, defend and save, and hold harmless the State of Florida from all claims, actions, lawsuits, and demands arising out of this lease or the operation and activities associated with this lease.*

Section 8. *The lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective*

period of this lease. The lessee shall purchase and maintain an all-risk property insurance policy to cover repair or replacement costs, subject to a deductible, that may arise out of damage occurring to the pier due to perils insured under such policy. The lessee shall provide proof of this insurance in writing and shall submit proof of insurance to the Department of Environmental Protection along with each annual lease payment.

Section 9. *The lessee is prohibited from mooring vessels or charging general admission fees for public access to any pier built or operated on the leased premises. The lessee shall not knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises. During the term of this lease and during any renewals, extensions, modifications, or assignments thereof, the lessee shall prohibit the operation or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere." The term "cruises to nowhere" means the activity of ships that leave and return to the State of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.*

Section 10. *The lessee shall maintain the leased premises in good condition and keep the structures and equipment located thereon in a good state of repair in the interests of public health, safety, and welfare. No structure shall be built or operated in any manner that would cause harm to wildlife. All garbage, debris, and sewage shall be disposed of in an appropriate upland facility. The leased premises shall be subject to inspection by the Department of Environmental Protection at any reasonable time.*

Section 11. *The lessee shall prohibit the mooring of any "liveaboard" vessel within the leased premises. "Liveaboard" is defined as a vessel moored or docked at the facility and inhabited by a person or persons for any 5 consecutive days or a total of 10 days within a 30-day period. In the event liveaboards are authorized by further legislative action, in no event shall such liveaboard status exceed 6 months within any 12-month period, nor shall any such vessel constitute a legal or primary residence.*

Section 12. *The lessee, at its cost, shall remove any structures and equipment from the leased premises at the end of the lease term. Any costs incurred by the lessor in removal of any structures and equipment constructed or maintained on the leased premises shall be paid by the lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the lessee in its riparian upland property enforceable in summary proceedings as provided by law. If the lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment shall be deemed forfeited to the lessor, and the lessor may authorize removal and may sell such forfeited structures and equipment after 10 days' written notice by certified mail addressed to the lessee at the address on record as provided to the lessor by the lessee. However, such remedy shall be in addition to all other remedies available to the lessor under applicable laws, rules, and regulations, including the right to compel removal of all structures and the right to impose administrative fines.*

Section 13. *In the event that any part of any structure authorized under this act is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, the lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this section shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement.*

Section 14. *Prior to commencement of construction or the activities authorized in this act, the lessee shall obtain all necessary federal, state, and local permits. Nothing in this act shall serve as regulatory authorization for the proposed project or shall be construed as authorization to issue permits for the proposed project if the proposed project does not meet federal, state, or local permitting standards.*

Section 15. *On or in conjunction with the use of the leased premises, the lessee shall at all times comply with all federal, state, and local laws and all administrative rules promulgated thereunder which are not inconsistent with this act.*

Section 16. *The lease shall not be amended, modified, assigned, or otherwise transferred without further legislative action.*

Section 17. *The lease authorized by this act represents the entire and only agreement between the parties. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application.*

Section 18. *This lease shall not take effect until the lessee, the City of Daytona Beach, submits acceptance of the terms of this lease in writing to the Department of Environmental Protection, as staff to the Board of Trustees of the Internal Improvement Trust Fund.*

Section 19. This act shall take effect upon becoming a law.

Rep. Wiles moved the adoption of the substitute amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 747 was taken up. On motion by Rep. Brown, CS for SB 938 was substituted for CS/HB 747. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 938—A bill to be entitled An act relating to credit insurance; amending s. 626.321, F.S.; authorizing the issuance of credit life insurance licenses to lending or financial institutions or creditors and authorizing such licensees to sell credit insurance; deleting certain license requirements for institutions with multiple offices; amending s. 627.679, F.S.; requiring certain disclosures to credit life insurance purchasers regarding the cancellation of such coverage; providing an effective date.

—was read the second time by title.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 267—A bill to be entitled An act relating to school attendance by violent offenders; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.; requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; providing an effective date.

—was read the second time by title.

Representative(s) Kravitz offered the following:

(Amendment Bar Code: 783935)

Amendment 1—On page 7, line 27,
remove from the bill: *the jurisdiction of the criminal circuit court*

and insert in lieu thereof: *a presentence investigation by the Department of Corrections*

Rep. Kravitz moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HBs 715 & 1355—A bill to be entitled An act relating to breast and cervical cancer; creating s. 381.93, F.S.; providing a short title; providing legislative intent; authorizing specified breast and cervical cancer services to be rendered by the Department of Health; providing for funding sources for such services; providing for limits on service enrollment based on income; providing for income verification; authorizing the department to provide related services funded by other means; amending s. 409.904, F.S.; providing for Medicaid eligibility for certain women in need of treatment for breast and cervical cancer; specifying "qualified entity" for such purpose; providing for eligibility, presumptive eligibility, and duration of eligibility; providing an effective date.

—was taken up, having been read the second time on April 26; now pending on motion by Rep. Lerner to adopt Amendment 2 (shown in the *Journal* on page 960, April 26).

The question recurred on the adoption of **Amendment 2**, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Consideration of **HB 1601** was temporarily postponed under Rule 11.10.

CS/CS/HB 1509—A bill to be entitled An act relating to student financial assistance; amending s. 231.621, F.S.; providing for loan repayments under the Critical Teacher Shortage Student Loan Forgiveness Program directly to the teacher under certain circumstances; amending s. 240.209, F.S.; revising language with respect to student fees; increasing the percentage of funds from the financial aid fee to be used for need-based financial aid; requiring Board of Regents to develop criteria for making awards; providing for an annual report; amending s. 240.271, F.S.; requiring that a minimum percentage of funds provided in the General Appropriations Act for fellowship and fee waivers shall be used only to support graduate students or upper-division students in certain disciplines; amending s. 240.35, F.S.; revising language with respect to student fees; increasing the percentage of funds from the financial aid fee to be used for need-based financial aid; revising provisions regarding annual report; reenacting and amending s. 240.40201, F.S.; revising general student eligibility requirements for the Florida Bright Futures Scholarship Program; reenacting and amending s. 240.40202, F.S., relating to the Florida Bright Futures Scholarship Program; revising student eligibility provisions for initial award of a Florida Bright Futures Scholarship; revising language with respect to reinstatement applications; reenacting and amending s. 240.40203, F.S.; providing requirements for renewal, reinstatement, and restoration awards under the Florida Bright Futures Scholarship Program; reenacting and amending s. 240.40204, F.S.; updating obsolete language with respect to eligible postsecondary education institutions under the Florida Bright Futures Scholarship Program; reenacting and amending s. 240.40205, F.S.; revising language with respect to the Florida Academic Scholars award; revising provisions relating to the calculation of awards; including transition language currently in statute; reenacting and amending s. 240.40206, F.S.; changing the name of the Florida Merit Scholars award to the Florida Medallion Scholars award; revising eligibility requirements with respect to the award; revising provisions relating to the calculation of awards; reenacting and amending s. 240.40207, F.S.; revising eligibility requirements with respect to the Florida Gold Seal Vocational Scholars award; revising provisions relating to the calculation of awards; providing restrictions on use of the award; providing for transfer of awards; including transition language currently in statute; creating s. 240.40211, F.S.; providing for Florida Bright Futures Scholarship Program targeted occupations; providing student awards; repealing s. 240.40208, F.S., relating to transition language for eligibility for the Florida Bright Futures Scholarship Program; repealing s. 240.40242, F.S., relating to the use of certain scholarship funds by children of deceased or disabled veterans; providing for the Florida Bright Futures Scholarship Testing Program; requiring the Articulation Coordinating Committee to identify scores, credit, and courses for which credit may be awarded for specified examinations; requiring the completion of examinations for receipt of certain awards; providing requirements with respect to the award of credit; amending s. 240.404, F.S.; revising language with respect to general requirements for student eligibility for state financial aid; reenacting, renumbering, and amending ss. 240.2985 and 240.6054, F.S.; revising and combining provisions relating to ethics in business scholarships; amending s. 240.409, F.S.; revising language with respect to the Florida Public Student Assistance Grant Program; revising eligibility criteria; amending s. 240.4095, F.S.; revising language with respect to the Florida Private Student Assistance Grant Program; revising eligibility criteria; amending s. 240.4097, F.S.; revising language with respect to the Florida Postsecondary Student Assistance Grant Program; revising eligibility criteria; creating s. 240.40975, F.S.; providing for priority with respect to Florida student assistance grant programs; amending s. 240.4128, F.S.; revising language with respect to the minority teacher education scholars program; requiring participating institutions to report on eligible students to whom scholarships are disbursed each academic term; amending s. 240.437, F.S.; revising language with respect to student financial aid planning and development; amending s. 240.465, F.S.; deleting language which prohibits certain delinquent borrowers from being furnished with their academic transcripts; reenacting and amending s. 240.551, F.S.; revising language with respect to the Florida Prepaid College Program; revising language with respect to transfer and refund provisions; providing for a rollover of benefits to a college savings program at the redemption value of the advance payment contract at a state postsecondary institution; revising provisions relating to appointment of directors of the direct-support organization; creating s. 240.6053, F.S.; providing for academic program contracts and for funding thereof; amending s. 295.02, F.S.; including postsecondary education institutions eligible to participate in the Florida Bright Futures Scholarship Program among institutions at which children of certain service members may receive an award under ch. 295, F.S.; providing effective dates.

—was read the second time by title.

Representative(s) Diaz-Balart and Wiles offered the following:

(Amendment Bar Code: 863805)

Amendment 1—On page 11, lines 6-21,
remove from the bill: all of said lines

and insert in lieu thereof:

(7) A minimum of 55 percent of the new awards from funds provided in the General Appropriations Act for fellowships and fee waivers shall be used only to support:

(a) Upper-division students or graduate students formally admitted to a degree program in one of the following disciplines:

1. Computer and information sciences.

2. Engineering.

3. Engineering technology.

4. Biological sciences/life sciences.

5. Mathematics.

6. Physical sciences.

7. Health professions and related sciences.

(b) Upper-division students or master's level students formally admitted to a state-approved teacher preparation program.

The State University System shall report annually to the Legislature the distribution of fellowships and fee waivers provided, including, but not limited to, the number of awards, the dollar value of the awards, student level, student discipline, and the number and percent of award recipients

remaining in the state following graduation who are employed in the field directly related to the discipline for which the award was received.

Rep. Diaz-Balart moved the adoption of the amendment, which was adopted.

Representative(s) Diaz-Balart, Richardson and Wiles offered the following:

(Amendment Bar Code: 490291)

Amendment 2 (with title amendment)—On page 13, line 27, through page 37, line 17,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 5. Subsections (1), (2), and (7) of section 240.40201, Florida Statutes, are amended to read:

240.40201 Florida Bright Futures Scholarship Program.—

(1) The Florida Bright Futures Scholarship Program is created to establish a lottery-funded scholarship program to reward any Florida high school graduate who merits recognition of high academic achievement and who enrolls in *a degree program, certificate program, or applied technology diploma program at* an eligible Florida public or private postsecondary education institution within *7* ~~3~~ years of graduation from high school. *No award shall be provided to a student beyond 7 years after high school graduation, regardless of the year in which a student first receives scholarship funding.*

(2) The Bright Futures Scholarship Program consists of three types of awards, the Florida Academic Scholarship, the Florida *Medallion* ~~Merit~~ Scholarship, and the Florida ~~Vocational~~ Gold Seal *Vocational* Scholarship.

(7) A student may receive only one type of award from the Florida Bright Futures Scholarship Program at a time, but may transfer from one type of award to another through the renewal application process, if the student's eligibility status changes. However, a student is not eligible to transfer from a Florida *Medallion* ~~Merit~~ Scholarship or a Florida ~~Vocational~~ Gold Seal *Vocational* Scholarship to a Florida Academic Scholarship. A student who receives an award from the program may also receive a federal family education loan or a federal direct loan, and the value of the award must be considered in the certification or calculation of the student's loan eligibility.

Section 6. Section 240.40202, Florida Statutes, is amended to read:

240.40202 Florida Bright Futures Scholarship Program; student eligibility requirements for initial awards.—

(1) To be eligible for an initial award from any of the three types of scholarships under the Florida Bright Futures Scholarship Program, a student must:

(a) Be a Florida resident as defined in s. 240.404 and rules of the State Board of Education.

(b) Earn a standard Florida high school diploma or its equivalent as described in s. 232.246 or s. 229.814 unless:

1. The student is enrolled full time in the early admission program of an eligible postsecondary education institution or completes a home education program according to s. 232.0201; or

2. The student earns a high school diploma from a non-Florida school while living with a parent or guardian who is on military or public service assignment away from Florida. *"Public service assignment," as used in this subparagraph, means the occupational assignment outside Florida of a person who is a permanent resident of Florida and who is employed by the United States Government or the State of Florida, a condition of which employment is assignment outside Florida.*

(c) Be accepted by and enroll in an eligible Florida public or independent postsecondary education institution.

(d) Be enrolled for at least 6 semester credit hours or the equivalent in quarter hours or clock hours.

(e) Not have been found guilty of, or *have pled* ~~plead~~ nolo contendere to *or guilty to*, a felony charge, unless the student has been granted clemency by the Governor and Cabinet sitting as the Executive Office of Clemency.

(f) Apply for a scholarship from the program by ~~April 1 of the last semester before~~ high school graduation. *Requests for exceptions to this deadline may be accepted by the high school or district through December 31 following high school graduation.*

(2) ~~A student is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 7 years following high school graduation.~~ A student ~~who applies for an award by April 1 and~~ who meets all ~~other~~ eligibility requirements, but who does not accept his or her award *during the first year of eligibility after high school graduation*, may *apply for reinstatement of the award for use within 7* ~~reapply during subsequent application periods up to 3~~ years after high school graduation. *Reinstatement applications must be received by the deadline established by the Department of Education.*

(3) For purposes of calculating the grade point average to be used in determining initial eligibility for a Florida Bright Futures scholarship, the department shall assign additional weights to grades earned in the following courses:

(a) Courses identified in the course code directory as Advanced Placement, pre-International Baccalaureate, or International Baccalaureate.

(b) Courses designated as academic dual enrollment courses in the statewide course numbering system.

The department may assign additional weights to courses, other than those described in paragraphs (a) and (b), that are identified by the Articulation Coordinating Committee as containing rigorous academic curriculum and performance standards. The additional weight assigned to a course pursuant to this subsection shall not exceed 0.5 per course. The weighted system shall be developed and distributed to all high schools in the state prior to January 1, 1998. The department may determine a student's eligibility status during the senior year before graduation and may inform the student of the award at that time.

(4) Each school district shall provide each high school student a complete and accurate Florida Bright Futures Scholarship Evaluation Report and Key annually. The report shall be disseminated at the beginning of each school year. The report must include all high school coursework attempted, the number of credits earned toward each type of award, and the calculation of the grade point average for each award. The report must also identify all requirements not met per award as well as the award or awards for which the student has met the academic requirements.

(5)~~(4)~~ A student who wishes to qualify for a particular award within the Florida Bright Futures Scholarship Program, but who does not meet all of the requirements for that level of award, may, nevertheless, receive the award if the principal of the student's school or the district superintendent verifies that the deficiency is caused by the fact that school district personnel provided inaccurate or incomplete information to the student. The school district must provide a means for the student to correct the deficiencies and the student must correct them, either by completing comparable work at the postsecondary institution or by completing a directed individualized study program developed and administered by the school district. If the student does not complete the requirements by December 31 immediately following high school graduation, the student is ineligible to participate in the program.

Section 7. Section 240.40203, Florida Statutes, is amended to read:

240.40203 Florida Bright Futures Scholarship Program; student eligibility requirements for renewal*, reinstatement, and restoration* awards.—

(1) To be eligible to *receive* ~~renew~~ a scholarship from any of the three types of scholarships under the Florida Bright Futures Scholarship Program *after the first year of eligibility*, a student must *meet the following requirements for renewal, reinstatement, or restoration*:

(a) *Renewal applies to students who receive an award for at least one term during the immediately preceding academic year. For renewal, a student must* complete at least 12 semester credit hours or the equivalent in the last academic year in which the student earned a scholarship *and*~~.~~

~~(b)~~ maintain the cumulative grade point average required by the scholarship program, except that:

1. If a recipient's grades fall beneath the average required to renew a Florida Academic Scholarship, but are sufficient to renew a Florida *Medallion* ~~Merit~~ Scholarship ~~or a Florida Vocational Gold Seal Scholarship~~, the Department of Education may grant a renewal *to the Florida Medallion Scholarship.* ~~from one of those other scholarship programs, if the student meets the renewal eligibility requirements; or~~

2. *If, upon renewal evaluation, a student fails to meet the renewal criteria pursuant to this section, credit hours and grades earned during the following summer term may be used to satisfy the renewal requirements.* ~~If, at any time during the eligibility period, a student's grades are insufficient to renew the scholarship, the student may restore eligibility by improving the grade point average to the required level. A student is eligible for such a reinstatement only once.~~ The Legislature encourages education institutions to assist students to calculate whether or not it is possible to raise the grade point average during the summer term. ~~If the institution determines that it is possible, the education institution may so inform the department, which may reserve the student's award if funds are available.~~ The renewal, however, must not be granted until the student achieves the required cumulative grade point average *and earns the required number of hours*. If*, during* the summer term*, a student does not earn* ~~is not~~ sufficient *hours or* ~~to~~ raise the grade point average to the required renewal level, the *student shall not be eligible for an award* ~~student's next opportunity for renewal is the fall semester of~~ the following academic year.

(b) Reinstatement applies to students who were eligible but did not receive an award during the previous academic year or years, and who may apply to reestablish use of the scholarship. For reinstatement, a student must have been eligible at the time of the student's most recent Florida Bright Futures Scholarship eligibility determination. The student must apply for reinstatement by submitting a reinstatement application by the deadline established by the Department of Education.

(c) Restoration applies to students who lost scholarship eligibility as a result of not meeting the renewal grade point average or number of hours, or both, at a prior evaluation period. A student may restore eligibility by meeting the renewal grade point average during a subsequent renewal evaluation period. A student is eligible to receive such restoration only once. The student must submit an application for restoration by the deadline established by the Department of Education.

(2) A *Florida Academic Scholar or a Florida Medallion Scholar* ~~student who is enrolled in a program that terminates in an associate degree or a baccalaureate degree~~ may receive an award for a maximum of 110 percent of the number of credit hours required to complete the *undergraduate* program.

(3) A Florida Academic Scholar or a Florida Medallion Scholar who is enrolled in a combined undergraduate/graduate program that terminates in the award of a postbaccalaureate degree, or the simultaneous award of baccalaureate and postbaccalaureate degrees, may receive an award for a maximum of 110 percent of the number of credit hours required to complete a standard undergraduate program at the institution attended, at the undergraduate rate.

(4) A *Florida Gold Seal Vocational Scholar* ~~student who is enrolled in a program that terminates in a technical certificate~~ may receive an award for *up to 90 semester* ~~a maximum of 110 percent of the~~ credit hours or *the equivalent* ~~clock hours required to complete the program up to 90 credit hours~~. A student who transfers from *the Florida Gold Seal Vocational Scholars award to the Florida Medallion Scholars award* ~~one of these program levels to another~~ becomes eligible for the higher of the two credit hour limits.

Section 8. Section 240.40204, Florida Statutes, is amended to read:

240.40204 Florida Bright Futures Scholarship Program; eligible postsecondary education institutions.—A student is eligible for an award or the renewal*, reinstatement, or restoration* of an award from the Florida Bright Futures Scholarship Program if the student meets the requirements for the program as described in this act and is enrolled in a postsecondary education institution that meets the description in any one of the following subsections:

(1) A Florida public university, community college, or technical center.

(2) An independent Florida college or university that is accredited by *an accrediting agency recognized by the United States Department of Education* ~~a member of the Commission on Recognition of Postsecondary Accreditation~~ and which has operated in the state for at least 3 years.

(3) An independent Florida postsecondary education institution that is licensed by the State Board of Independent Colleges and Universities and which:

(a) Shows evidence of sound financial condition; and

(b) Has operated in the state for at least 3 years without having its approval, accreditation, or license placed on probation.

(4) A Florida independent postsecondary education institution that offers a nursing diploma approved by the Board of Nursing.

(5) A Florida independent postsecondary education institution that is licensed by the State Board of Nonpublic Career Education and which:

(a) Has a program completion and placement rate of at least the rate required by the current Florida Statutes, the Florida Administrative Code, or the Department of Education for an institution at its level; and

(b) Shows evidence of sound financial condition; and either:

1. Is accredited at the institutional level by an accrediting agency recognized by the United States Department of Education and has operated in the state for at least 3 years during which there has been no complaint for which probable cause has been found; or

2. Has operated in Florida for 5 years during which there has been no complaint for which probable cause has been found.

Section 9. Section 240.40205, Florida Statutes, is amended to read:

240.40205 Florida Academic Scholars award.—

(1) A student is eligible for a Florida Academic Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(a) Has achieved a 3.5 weighted grade point average as calculated pursuant to s. 240.40202, or its equivalent, in high school courses that are adopted by the Board of Regents and recommended by the State Board of Community Colleges as college-preparatory academic courses; and

(b) Has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(c) Has attended a home education program according to s. 232.0201 during grades 11 and 12 or has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, and has attained at least the score identified by rules of the Department of Education on the combined verbal and

quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(d) Has been awarded an International Baccalaureate Diploma from the International Baccalaureate Office; or

(e) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist; or

(f) Has been recognized by the National Hispanic Recognition Program as a scholar recipient*; or*~~.~~

(g) Has been awarded the American International Certificate of Education Diploma from the University of Cambridge.

Effective with the 1998-1999 school year, a student must complete a program of community service work, as approved by the district school board or the administrators of a nonpublic school, which shall include a minimum of 75 hours of service work and require the student to identify a social problem that interests him or her, develop a plan for his or her personal involvement in addressing the problem, and, through papers or other presentations, evaluate and reflect upon his or her experience.

(2) A Florida Academic Scholar who is enrolled in a public postsecondary education institution is eligible for an award equal to the amount required to pay matriculation *and*~~,~~ fees, *as defined by the department,* and $600 for college-related expenses annually. A student who is enrolled in a nonpublic postsecondary education institution is eligible for an award equal to the amount that would be required to pay for the average matriculation and fees of a public postsecondary education institution at the comparable level, plus the annual $600.

(3) To be eligible for a renewal *or restoration* ~~award~~ as a Florida Academic Scholar, a student must *meet the requirements of s. 240.40203 and the* ~~maintain the equivalent of a~~ grade point average *requirement* of 3.0 on a 4.0 scale*, or the equivalent,* for all postsecondary education work attempted*. A student may have*~~, with~~ an opportunity for one *restoration* ~~reinstatement~~ as provided in this act.

(4) In each school district, the Florida Academic Scholar with the highest academic ranking shall *be designated as an Academic Top Scholar and shall* receive an additional award of $1,500 for college-related expenses. This award must be funded from the Florida Bright Futures Scholarship Program.

Section 10. Section 240.40206, Florida Statutes, is amended to read:

240.40206 Florida *Medallion* ~~Merit~~ Scholars award.—

(1) A student is eligible for a Florida *Medallion* ~~Merit~~ Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(a) Has achieved a weighted grade point average of 3.0 as calculated pursuant to s. 240.40202, or the equivalent, in high school courses that are adopted by the Board of Regents and recommended by the State Board of Community Colleges as college-preparatory academic courses; and

(b) Has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(c) Has attended a home education program according to s. 232.0201 during grades 11 and 12 or has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, and has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program*; or*~~.~~

(d) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist, but has not completed a program of community service as provided in s. 240.40205; or

(e) Has been recognized by the National Hispanic Recognition Program as a scholar, but has not completed a program of community service as provided in s. 240.40205.

(2) A Florida *Medallion* ~~Merit~~ Scholar is eligible for an award equal to the amount required to pay 75 percent of matriculation and fees, *as defined by the department,* if the student is enrolled in a public postsecondary education institution. A student who is enrolled in a nonpublic postsecondary education institution is eligible for an award equal to the amount that would be required to pay 75 percent of the *average* matriculation and fees of a public postsecondary education institution at the comparable level.

(3) To be eligible for a renewal *or restoration* ~~award~~ as a Florida *Medallion* ~~Merit~~ Scholar, a student must *meet the requirements of s. 240.40203 and the* ~~maintain the equivalent of a~~ grade point average *requirement* of 2.75 on a 4.0 scale*, or the equivalent,* for all postsecondary education work attempted*. A student may have*~~, with~~ an opportunity for ~~reinstatement~~ one *restoration* ~~time~~ as provided in this act.

Section 11. Section 240.40207, Florida Statutes, is amended to read:

240.40207 Florida Gold Seal Vocational Scholars award.—The Florida Gold Seal Vocational Scholars award is created within the Florida Bright Futures Scholarship Program to recognize and reward academic achievement and vocational preparation by high school students who wish to continue their education.

(1) A student is eligible for a Florida Gold Seal Vocational Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(a) *Successfully* completes ~~the secondary school portion of a sequential program of studies that requires~~ at least three secondary school vocational credits *in one program of study, as identified by the Department of Education,* taken over at least 2 academic years, and is continued in a planned, related postsecondary education program. If the student's school does not offer such a two-plus-two or tech-prep program, the student must complete a job-preparatory career education program selected by the Workforce Estimating Conference or Workforce Florida, Inc., for its ability to provide high-wage employment in an occupation with high potential for employment opportunities. *By July 1, 2002, the Articulation Coordinating Committee shall identify the programs at each 4-year institution that qualify as planned, related postsecondary education programs.* On-the-job training may not be substituted for any of the three required vocational credits.

(b) Demonstrates readiness for postsecondary education by earning a passing score on the Florida College Entry Level Placement Test or its equivalent as identified by the Department of Education.

(c) Earns a minimum cumulative weighted grade point average of 3.0, as calculated pursuant to s. 240.40202, on all subjects required for a standard high school diploma, excluding elective courses.

(d) Earns a minimum unweighted grade point average of 3.5 on a 4.0 scale for secondary vocational courses comprising the vocational program.

~~(e) Completes the requirements of a vocational-ready diploma program, as defined by rules of the State Board of Education.~~

(2) A Florida Gold Seal Vocational Scholar is eligible for an award equal to the amount required to pay 75 percent of matriculation and fees, *as defined by the department,* if the student is enrolled in a public postsecondary education institution. A student who is enrolled in a nonpublic postsecondary education institution is eligible for an award equal to the amount that would be required to pay 75 percent of the

matriculation and mandatory fees of a public postsecondary education institution at the comparable level.

(3) To be eligible for a renewal *or restoration* ~~award~~ as a Florida Gold Seal Vocational Scholar, a student must *meet the requirements of s. 240.40203 and the* ~~maintain the equivalent of a~~ grade point average *requirement* of 2.75 on a 4.0 scale*, or the equivalent,* for all postsecondary education work attempted*. A student may have*~~, with~~ an opportunity for ~~reinstatement~~ one *restoration* ~~time~~ as provided in this act.

(4) Beginning with the fall term of 2003, a Florida Gold Seal Vocational Scholars award may only be used by students who enroll in programs of 2 years or less at a vocational-technical institution, a community college, or a junior college unless the award is a renewal of an initial award issued prior to the fall term of 2003 or as otherwise provided for in this section. A student may use an award for a program at a 4-year institution if the program has been identified by the Articulation Coordinating Committee pursuant to subsection (1), the student meets the minimum State University System admissions requirements, and the institution certifies annually the student's continued enrollment in such program.

(5) Upon successful completion of an associate degree program or 60 hours, an award recipient who meets the renewal criteria in subsection (3) and enrolls in a baccalaureate degree program at an eligible postsecondary education institution is eligible to transfer to the Florida Medallion Scholars award component of the Florida Bright Futures Scholarship Program. Other than initial eligibility criteria, all other requirements of the Florida Medallion Scholars award shall apply to a student who transfers to that program pursuant to the provisions of this subsection. The number of hours for which a student may receive a Florida Medallion Scholars award shall be calculated by subtracting from the student's total eligibility pursuant to s. 240.40206(2) the number of hours for which the student has already received funding under the Florida Bright Futures Scholarship Program.

(6) If a Florida Gold Seal Vocational Scholar received an initial award prior to the fall term of 2003, and has a cumulative grade point average of 2.75 in all postsecondary education work attempted, the Department of Education may transfer the student to the Florida Medallion Scholars award component of the Florida Bright Futures Scholarship Program at any renewal period. Other than initial eligibility criteria, all other requirements of the Florida Medallion Scholars award shall apply to a student who transfers to that program pursuant to the provisions of this subsection. The number of hours for which a student may receive a Florida Medallion Scholars award shall be calculated by subtracting from the student's total eligibility pursuant to s. 240.40206(2) the number of hours for which the student has already received funding under the Florida Bright Futures Scholarship Program.

~~(4) A student may earn a Florida Gold Seal Vocational Scholarship for 110 percent of the number of credit hours required to complete the program, up to 90 credit hours or the equivalent. A Florida Gold Seal Scholar who has a cumulative grade point average of 2.75 in all postsecondary education work attempted may apply for a Florida Merit Scholars award at any renewal period. All other provisions of that program apply, and the credit-hour limitation must be calculated by subtracting from the student's total eligibility the number of credit hours the student attempted while earning the Gold Seal Vocational Scholarship.~~

Section 12. Section 240.40211, Florida Statutes, is created to read:

240.40211 Florida Bright Futures Scholarship Program targeted occupations.—

(1)(a) Using information provided by the Workforce Estimating Conference, the Department of Education, in consultation with the Legislature, shall identify targeted occupations that are high demand, high wage, and high skill for which the state's postsecondary education institutions provide the necessary education and training.

(b) The Department of Education shall identify the specific associate and baccalaureate degree programs, certificate programs, and applied technology diploma programs that are offered by postsecondary education institutions and prepare students for employment in the targeted occupations. The department shall provide such information to the postsecondary education institutions that participate in the Florida Bright Futures Scholarship Program.

(c) Identification of targeted occupations and degree, certificate, and diploma programs shall be completed, and updated annually thereafter, for use in providing awards pursuant to this section beginning with the 2002-2003 fall academic term.

(2) A Florida Bright Futures Scholarship award recipient who is enrolled at a vocational-technical institution, a community college, or a junior college in a program identified pursuant to paragraph (1)(b) is eligible to receive an additional $250 per semester, or the equivalent, for postsecondary education-related expenses.

(3) A Florida Bright Futures Scholarship award recipient who is enrolled at a baccalaureate-degree-granting institution in the upper division of a program identified pursuant to paragraph (1)(b) is eligible to receive an additional $500 per semester, or the equivalent, for postsecondary education-related expenses.

(4) Institutions that participate in the Florida Bright Futures Scholarship Program and offer a program identified pursuant to paragraph (1)(b) shall advise their students of the availability of the awards provided pursuant to this section.

(5) The department shall establish procedures for institutions to certify to the department the initial and continued eligibility status of any student who is eligible to receive an award pursuant to this section. A student's continued enrollment in an eligible program shall be certified by the institution each academic year.

(6) The department shall evaluate this component of the Florida Bright Futures Scholarship Program from its inception to determine, of the total number of students who receive awards pursuant to this section, the number who become employed in the occupation for which the award was provided. This evaluation shall be reported on an annual basis to the Governor and the Legislature.

(7) This award component of the Florida Bright Futures Scholarship Program shall be implemented to the extent funded in the General Appropriations Act. When funds are not sufficient to make full awards, the department shall reduce the amount of each recipient's award pro rata.

Section 13. *Section 240.40242, Florida Statutes, is repealed.*

Section 14. *Florida Bright Futures Scholarship Testing Program.—*

(1) By January 1, 2002, the Articulation Coordinating Committee shall identify the minimum scores, maximum credit, and course or courses for which credit is to be awarded for each College Level Examination Program (CLEP) general examination, CLEP subject examination, College Board Advanced Placement Program examination, and International Baccalaureate examination. In addition, the Articulation Coordinating Committee shall identify such courses in the general education core curriculum of each state university and community college.

(2) Each community college and state university must award credit for specific courses for which competency has been demonstrated by successful passage of one of these examinations unless the award of credit duplicates credit already awarded. Community colleges and universities may not exempt students from courses without the award of credit if competencies have been so demonstrated.

(3) Beginning with initial award recipients for the 2002-2003 academic year and continuing thereafter, students eligible for a Florida Academic Scholars award or a Florida Medallion Scholars award who are admitted to and enroll in a community college or state university shall, prior to registering for courses that may be earned through a CLEP examination and no later than registration for their second term, complete at least five examinations from those specified in subsection (1) in the following areas: English; humanities; mathematics; natural

sciences; and social sciences. Successful completion of dual enrollment courses, Advanced Placement examinations, and International Baccalaureate examinations taken prior to high school graduation satisfy this requirement. The Articulation Coordinating Committee shall identify the examinations that satisfy each component of this requirement.

(4) Initial award recipients for the 2001-2002 academic year who are eligible for a Florida Academic Scholars award or a Florida Medallion Scholars award and who are admitted to and enroll in a community college or state university may choose, prior to registering for courses that may be earned through CLEP examination, to complete up to five CLEP examinations, one in each of the following areas: English; humanities; mathematics; natural sciences; and social sciences.

(5) Each community college and state university shall pay for the CLEP examinations required pursuant to this section from the funds appropriated from the Educational Enhancement Trust Fund. Institutions shall pay no more than $46 per examination for the program, which shall include access to a student guide to prepare for the test. The Department of Education shall negotiate with the College Board for a reduced rate for the examinations. The institution shall not charge the student for preparation and administration of the test, access to a student guide to prepare for the test, or recordkeeping and reporting of each student's test results to the department.

(6) The credit awarded pursuant to this section shall apply toward the 120 hours of college credit required pursuant to s. 240.115(6).

(7) The maximum number of credit hours for which a student is eligible to receive a Florida Bright Futures Scholarship Program award shall be reduced by the number of hours for which credit is awarded pursuant to this section.

(8) Beginning with the 2002-2003 award recipients, the Department of Education shall track and annually report on the effectiveness of the program, and include information on the number of students participating in the program; the CLEP examinations taken and the passage rate of Florida Academic Scholars and Florida Medallion Scholars award recipients; the use of Advanced Placement and International Baccalaureate examinations and dual enrollment courses to satisfy the requirements of the program; and the course credit provided.

And the title is amended as follows:

On page 1, line 24 through page 3, line 14,
remove from the title of the bill: all of said lines

and insert in lieu thereof: annual report; amending s. 240.40201, F.S.; revising general student eligibility requirements for the Florida Bright Futures Scholarship Program; amending s. 240.40202, F.S., relating to the Florida Bright Futures Scholarship Program; revising student eligibility provisions for initial award of a Florida Bright Futures Scholarship; revising language with respect to reinstatement applications; requiring school districts to provide each high school student a Florida Bright Futures Scholarship Evaluation Report and Key; amending s. 240.40203, F.S.; providing requirements for renewal, reinstatement, and restoration awards under the Florida Bright Futures Scholarship Program; revising provisions relating to award limits; amending s. 240.40204, F.S.; updating obsolete language with respect to eligible postsecondary education institutions under the Florida Bright Futures Scholarship Program; amending s. 240.40205, F.S.; revising eligibility requirements with respect to the Florida Academic Scholars award; amending s. 240.40206, F.S.; changing the name of the Florida Merit Scholars award to the Florida Medallion Scholars award; revising eligibility requirements with respect to the award; amending s. 240.40207, F.S.; revising eligibility requirements with respect to the Florida Gold Seal Vocational Scholars award; providing restrictions on use of the award; providing for transfer of awards; creating s. 240.40211, F.S.; providing for Florida Bright Futures Scholarship Program targeted occupations; providing student awards; repealing s. 240.40242, F.S., relating to the use of certain scholarship funds by children of deceased or disabled veterans; providing for the Florida Bright Futures Scholarship Testing Program; requiring the Articulation Coordinating Committee to identify scores, credit, and courses for which credit may be awarded for specified examinations; requiring the completion of examinations for receipt of certain awards; providing requirements with respect to the award of credit; requiring annual reporting of the effectiveness of the program; amending s.

Rep. Diaz-Balart moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1635—A bill to be entitled An act relating to environmental control; amending s. 369.25, F.S.; clarifying enforcement powers of the Department of Environmental Protection with respect to pt. I of ch. 369, F.S., relating to aquatic plant control; amending s. 373.129, F.S.; revising a reference with respect to enforcement of pt. IV of ch. 373, F.S., relating to management and storage of surface waters; creating s. 373.437, F.S.; authorizing the governing board of a water management district to assess administrative penalties for purposes of pt. IV of ch. 373, F.S., relating to management and storage of surface waters; amending s. 377.37, F.S.; providing that the Department of Environmental Protection shall assess administrative penalties for energy resource violations in accordance with provisions for administrative remedies in s. 403.121, F.S.; providing for deposit of such penalties in the Minerals Trust Fund; specifying uses of funds; amending s. 378.211, F.S.; authorizing the department to institute an administrative action with respect to a violation of pt. III of ch. 378, F.S., relating to phosphate land reclamation; removing penalty limitations; amending s. 403.121, F.S.; revising provisions relating to judicial remedies available to the department under the Florida Air and Water Pollution Control Act; providing criteria for cases in which the department shall proceed with administrative action; providing exceptions; providing specified limits on administrative penalties and notice of violation seeking administrative penalties; revising provisions relating to notice and service of notice of violation; providing procedure and requirements with respect to administrative hearings; providing that a respondent may request mediation if the department imposes an administrative penalty; providing mediation procedure and requirements; providing for award of costs and attorney's fees in administrative proceedings; providing construction with respect to injunctive relief, damages, and settlements; authorizing the department to pursue penalties in excess of $10,000 for specified violations; providing an administrative penalty schedule for drinking water contamination violations, domestic or industrial wastewater violations, dredge and fill stormwater violations, first-time mangrove trimming or altering violations, solid waste violations, air emission violations, and storage tank system and petroleum discharge or release violations; providing exceptions to the schedule; providing a schedule of additional administrative penalties; providing for consideration of a violator's history of noncompliance with respect to specified violations; providing penalty limits and reductions; providing for deposit and use of funds derived from administrative penalties; providing construction; amending s. 403.131, F.S.; providing that judicial and administrative remedies to recover damages and penalties in ss. 403.131 and 403.121, F.S., are alternative and mutually exclusive; amending s. 403.727, F.S.; removing provisions relating to assessment by the department of noncompliance fees for Class II violations of pt. IV of ch. 403, relating to resource recovery and management, and the deposit of such fees; amending s. 403.860, F.S.; providing for assessment of administrative penalties by the department or a county health department for violations of pt. V of ch. 403, F.S., relating to environmental regulation, in accordance with s. 403.121, F.S.; eliminating provisions relating to noncompliance fees and administrative penalties to conform; requiring the department to submit a report; reenacting ss. 373.129(7), 373.303(1)(j), 376.322(4), 403.4135(2), 403.7045(3)(d), 403.708(12), 403.726(2) and (3), 403.727(2), 403.758(1), 403.811, and 403.9419, F.S., to incorporate the amendments to ss. 403.121 and 403.131, F.S., in references thereto; reenacting s. 627.756(2), F.S., to incorporate the amendment to s. 403.727, F.S., in a reference thereto; reenacting ss. 381.0063, 403.854(7), and 403.862(7), F.S., to incorporate the

amendment to s. 403.860, F.S., in references thereto; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 374085)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (k) is added to subsection (3) of section 369.25, Florida Statutes, to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(3) The department has the following powers:

(k) To enforce this chapter in the same manner and to the same extent as provided in ss. 403.121, 403.131, 403.141, and 403.161.

Section 2. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) *Except as provided in paragraph (2)(c),* it shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action.

(2) Administrative remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. *Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $10,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). The department shall not impose administrative penalties in excess of $10,000 in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.*

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. *If the department is unable to effect service by certified mail, the notice of violation may be hand-delivered or personally served in accordance with chapter 48.* The notice shall specify the provision of the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action*, penalty assessment, or damages* may be included with the notice. *When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived.* However, no order shall become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof*, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages and the judicial imposition of civil penalties*.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. No administrative penalties should be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent shall not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the Initial Order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at $150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide a panel of possible mediators from the area in which the hearing on the petition would be heard to the respondent. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final-hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent shall be entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation initiated by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). No award of attorney's fees as provided by this subsection shall exceed $15,000.

(g)~~(d)~~ Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. *Nothing in this subsection shall limit the department's authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $10,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multi-day violations alleged to exceed a total of $10,000. The department also retains the authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $10,000 in penalties may be settled in the court action for less than $10,000.*

(h) Chapter 120, Florida Statutes, shall apply to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $2,000 for a Maximum Containment Level (MCL) violation; plus $1,000 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,000 if the violation occurs at a community water system; and plus $1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance - $3,000.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $1,000. For a domestic or industrial wastewater violation not involving a surfacewater or groundwater quality violation, the department shall assess a penalty of $2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surfacewater or groundwater quality violation, the department shall assess a penalty of $5,000.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,000 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system; plus $2,000 if the dredging or filling occurs in an Aquatic Preserve, Outstanding Florida Water, conservation easement, or Class I or Class II surfacewater; plus $1,000 if the area dredged or filled is greater than one-quarter acre but less than one-half acre, and plus $1,000 if the area dredged or filled is greater than one-half acre but less than one acre. The administrative penalty schedule shall not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $3,000 for the failure to complete required mitigation, failure to record a required conservation easement , or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than five acres, the department shall assess a penalty of $2,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328.

(e) For solid waste violations, the department shall assess a penalty of $2,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards; plus $1,000 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well; plus $1,000 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter that is not wetted, bagged, and covered, used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $3,000 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; failure to provide access control for three consecutive inspections. The department shall assess a penalty of $2,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,000 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus $1,000 if the emission results in an air quality violation, plus $3,000 if the emission was from a major source and the source was major for the pollutant in violation; plus $1,000 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $5,000 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $3,000 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $2,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,000 for failure to properly operate, maintain, or close a storage tank system.

~~(3)(a) In addition to any judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for failure of any owner or operator of a domestic wastewater treatment facility to comply with a permit condition that requires the submittal of monthly operating reports or the reporting of the characteristics of the waste stream or the effects of the facility on surface or ground water. For the first and second violations of the reporting requirements, the fee shall not be assessed until the department has given the owner or operator at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the owner or operator written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be imposed as a result of the owner's or operator's failure to comply with the notice. For subsequent violations, the department does not have to provide 30 days' written notice of the violations prior to assessing a noncompliance fee, except as follows:~~

~~1. If any additional reporting violations occur prior to the expiration of either of the 30-day notices issued by the department, the department must provide the owner or operator with 30 days' written notice to correct these violations as well.~~

~~2. Upon the renewal of the permit, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee during the new permit period.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the owner or operator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department may refuse to issue, modify, transfer, or renew a permit to the facility until the fee has been paid.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to the initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the owner or operator to comply with the reporting requirement, the lack of or degree of willfulness or negligence on the part of the owner or operator, the economic benefits associated with the owner's or operator's failure to comply, the owner's or operator's previous history of reporting violations, and the owner's or operator's ability to pay the noncompliance fee. No noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month. No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the owner or operator written notice of the violation.~~

~~(d) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(e) Fees collected pursuant to this subsection shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of the fees assessed pursuant to this subsection.~~

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $5,000.

(b) For failure to install, maintain, or use a required pollution control system or device, $4,000.

(c) For failure to obtain a required permit prior to construction or modification, $3,000.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; failure to construct in compliance with a permit, $2,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, $1,000.

(f) For failure to prepare, submit, maintain, or use required reports or other required documentation, $500.

(5) For failure to comply with any other department regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $500.

(6) For each additional day during which a violation occurs, the administrative penalties in subsection (3), subsection (4), and subsection (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, final order or judgment after the effective date of this law involving the imposition of $2,000 or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25 percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50 percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100 percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, shall not exceed $10,000.

(9) The administrative penalties assessed for any particular violation shall not exceed $5,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation exceeds $5,000, or there are multi-day violations. The total administrative penalties shall not exceed $10,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsection (3), subsection (4), and subsection (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited in the Ecosystem Management and Restoration Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Nothing in subsection (3), subsection (4), subsection (5), subsection (6), or subsection (7) shall be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 3. Section 403.131, Florida Statutes, is amended to read:

403.131 Injunctive relief, ~~cumulative~~ remedies.—

(1) The department may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this chapter or any rule, regulation, permit certification, or order; to enjoin any violation specified in s. 403.161(1); and to seek injunctive relief to prevent irreparable injury to the air, waters, and property,

including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation.

(2) All the judicial and administrative remedies *to recover damages and penalties* in this section and s. 403.121 ~~are independent and cumulative except that the judicial and administrative remedies to recover damages~~ are alternative and mutually exclusive.

Section 4. Subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

(b) Any person who knowingly or by exhibiting reckless indifference or gross careless disregard for human health:

1. Transports or causes to be transported any hazardous waste, as defined in s. 403.703, to a facility which does not have a permit when such a permit is required under s. 403.707 or s. 403.722;

2. Disposes of, treats, or stores hazardous waste:

a. At any place but a hazardous waste facility which has a current and valid permit pursuant to s. 403.722;

b. In knowing violation of any material condition or requirement of such permit if such violation has a substantial likelihood of endangering human health, animal or plant life, or property; or

c. In knowing violation of any material condition or requirement of any applicable rule or standard if such violation has a substantial likelihood of endangering human health, animal or plant life, or property;

3. Makes any false statement or representation or knowingly omits material information in any hazardous waste application, label, manifest, record, report, permit, or other document required by this act;

4. Generates, stores, treats, transports, disposes of, or otherwise handles any hazardous waste and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with this act; or

5. Transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by rules adopted by the department to be accompanied by a manifest

is, upon conviction, guilty of a felony of the third degree, punishable for the first such conviction by a fine of not more than $50,000 for each day of violation or imprisonment not to exceed 5 years, or both, and for any subsequent conviction by a fine of not more than $100,000 per day of violation or imprisonment of not more than 10 years, or both.

~~(c)1. As used in this paragraph, "Class II violation" means a violation of this part, or the rules promulgated pursuant to this part, which pertains to small quantity generators as defined by applicable department rules and which does not result in a discharge or serious threat of a discharge of hazardous waste to the environment, or does not involve the failure to ensure that groundwater will be protected or that hazardous waste will be destined for and delivered to permitted facilities. Class II violations shall include, but need not be limited to, the failure to submit manifest exception reports in a timely manner, failure to provide a generator's United States Environmental Protection Agency identification number on the manifest, failure to maintain complete personnel training records, and failure to meet inspection schedule requirements for tanks and containers that hold hazardous waste.~~

~~2. In addition to any other judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for any Class II violation by a small quantity generator. For the first and second violations, the fee shall not be assessed until the generator has failed to comply after notice of noncompliance and has been given a reasonable time to comply. If the owner or operator fails after three or more notifications to comply with the requirement to correct the Class II violation, the department may assess the fee without waiting for compliance.~~

~~3. At the time of assessment of a noncompliance fee, the department shall give the small quantity generator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department shall refuse to issue, modify, transfer, or renew a permit or issue an identification number to the facility until the fee has been paid.~~

~~4. Before assessing any noncompliance fee, the department shall adopt rules to implement the provisions of this paragraph, which shall include a description of activities that constitute Class II violations and the setting of appropriate amounts for the noncompliance fees, based upon the type of violation, but not to exceed $250. Total noncompliance fees assessed shall not exceed $1,000 per assessment for all violations attributable to a specific facility during any one month.~~

~~5. The department's assessment of a noncompliance fee shall be in lieu of any civil action that may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this paragraph.~~

~~6. Noncompliance fees collected pursuant to this paragraph shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of fees assessed pursuant to this paragraph.~~

Section 5. Subsections (5) and (6) of section 403.860, Florida Statutes, are amended to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county health department that has received approval by the department pursuant to s. 403.862(1)(c) *shall* ~~may~~ assess *administrative penalties for violations of this section in accordance with s. 403.121* ~~a noncompliance fee for failure of any supplier of water of a public water system to comply with department requirements for the reporting, in the manner and time provided by department rule, of test results for microbiological, inorganic, or organic contaminants; or turbidity, radionucleides, or secondary standards~~.

~~(a) For the first and second violations of the microbiological reporting requirements, and for the first violation of other reporting requirements, the fee shall not be assessed until the department has given the supplier at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the supplier written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be~~

~~imposed as a result of the supplier's failure to comply with the notice. For subsequent violations of the microbiological reporting requirements, the department does not have to provide 30-day written notice of the violations prior to assessing a noncompliance fee, provided, however, that if any additional reporting violations occur prior to the expiration of either 30-day notice issued by the department, the department must provide the supplier with a 30-day written notice to correct those violations as well. Upon expiration of 36 months, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the supplier written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the supplier to comply with the reporting requirements, the lack of or degree of willfulness or negligence on the part of the supplier, the economic benefits associated with the supplier's failure to comply with the reporting violation, the supplier's previous history of reporting violations, and the supplier's ability to pay the noncompliance fee.~~

~~(d) For microbiological reporting requirements, no noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month.~~

~~(e) For violations of reporting requirements other than microbiological, the fee shall be no greater than $50 per day for each day of violation, and the total amount assessed shall not exceed $2,000.~~

~~(f) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(g) No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the supplier written notice of the violation.~~

~~(6) The department is authorized to assess administrative penalties for failure to comply with the requirements of the Florida Safe Drinking Water Act.~~

~~(a) Prior to the assessment of an administrative penalty, the department shall provide the public water system a reasonable amount of time to complete the corrective action necessary to bring the system back into compliance.~~

~~(b)1. At the time of assessment of the administrative penalty, the department shall give the public water system notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective, unless an administrative hearing is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~2. The department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures for implementing the penalties and shall identify assessment amounts. The rules shall authorize the application of adjustment factors for the purpose of increasing or decreasing the total amount assessed subsequent to initial assessment. Such factors may include the lack or degree of good faith to comply with the requirements, the lack or degree of willfulness or negligence on the part of the owner, the compliance history of the public water system, the economic benefit derived by the failure to comply with the requirements, and the ability to pay.~~

~~(c) The amount of the penalties assessed shall be as follows:~~

~~1. In the case of a public water system serving a population of more than 10,000, the penalty shall be not less than $1,000 per day per violation.~~

~~2. In the case of any other public water system, the penalty shall be adequate to ensure compliance.~~

~~However, the total amount of the penalty assessed on any public water system may not exceed $10,000 per violation.~~

Section 6. *Two years after the effective date of this act, the Department of Environmental Protection shall submit a report to the Legislature describing the number of notices of violation issued by the department seeking the imposition of administrative penalties, the amount of administrative penalties obtained by the department, and the efficiencies gained from the provisions of this act.*

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 1 through page 4 line 2
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to environmental control; amending s. 369.25, F.S.; granting the Department of Environmental Protection additional enforcement powers for aquatic plant control; amending ss. 403.121, 403.131, 403.727, 403.860, F.S.; revising judicial and administrative remedies for violations of environmental laws; providing for administrative penalties; requiring the Department of Environmental Protection to report to the Legislature; providing an effective date.

Rep. Goodlette moved the adoption of the amendment.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 471999)

Substitute Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (k) is added to subsection (3) of section 369.25, Florida Statutes, to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(3) The department has the following powers:

(k) To enforce this chapter in the same manner and to the same extent as provided in ss. 403.121, 403.131, 403.141, and 403.161.

Section 2. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) *Except as provided in paragraph (2)(c),* it shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action.

(2) Administrative remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. *Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $10,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). The department shall not impose administrative penalties in excess of $10,000 in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.*

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. *If the department is unable to effect service by certified mail, the notice of violation may be hand-delivered or personally served in accordance with chapter 48.* The notice shall specify the provision of the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action*, penalty assessment, or damages* may be included with the notice. *When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived.* However, no order shall become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof, *unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties*.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. No administrative penalties should be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent shall not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the Initial Order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at $150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final-hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent shall be entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). No award of attorney's fees as provided by this subsection shall exceed $15,000.

(g)~~(d)~~ Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. *Nothing in this subsection shall limit the department's authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $10,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multi-day violations alleged to exceed a total of $10,000. The department also retains the authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $10,000 in penalties may be settled in the court action for less than $10,000.*

(h) Chapter 120 shall apply to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $2,000 for a Maximum Containment Level (MCL) violation; plus $1,000 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,000 if the violation occurs at a community water system; and plus $1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to

obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of $3,000.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $1,000. For a domestic or industrial wastewater violation not involving a surfacewater or groundwater quality violation, the department shall assess a penalty of $2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surfacewater or groundwater quality violation, the department shall assess a penalty of $5,000.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,000 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus $2,000 if the dredging or filling occurs in an Aquatic Preserve, Outstanding Florida Water, conservation easement, or Class I or Class II surfacewater, plus $1,000 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus $1,000 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule shall not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $3,000 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than five acres, the department shall assess a penalty of $2,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328.

(e) For solid waste violations, the department shall assess a penalty of $2,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus $1,000 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus $1,000 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $3,000 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; failure to provide access control for three consecutive inspections. The department shall assess a penalty of $2,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,000 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus $1,000 if the emission results in an air quality violation, plus $3,000 if the emission was from a major source and the source was major for the pollutant in violation; plus $1,000 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $5,000 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $3,000 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $2,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,000 for failure to properly operate, maintain, or close a storage tank system.

~~(3)(a) In addition to any judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for failure of any owner or operator of a domestic wastewater treatment facility to comply with a permit condition that requires the submittal of monthly operating reports or the reporting of the characteristics of the waste stream or the effects of the facility on surface or ground water. For the first and second violations of the reporting requirements, the fee shall not be assessed until the department has given the owner or operator at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the owner or operator written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be imposed as a result of the owner's or operator's failure to comply with the notice. For subsequent violations, the department does not have to provide 30 days' written notice of the violations prior to assessing a noncompliance fee, except as follows:~~

~~1. If any additional reporting violations occur prior to the expiration of either of the 30-day notices issued by the department, the department must provide the owner or operator with 30 days' written notice to correct these violations as well.~~

~~2. Upon the renewal of the permit, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee during the new permit period.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the owner or operator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department may refuse to issue, modify, transfer, or renew a permit to the facility until the fee has been paid.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to the initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the owner or operator to comply with the reporting requirement, the lack of or degree of willfulness or negligence on the part of the owner or operator, the economic benefits associated with the owner's or operator's failure to comply, the owner's or operator's previous history of reporting violations, and the owner's or operator's ability to pay the noncompliance fee. No noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month. No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the owner or operator written notice of the violation.~~

~~(d) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(e) Fees collected pursuant to this subsection shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of the fees assessed pursuant to this subsection.~~

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $5,000.

(b) For failure to install, maintain, or use a required pollution control system or device, $4,000.

(c) For failure to obtain a required permit before construction or modification, $3,000.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, $2,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, $1,000.

(f) For failure to prepare, submit, maintain, or use required reports or other required documentation, $500.

(5) For failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $500.

(6) For each additional day during which a violation occurs, the administrative penalties in subsection (3), subsection (4), and subsection (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of $2,000 or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25 percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50 percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100 percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, shall not exceed $10,000.

(9) The administrative penalties assessed for any particular violation as described in subsection (8) shall not exceed $5,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation exceeds $5,000, or there are multi-day violations. The total administrative penalties shall not exceed $10,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsection (3), subsection (4), and subsection (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited in the Ecosystem Management and Restoration Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsection (3), subsection (4), subsection (5), subsection (6), or subsection (7) shall not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 3. Section 403.131, Florida Statutes, is amended to read:

403.131 Injunctive relief, ~~cumulative~~ remedies.—

(1) The department may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this chapter or any rule, regulation, permit certification, or order; to enjoin any violation specified in s. 403.161(1); and to seek injunctive relief to prevent irreparable injury to the air, waters, and property, including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation.

(2) All the judicial and administrative remedies *to recover damages and penalties* in this section and s. 403.121 ~~are independent and cumulative except that the judicial and administrative remedies to recover damages~~ are alternative and mutually exclusive.

Section 4. Subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

(b) Any person who knowingly or by exhibiting reckless indifference or gross careless disregard for human health:

1. Transports or causes to be transported any hazardous waste, as defined in s. 403.703, to a facility which does not have a permit when such a permit is required under s. 403.707 or s. 403.722;

2. Disposes of, treats, or stores hazardous waste:

a. At any place but a hazardous waste facility which has a current and valid permit pursuant to s. 403.722;

b. In knowing violation of any material condition or requirement of such permit if such violation has a substantial likelihood of endangering human health, animal or plant life, or property; or

c. In knowing violation of any material condition or requirement of any applicable rule or standard if such violation has a substantial likelihood of endangering human health, animal or plant life, or property;

3. Makes any false statement or representation or knowingly omits material information in any hazardous waste application, label, manifest, record, report, permit, or other document required by this act;

4. Generates, stores, treats, transports, disposes of, or otherwise handles any hazardous waste and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with this act; or

5. Transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by rules adopted by the department to be accompanied by a manifest

is, upon conviction, guilty of a felony of the third degree, punishable for the first such conviction by a fine of not more than $50,000 for each day of violation or imprisonment not to exceed 5 years, or both, and for any subsequent conviction by a fine of not more than $100,000 per day of violation or imprisonment of not more than 10 years, or both.

~~(c)1. As used in this paragraph, "Class II violation" means a violation of this part, or the rules promulgated pursuant to this part, which pertains to small quantity generators as defined by applicable department rules and which does not result in a discharge or serious threat of a discharge of hazardous waste to the environment, or does not involve the failure to ensure that groundwater will be protected or that hazardous waste will be destined for and delivered to permitted facilities. Class II violations shall include, but need not be limited to, the failure to submit manifest exception reports in a timely manner, failure to provide a generator's United States Environmental Protection Agency identification number on the manifest, failure to maintain complete personnel training records, and failure to meet inspection schedule requirements for tanks and containers that hold hazardous waste.~~

~~2. In addition to any other judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for any Class II violation by a small quantity generator. For the first and second violations, the fee shall not be assessed until the generator has failed to comply after notice of noncompliance and has been given a reasonable time to comply. If the owner or operator fails after three or more notifications to comply with the requirement to correct the Class II violation, the department may assess the fee without waiting for compliance.~~

~~3. At the time of assessment of a noncompliance fee, the department shall give the small quantity generator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department shall refuse to issue, modify, transfer, or renew a permit or issue an identification number to the facility until the fee has been paid.~~

~~4. Before assessing any noncompliance fee, the department shall adopt rules to implement the provisions of this paragraph, which shall include a description of activities that constitute Class II violations and the setting of appropriate amounts for the noncompliance fees, based upon the type of violation, but not to exceed $250. Total noncompliance fees assessed shall not exceed $1,000 per assessment for all violations attributable to a specific facility during any one month.~~

~~5. The department's assessment of a noncompliance fee shall be in lieu of any civil action that may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this paragraph.~~

~~6. Noncompliance fees collected pursuant to this paragraph shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of fees assessed pursuant to this paragraph.~~

Section 5. Subsections (5) and (6) of section 403.860, Florida Statutes, are amended to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county health department that has received approval by the department pursuant to s. 403.862(1)(c) *shall* ~~may~~ assess *administrative penalties for violations of this section in accordance with s. 403.121* ~~a noncompliance fee for failure of any supplier of water of a public water system to comply with department requirements for the reporting, in the manner and time provided by department rule, of test results for microbiological, inorganic, or organic contaminants; or turbidity, radionucleides, or secondary standards~~.

~~(a) For the first and second violations of the microbiological reporting requirements, and for the first violation of other reporting requirements, the fee shall not be assessed until the department has given the supplier at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the supplier written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be imposed as a result of the supplier's failure to comply with the notice. For subsequent violations of the microbiological reporting requirements, the department does not have to provide 30-day written notice of the violations prior to assessing a noncompliance fee, provided, however, that if any additional reporting violations occur prior to the expiration of either 30-day notice issued by the department, the department must provide the supplier with a 30-day written notice to correct those violations as well. Upon expiration of 36 months, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the supplier written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the supplier to comply with the reporting requirements, the lack of or degree of willfulness or negligence on the part of the supplier, the economic benefits associated with the supplier's failure to comply with the~~

~~reporting violation, the supplier's previous history of reporting violations, and the supplier's ability to pay the noncompliance fee.~~

~~(d) For microbiological reporting requirements, no noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month.~~

~~(e) For violations of reporting requirements other than microbiological, the fee shall be no greater than $50 per day for each day of violation, and the total amount assessed shall not exceed $2,000.~~

~~(f) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(g) No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the supplier written notice of the violation.~~

~~(6) The department is authorized to assess administrative penalties for failure to comply with the requirements of the Florida Safe Drinking Water Act.~~

~~(a) Prior to the assessment of an administrative penalty, the department shall provide the public water system a reasonable amount of time to complete the corrective action necessary to bring the system back into compliance.~~

~~(b)1. At the time of assessment of the administrative penalty, the department shall give the public water system notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective, unless an administrative hearing is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~2. The department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures for implementing the penalties and shall identify assessment amounts. The rules shall authorize the application of adjustment factors for the purpose of increasing or decreasing the total amount assessed subsequent to initial assessment. Such factors may include the lack or degree of good faith to comply with the requirements, the lack or degree of willfulness or negligence on the part of the owner, the compliance history of the public water system, the economic benefit derived by the failure to comply with the requirements, and the ability to pay.~~

~~(c) The amount of the penalties assessed shall be as follows:~~

~~1. In the case of a public water system serving a population of more than 10,000, the penalty shall be not less than $1,000 per day per violation.~~

~~2. In the case of any other public water system, the penalty shall be adequate to ensure compliance.~~

~~However, the total amount of the penalty assessed on any public water system may not exceed $10,000 per violation.~~

Section 6. *Two years after the effective date of this act, the Department of Environmental Protection shall submit a report to the Legislature describing the number of notices of violation issued by the department seeking the imposition of administrative penalties, the amount of administrative penalties obtained by the department, and the efficiencies gained from the provisions of this act.*

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to environmental control; amending s. 369.25, F.S.; granting the Department of Environmental Protection additional enforcement powers for aquatic plant control; amending ss. 403.121, 403.131, 403.727, 403.860, F.S.; revising judicial and administrative remedies for violations of environmental laws; providing for administrative penalties; requiring the Department of Environmental Protection to report to the Legislature; providing for legislative review; providing an effective date.

Rep. Goodlette moved the adoption of the substitute amendment.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 280277)

Amendment 1 to Substitute Amendment 1—On page 14, line 30 through page 15, line 2
remove from the substitute amendment: all of said lines

and insert in lieu thereof: *particular violation shall not exceed $5,000 against any one violator, unless the violator has a history of nomcompliance, the economic benefit of the violation as described in subsection (8) exceeds $5,000, or there are multi-day violations.*

Rep. Goodlette moved the adoption of the amendment to the substitute amendment, which was adopted.

Representative(s) Bennett offered the following:

(Amendment Bar Code: 070509)

Amendment 2 to Substitute Amendment 1 (with title amendment)—On page 24, between lines 24 and 25,

insert:

Section 7. Subsection (7) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District. *Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of three members from Manatee County and three members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ex officio chair designated by the governing board to vote in case of a tie vote.*

And the title is amended as follows:

On page 25, line 9, after the semicolon

insert: amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes;

Rep. Goodlette moved the adoption of the amendment to the substitute amendment, which was adopted.

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 729—A bill to be entitled An act relating to environmental control; amending s. 403.813, F.S.; creating an exemption from permitting requirements under ch. 403, F.S., for the removal of invasive

plants and the removal of organic detrital material from freshwater lakes and rivers under specified conditions; precluding additional state or local approval requirements for floating vessel platforms within boat slips; amending s. 253.12, F.S.; precluding additional state or local approval requirements for floating vessel platforms within boat slips; providing an effective date.

—was read the second time by title.

Representative(s) Needelman offered the following:

(Amendment Bar Code: 701965)

Amendment 1—On page 1, line 26 after the word "however," of the bill
except as otherwise provided in this subsection,

insert:

Rep. Needelman moved the adoption of the amendment, which was adopted.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 853989)

Amendment 2 (with directory language amendment)—On page 2, between lines 2 and 3 of the bill

insert:

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, or the associated removal from lakes of organic material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, if:

1. Organic material that exists on the surface of natural mineral soil shall be allowed to be removed to a depth of 3 feet or to the natural mineral soils, whichever is less.

2. All organic material removal pursuant to this subsection shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to this section to create such islands as a part of a restoration or enhancement project.

3. All activities are performed in a manner consistent with state water quality standards.

4. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(22), which are supported by a natural soil as shown in applicable U.S. Department of Agriculture county soil surveys, except when a governmental entity is permitted pursuant to s. 369.20 to conduct such activities as a part of a restoration or enhancement project.

And the directory language is amended as follows:

On page 1, lines 18
remove: all of said line

and insert in lieu thereof:

Section 1. Paragraph (r) is amended and paragraph (s) is added to subsection (2) of:

Rep. Argenziano moved the adoption of the amendment, which was adopted.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 850547)

Amendment 3—On page 2, between lines 10 and 11 of the bill

insert:

1. No activities under this exemption are conducted in wetland areas as defined by s. 373.019(22), that are supported by a natural soil as shown in applicable U.S. Department of Agriculture county soil surveys.

Rep. Argenziano moved the adoption of the amendment, which was adopted.

Representative(s) Needelman offered the following:

(Amendment Bar Code: 865659)

Amendment 4 (with title amendment)—On page 4, lines 7 through 25
remove from the bill: all of said lines

and insert in lieu thereof:

(t) A floating vessel platform or floating boat lift either of which floats at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use, provided that:

1. Such structures are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or Part IV of chapter 373, or, when associated with a dock that is exempt under this subsection or a permitted dock with no defined boat slip, such structures do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water.

2. Such structures shall not be used for any commercial purpose or for mooring additional vessels that remain in the water when not in use, and shall not substantially impede the flow of water, creat a navigational hazard, or unreasonably infringe upon the traditional, or common law riparian rights of adjacent property owners, as defined in s. 253.141;

3. Such structures shall be constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities; including locating such structures in areas where no seagrasses exist if such areas are present adjacent to the dock; and

4. Such structures shall not be constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or Part IV of Chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and shall not be subject to any more stringent regulation by any local government. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). By January 1, 2002, the department shall adopt a general permit by rule for those floating vessel platforms that do not qualify for the exemptions provided in this paragraph, but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. Upon the adoption of the rule creating such general permit, no local government shall impose a more stringent regulation on floating vessel platforms covered by such general permit.

And the title is amended as follows:

On page 1, lines 11 through 13
remove from the title of the bill: all of said lines

and insert in lieu thereof: providing guidelines;

Rep. Needelman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1863—A bill to be entitled An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; providing

for regulation by the Department of Health of maintenance entities for performance-based treatment systems and aerobic treatment unit systems; requiring such systems to contract with a permitted maintenance entity; providing duties of such entities; providing for biennial operating permits for aerobic treatment units; revising duties of the department; amending s. 381.0066, F.S.; reducing the operating permit fee for aerobic treatment units and providing operating permit and maintenance entity permit fees for performance-based treatment systems; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

REPRESENTATIVE DIAZ-BALART IN THE CHAIR

HB 1439—A bill to be entitled An act relating to health insurance; amending s. 627.410, F.S.; requiring certain group certificates for health insurance coverage to be subject to the requirements for individual health insurance policies; exempting group health insurance policies insuring groups of a certain size from rate filing requirements; providing alternative rate filing requirements for insurers with less than a specified number of nationwide policyholders or members; amending s. 627.411, F.S.; revising the grounds for the disapproval of insurance policy forms; providing that a health insurance policy form may be disapproved if it results in certain rate increases; specifying allowable new business rates and renewal rates if rate increases exceed certain levels; authorizing the Department of Insurance to determine medical trend for purposes of approving rate filings; amending s. 627.6487, F.S.; revising the types of policies that individual health insurers must offer to persons eligible for guaranteed individual health insurance coverage; prohibiting individual health insurers from applying discriminatory underwriting or rating practices to eligible individuals; amending s. 627.6515, F.S.; requiring that coverage issued to a state resident under certain group health insurance policies issued outside the state be subject to the requirements for individual health insurance policies; amending s. 627.6699, F.S.; revising definitions used in the Employee Health Care Access Act; allowing carriers to separate the experience of small employer groups with fewer than two employees; revising the rating factors that may be used by small employer carriers; amending s. 627.6741, F.S.; requiring that insurers offer Medicare supplement policies to certain individuals; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; amending s. 641.31, F.S.; exempting contracts of group health maintenance organizations covering a specified number of persons from the requirements of filing with the department; specifying the standards for department approval and disapproval of a change in rates by a health maintenance organization; providing alternative rate filing requirements for organizations with less than a specified number of subscribers; providing an effective date.

—was read the second time by title.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 091307)

Amendment 1—On page 3, lines 28-29,
remove from the bill: all of said lines

and insert in lieu thereof: *to determine coverage eligibility for an individual or premium rates to be charged to an individual, shall be considered policies issued on an individual*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 193575)

Amendment 2—On page 4, line 11, of the bill

after "*policies*" insert: *, effectuated and delivered in this state,*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 895715)

Amendment 3—On page 5, line 28, through page 7, line 28,
remove: all of said lines

and insert in lieu thereof:

4. Results in actuarially justified rate increases on an annual basis:

a. Attributed to the insurer reducing the portion of the premium used to pay claims from the loss ratio standard certified in the last actuarial certification filed by the insurer, in excess of the greater of 50 percent of annual medical trend or 5 percent. At its option, the insurer may file for approval of an actuarially justified new business rate schedule for new insureds and a rate increase for existing insureds that is equal to the rate increase which equals the greater of 150 percent of annual medical trend or 10 percent. Future annual rate increases for existing insureds shall be limited to the greater of 150 percent of the rate increase approved for new insureds or 10 percent until the two rate schedules converge;

b. In excess of the greater of 150 percent of annual medical trend or 10 percent and the company did not comply with the annual filing requirements of s. 627.410(7) or department rule for health maintenance organizations pursuant to s. 641.31. At its option the insurer may file for approval of an actuarially justified new business rate schedule for new insureds and a rate increase for existing insureds that is equal to the rate increase allowed by the preceding sentence. Future annual rate increases for existing insureds shall be limited to the greater of 150 percent of the rate increase approved for new insureds or 10 percent until the two rate schedules converge; or

c. In excess of the greater of 150 percent of annual medical trend or 10 percent on a form or block of pooled forms in which no form is currently available for sale.

(f) Excludes coverage for human immunodeficiency virus infection or acquired immune deficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of such contract, for human immunodeficiency virus infection or acquired immune deficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) In determining whether the benefits are reasonable in relation to the premium charged, the department, in accordance with reasonable actuarial techniques, shall consider:

(a) Past loss experience and prospective loss experience within and without this state.

(b) Allocation of expenses.

(c) Risk and contingency margins, along with justification of such margins.

(d) Acquisition costs.

(3) If a health insurance rate filing changes the established rate relationships between insureds, the aggregate effect of such change shall be revenue neutral. The change to the new relationship shall be phased in over a period not to exceed 3 years as approved by the department. The rate filing may also include increases based on overall experience or annual medical trend, or both, which portions shall not be phased in over any period.

(4) In determining medical trend for application of subparagraph (1)(e)4., the department shall

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 401799)

Amendment 4—On page 8, line 18, of the bill

insert after the word "*changes,*": *changes in utilization,*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 403663)

Amendment 5—On page 10, line 6,
remove from the bill: said line

and insert in lieu thereof: *eligibility for an individual or premium rates to be charged to an individual shall be considered*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 305553)

Amendment 6—On page 10, lines 24-27,
remove from the bill: all of said lines

and insert in lieu thereof: allows adjustments for: claims experience, health status, or *credits based on the* duration *that the* ~~of~~ coverage *has been in force* as permitted under *subparagraph (6)(b)6.* ~~subparagraph (6)(b)5.~~; and administrative and acquisition expenses as permitted under subparagraph (6)(b)5. *A carrier may separate the experience*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 811627)

Amendment 7—On page 11, line 28, of the bill

after the period insert: *Notwithstanding the provisions of s. 627.411(1)(e)4. and (3), the rate to be charged to a small employer group of less than 2 eligible employees insured as of July 1, 2001, may be up to 125 percent of the rate determined for groups of 2 through 50 eligible employees for the first annual renewal and 150 percent for susequent annual renewals.*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 313839)

Amendment 8—On page 13, lines 1-29,
remove from the bill: all of said lines

and insert in lieu thereof:

6.~~5.~~ Any adjustments in rates for claims experience, health status, or *credits based on the* duration of coverage may not be charged to individual employees or dependents. For a small employer's policy, such adjustments may not result in a rate for the small employer which deviates more than 15 percent from the carrier's approved rate. Any such adjustment must be applied uniformly to the rates charged for all employees and dependents of the small employer. A small employer carrier may make an adjustment to a small employer's renewal premium, not to exceed 10 percent annually, due to the claims experience, health status, or *credits based on the* duration of coverage of the employees or dependents of the small employer. Semiannually, small group carriers shall report information on forms adopted by rule by the department, to enable the department to monitor the relationship of aggregate adjusted premiums actually charged policyholders by each carrier to the premiums that would have been charged by application of the carrier's approved modified community rates. If the aggregate resulting from the application of such adjustment exceeds the premium that would have been charged by application of the approved modified community rate by 5 percent for the current reporting period, the carrier shall limit the application of such adjustments only to minus adjustments beginning not more than 60 days after the report is sent to the department. For any subsequent reporting period, if the total aggregate adjusted premium actually charged does not exceed the premium that would have been charged by application of the approved modified community rate by 5 percent, the carrier may apply both plus and minus adjustments. A small employer carrier may provide a credit to

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 120079)

Amendment 9—On page 15, line 3, of the bill

after "*or*" insert: *during the 6-month period begining with*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 211363)

Amendment 10 (with title amendment)—On page 2, line 1,
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (6) of section 627.410, Florida Statutes, is amended, and paragraph (f) is added to subsection (7) of said section, to read:

627.410 Filing, approval of forms.—

(6)(a) An insurer shall not deliver or issue for delivery or renew in this state any health insurance policy form until it has filed with the department a copy of every applicable rating manual, rating schedule, change in rating manual, and change in rating schedule; if rating manuals and rating schedules are not applicable, the insurer must file with the department applicable premium rates and any change in applicable premium rates. *This paragraph does not apply to group health insurance policies insuring groups of 51 or more persons, except for Medicare supplement insurance, long-term care insurance, and any coverage under which the increase in claims costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(7)

(f) Insurers with fewer than 1,000 nationwide policyholders or insured group members or subscribers covered under any form or pooled group of forms with health insurance coverage, as described in s. 627.6561(5)(a)2., excluding Medicare supplement insurance coverage under part VIII, at the time of a rate filing made pursuant to subparagraph (b)1., may file for an annual rate increase limited to medical trend as adopted by the department pursuant to s. 627.411(5). The filing is in lieu of the actuarial memorandum required for a rate filing prescribed by paragraph (6)(b). The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 2. Section 627.411, Florida Statutes, is amended to read:

627.411 Grounds for disapproval.—

(1) The department shall disapprove any form filed under s. 627.410, or withdraw any previous approval thereof, only if the form:

(a) Is in any respect in violation of, or does not comply with, this code.

(b) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) Has any title, heading, or other indication of its provisions which is misleading.

(d) Is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible.

(e) Is for health insurance, and*:*

1. Provides benefits *that* ~~which~~ are unreasonable in relation to the premium charged*;*~~,~~

2. Contains provisions *that* ~~which~~ are unfair or inequitable or contrary to the public policy of this state or *that* ~~which~~ encourage misrepresentation*;*~~, or~~

3. Contains provisions that ~~which~~ apply rating practices *that* ~~which result in premium escalations that are not viable for the policyholder market or~~ result in unfair discrimination *pursuant to s. 626.9541(1)(g)2.;* ~~in sales practices.~~

4. Results in an actuarially justified rate increase that includes the insurer reducing the portion of the premium used to pay claims from the loss-ratio standard certified in the last actuarial certification filed by the insurer, which rate increase is in excess of the actuarially justified rate increase without such loss-ratio change, by an amount exceeding the greater of 50 percent of annual medical trend or 5 percent;

5. Results in an actuarially justified rate increase that includes the insurer changing established rate relationships between insureds or types of coverage, which rate increase is in excess of the actuarially justified rate increase without such relationship change, to any insured by an amount exceeding the greater of 50 percent of annual medical trend or 5 percent;

6. Results in an actuarially justified rate increase that is in excess of the greater of 150 percent of annual medical trend or 10 percent attributed to the insurer not complying with the annual filing requirements of s. 627.410(7) or department rule adopted under s. 641.31; or

7. Results in an actuarially justified rate increase that is in excess of the greater of 150 percent of annual medical trend or 10 percent on a form or block of pooled forms in which no form is currently available for sale. This provision does not apply to prestandardized Medicare supplement forms.

(f) Excludes coverage for human immunodeficiency virus infection or acquired immune deficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of such contract, for human immunodeficiency virus infection or acquired immune deficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) In determining whether the benefits are reasonable in relation to the premium charged, the department, in accordance with reasonable actuarial techniques, shall consider:

(a) Past loss experience and prospective loss experience within and without this state.

(b) Allocation of expenses.

(c) Risk and contingency margins, along with justification of such margins.

(d) Acquisition costs.

(3) If the renewal rate increase to existing insureds at the time of the rate filing would exceed the indicated levels based on the conditions in subparagraph (1)(e)4., subparagraph (1)(e)5., or subparagraph (1)(e)6., the insurer may file for approval of a higher new business rate schedule for new insureds and a rate increase of the amount that is actuarially justified by the aggregate data without such condition, plus the greater of 50 percent of annual medical trend or 5 percent for existing insureds. Future annual rate increases for the existing insureds at the time of the exercise of this provision is limited to the greater of 150 percent of the rate increase approved for new insureds, the greater of 150 percent of medical trend, or 10 percent, until the rate schedules converge. The application of this subsection is not a violation of s. 627.410(6)(d).

(4) If a rate filing changes the established rate relationship between insureds, the aggregate effect of such change shall be revenue neutral. The change to the new relationship shall be phased in under this subsection over a period not to exceed 3 years, as approved by the department.

(5) In determining medical trend for application of subparagraphs (1)(e)4., 5., 6., and 7., the department shall semiannually determine medical trend for each health care market, using reasonable actuarial techniques and standards. The trend must be adopted by the department by rule and determined as follows:

(a) Trend must be determined separately for medical expense; preferred provider organization; Medicare supplement; health maintenance organization; and other coverage for individual, small group, and large group, where applicable.

(b) The department shall survey insurers and health maintenance organizations currently issuing products and representing at least an 80-percent market share based on premiums earned in the state for the most recent calendar year for each of the categories specified in paragraph (a).

(c) Trend must be computed as the average annual medical trend approved for the carriers surveyed, giving appropriate weight to each carrier's statewide market share of earned premiums.

(d) The annual trend is the annual change in claims cost per unit of exposure. Trend includes the combined effect of medical provider price changes, new medical procedures, and technology and cost shifting.

Section 3. Subsection (9) is added to section 627.6515, Florida Statutes, to read:

627.6515 Out-of-state groups.—

(9) For purposes of this section, any insurer that issues any group health insurance policy or group certificate for health insurance to a resident of this state and requires individual underwriting to determine coverage eligibility or premium rates to be charged shall combine the experience of all association-based group policies or association-based group certificates which are substantially similar with respect to type and level of benefits and marketing method issued in this state after the policy form has been in force for a period of 5 years to calculate uniform percentage rate increases. For purposes of this section, policy forms that have different cost-sharing arrangements or different riders are considered to be different policy forms. Nothing in this subsection shall be construed to require uniform rates for policies or certificates after their fifth duration, it being the intent and purpose of this law to require uniform percentage rate increases for such policies or certificates. Furthermore, nothing in this subsection shall be construed to eliminate changes in rates by age for attained age policies or certificates. The provisions of this subsection shall apply to policies or certificates issued after July 1, 2001. For purposes of this subsection, a group health policy or group certificate for health insurance means any hospital or medical policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. The term does not include accident-only, specified disease, individual hospital indemnity, credit, dental-only, vision-only, Medicare supplement, long-term care, or disability income insurance; similar supplemental plans provided under a separate policy, certificate, or contract of insurance, which cannot duplicate coverage under an underlying health plan and are specifically designed to fill gaps in the underlying health plan, coinsurance, or deductibles; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

Section 4. Paragraph (n) of subsection (3) and paragraph (b) of subsection (6) of section 627.6699, Florida Statutes, are amended to read:

627.6699 Employee Health Care Access Act.—

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

(n) "Modified community rating" means a method used to develop carrier premiums which spreads financial risk across a large population; allows the use of separate rating factors for age, gender, family composition, tobacco usage, and geographic area as determined under paragraph (5)(j); and allows adjustments for~~: claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5.; and~~ administrative and acquisition expenses as permitted under subparagraph (6)(b)5. *A carrier may separate the experience of small employer groups with less than 2 eligible employees from the experience of small employer groups with 2 through 50 eligible employees.*

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

(b) For all small employer health benefit plans that are subject to this section and are issued by small employer carriers on or after January 1, 1994, premium rates for health benefit plans subject to this section are subject to the following:

1. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible dependent's gender, age, family composition, tobacco use, or geographic area as determined under paragraph (5)(j) and in which the premium may be adjusted as permitted by subparagraphs *6.* ~~5.~~ and *7.* ~~6.~~

2. Rating factors related to age, gender, family composition, tobacco use, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to department review and approval.

3. If the modified community rate is determined from two experience pools as authorized by paragraph (3)(n), the rate to be charged to small employer groups of less than 2 eligible employees may not exceed 150 percent of the rate determined for groups of 2 through 50 eligible employees; however, the carrier may charge excess losses of the less than 2 eligible employee experience pool to the experience pool of the 2 through 50 eligible employees so that all losses are allocated and the 150-percent rate limit on the less than 2 eligible employee experience pool is maintained.

4.~~3.~~ Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed. However, a small employer carrier may modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers covered under the policy if:

a. The carrier discloses to the employer in a clear and conspicuous manner the date of the first renewal and the fact that the premium may increase on or after that date.

b. The insurer demonstrates to the department that efficiencies in administration are achieved and reflected in the rates charged to small employers covered under the policy.

5.~~4.~~ A carrier may issue a group health insurance policy to a small employer health alliance or other group association with rates that reflect a premium credit for expense savings attributable to administrative activities being performed by the alliance or group association if such expense savings are specifically documented in the insurer's rate filing and are approved by the department. Any such credit may not be based on different morbidity assumptions or on any other factor related to the health status or claims experience of any person covered under the policy. Nothing in this subparagraph exempts an alliance or group association from licensure for any activities that require licensure under the insurance code. A carrier issuing a group health insurance policy to a small employer health alliance or other group association shall allow any properly licensed and appointed agent of that carrier to market and sell the small employer health alliance or other group association policy. Such agent shall be paid the usual and customary commission paid to any agent selling the policy.

6.~~5.~~ Any adjustments in rates for claims experience, health status, or duration of coverage may not be charged to individual employees or dependents. For a small employer's policy, such adjustments may not result in a rate for the small employer which deviates more than 15 percent from the carrier's approved rate. Any such adjustment must be applied uniformly to the rates charged for all employees and dependents of the small employer. A small employer carrier may make an adjustment to a small employer's renewal premium, not to exceed 10 percent annually, due to the claims experience, health status, or duration of coverage of the employees or dependents of the small employer. Semiannually, small group carriers shall report information on forms adopted by rule by the department, to enable the department to monitor the relationship of aggregate adjusted premiums actually charged policyholders by each carrier to the premiums that would have been charged by application of the carrier's approved modified community rates. If the aggregate resulting from the application of such adjustment exceeds the premium that would have been charged by application of the approved modified community rate by 5 percent for the current reporting period, the carrier shall limit the application of such adjustments only to minus adjustments beginning not more than 60 days after the report is sent to the department. For any subsequent reporting period, if the total aggregate adjusted premium actually charged does not exceed the premium that would have been charged by application of the approved modified community rate by 5 percent, the carrier may apply both plus and minus adjustments. A small employer carrier may provide a credit to a small employer's premium based on administrative and acquisition expense differences resulting from the size of the group. Group size administrative and acquisition expense factors may be developed by each carrier to reflect the carrier's experience and are subject to department review and approval.

7.~~6.~~ A small employer carrier rating methodology may include separate rating categories for one dependent child, for two dependent children, and for three or more dependent children for family coverage of employees having a spouse and dependent children or employees having dependent children only. A small employer carrier may have fewer, but not greater, numbers of categories for dependent children than those specified in this subparagraph.

8.~~7.~~ Small employer carriers may not use a composite rating methodology to rate a small employer with fewer than 10 employees. For the purposes of this subparagraph, a "composite rating methodology" means a rating methodology that averages the impact of the rating factors for age and gender in the premiums charged to all of the employees of a small employer.

Section 5. Section 627.9408, Florida Statutes, is amended to read:

627.9408 Rules.—

(1) The department *may* ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to *administer* ~~implement the provisions of~~ this part.

(2) The department may adopt by rule the provisions of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in the second quarter of the year 2000 which are not in conflict with the Florida Insurance Code.

Section 6. Paragraph (b) of subsection (3) of section 641.31, Florida Statutes, is amended, and paragraph (f) is added to said subsection, to read:

641.31 Health maintenance contracts.—

(3)

(b) Any change in the rate is subject to paragraph (d) and requires at least 30 days' advance written notice to the subscriber. In the case of

a group member, there may be a contractual agreement with the health maintenance organization to have the employer provide the required notice to the individual members of the group. *This paragraph does not apply to a group contract covering 51 or more persons unless the rate is for any coverage under which the increase in claim costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(f) A health maintenance organization with fewer than 1,000 covered subscribers under all individual or group contracts, at the time of a rate filing, may file for an annual rate increase limited to annual medical trend, as adopted by the department. The filing is in lieu of the actuarial memorandum otherwise required for the rate filing. The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 7. Paragraphs (a) and (b) of subsection (1) of section 641.3155, Florida Statutes, are amended to read:

641.3155 Payment of claims.—

(1)(a) As used in this section, the term "clean claim" for a noninstitutional provider means a claim submitted on a HCFA 1500 form which has no defect or impropriety, including lack of required substantiating documentation for noncontracted providers and suppliers, or particular circumstances requiring special treatment which prevent timely payment from being made on the claim. A claim may not be considered not clean solely because a health maintenance organization refers the claim to a medical specialist within the health maintenance organization for examination. If additional substantiating documentation, such as the medical record or encounter data, is required from a source outside the health maintenance organization, the claim is considered not clean. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.* This definition of "clean claim" is repealed on the effective date of rules adopted by the department which define the term "clean claim."

(b) Absent a written definition that is agreed upon through contract, the term "clean claim" for an institutional claim is a properly and accurately completed paper or electronic billing instrument that consists of the UB-92 data set or its successor with entries stated as mandatory by the National Uniform Billing Committee. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.*

Section 8. *Health flex plans.—*

(1) INTENT.—The Legislature finds that a significant portion of the residents of this state are not able to obtain affordable health insurance coverage. Therefore, it is the intent of the Legislature to expand the availability of health care options for lower income uninsured state residents by encouraging health insurers, health maintenance organizations, health care provider sponsored organizations, local governments, health care districts, or other public or private community-based organizations to develop alternative approaches to traditional health insurance which emphasize coverage for basic and preventive health care services. To the maximum extent possible, such options should be coordinated with existing governmental or community-based health services programs in a manner that is consistent with the objectives and requirements of such programs.

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Approved plan" means a health flex plan approved under subsection (3) which guarantees payment by the health plan entity for specified health care services provided to the enrollee.

(c) "Enrollee" means an individual who has been determined eligible for and is receiving health benefits under a health flex plan approved under this section.

(d) "Health care coverage" means payment for health care services covered as benefits under an approved plan or that otherwise provides, either directly or through arrangements with other persons, covered health care services on a prepaid per-capita basis or on a prepaid aggregate fixed-sum basis.

(e) "Health plan entity" means a health insurer, health maintenance organization, health care provider sponsored organization, local government, health care districts, or other public or private community-based organization that develops and implements an approved plan and is responsible for financing and paying all claims by enrollees of the plan.

(3) PILOT PROGRAM.—The agency and the Department of Insurance shall jointly approve or disapprove health flex plans which provide health care coverage for eligible participants residing in the three areas of the state having the highest number of uninsured residents as determined by the agency. A plan may limit or exclude benefits otherwise required by law for insurers offering coverage in this state, cap the total amount of claims paid in 1 year per enrollee, or limit the number of enrollees covered. The agency and the Department of Insurance shall not approve or shall withdraw approval of a plan which:

(a) Contains any ambiguous, inconsistent, or misleading provisions, or exceptions or conditions that deceptively affect or limit the benefits purported to be assumed in the general coverage provided by the plan;

(b) Provides benefits that are unreasonable in relation to the premium charged, contains provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation, or result in unfair discrimination in sales practices; or

(c) Cannot demonstrate that the plan is financially sound and the applicant has the ability to underwrite or finance the benefits provided.

(4) LICENSE NOT REQUIRED.—A health flex plan approved under this section shall not be subject to the licensing requirements of the Florida Insurance Code or chapter 641, Florida Statutes, relating to health maintenance organizations, unless expressly made applicable. However, for the purposes of prohibiting unfair trade practices, health flex plans shall be considered insurance subject to the applicable provisions of part IX of chapter 626, Florida Statutes, except as otherwise provided in this section.

(5) ELIGIBILITY.—Eligibility to enroll in an approved health flex plan is limited to residents of this state who:

(a) Are 64 years of age or younger;

(b) Have a family income equal to or less than 200 percent of the federal poverty level;

(c) Are not covered by a private insurance policy and are not eligible for coverage through a public health insurance program such as Medicare or Medicaid, or other public health care program, including, but not limited to, Kidcare, and have not been covered at any time during the past 6 months; and

(d) Have applied for health care benefits through an approved health flex plan and agree to make any payments required for participation, including, but not limited to, periodic payments and payments due at the time health care services are provided.

(6) RECORDS.—Every health flex plan provider shall maintain reasonable records of its loss, expense, and claims experience and shall make such records reasonably available to enable the agency and the Department of Insurance to monitor and determine the financial viability of the plan, as necessary.

(7) NOTICE.—The denial of coverage by the health plan entity shall be accompanied by the specific reasons for denial, nonrenewal, or cancellation. Notice of nonrenewal or cancellation shall be provided at least 45 days in advance of such nonrenewal or cancellation except that 10 days' written notice shall be given for cancellation due to nonpayment of premiums. If the health plan entity fails to give the required notice, the plan shall remain in effect until notice is appropriately given.

(8) NONENTITLEMENT.—Coverage under an approved health flex plan is not an entitlement and no cause of action shall arise against the state, local governmental entity, or other political subdivision of this state or the agency for failure to make coverage available to eligible persons under this section.

(9) CIVIL ACTIONS.—In addition to an administrative action initiated under subsection (4), the agency may seek any remedy provided by law, including, but not limited to, the remedies provided in s. 812.035, Florida Statutes, if the agency finds that a health plan entity has engaged in any act resulting in injury to an enrollee covered by a plan approved under this section.

Section 9. *The Legislature finds that the affordability and availability of health insurance is one of the most important and complex issues in this state and that coverage issued to a state resident under group health insurance policies issued outside the state is an important factor in meeting the needs of the citizens of this state. The Legislature also finds that it is important to ensure that those policies are adequately regulated in order to maintain the quality of the coverage offered to citizens of this state. Therefore, the Workgroup on Out of State Group Policies is hereby created to study the regulatory environment in which these policies are now offered and recommend any statutory changes that may be necessary to maintain the quality of the insurance offered in this state. There shall be four members from the House of Representatives appointed by the Speaker of the House of Representatives and four members from the Senate appointed by the President of the Senate. The group shall begin its meetings by July 1, 2001, and complete its meetings by November 15, 2001. Recommendations for suggested legislation shall be delivered to the Speaker of the House of Representatives and the President of the Senate by December 15, 2001. At its first meeting, the group shall elect a chair from among its members.*

Section 10. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through page 2, line 25,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: An act relating to health insurance; amending s. 627.410, F.S.; exempting group health insurance policies insuring groups of a certain size from rate filing requirements; providing alternative rate filing requirements for insurers with less than a specified number of nationwide policyholders or members; amending s. 627.411, F.S.; revising the grounds for the disapproval of insurance policy forms; providing that a health insurance policy form may be disapproved if it results in certain rate increases; specifying allowable new business rates and renewal rates if rate increases exceed certain levels; authorizing the Department of Insurance to determine medical trend for purposes of approving rate filings; amending s. 627.6515, F.S.; providing additional experience requirements and limitations for out-of-state groups; providing construction; amending s. 627.6699, F.S.; revising a definition; allowing carriers to separate the experience of small employer groups with fewer than two employees; revising the rating factors that may be used by small employer carriers; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; amending s. 641.31, F.S.; exempting contracts of group health maintenance organizations covering a specified number of persons from the requirements of filing with the department; providing alternative rate filing requirements for organizations with less than a specified number of subscribers; amending s. 641.3155, F.S.; specifying nonapplication of certain provisions to certain claims; providing for certain health flex plans; providing legislative intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria; exempting approved health flex plans from certain licensing requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan providers to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying that coverage under an approved health flex plan is not an entitlement; providing for civil actions against health plan entities by the Agency for Health Care Administration under certain circumstances; providing legislative findings; creating the Workgroup on Out of State Group Policies; providing for membership; providing purposes; requiring recommendations for proposed legislation; providing an effective date.

Rep. Berfield moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 579—A bill to be entitled An act relating to the Uniform Commercial Code; revising ch. 679, F.S., relating to secured transactions; creating ss. 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, 679.1101, F.S.; providing a short title, definitions, and general concepts; creating ss. 679.2011, 679.2021, 679.2031, 679.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, 679.210, F.S.; providing for the effectiveness and attachment of security agreements; prescribing rights and duties of secured parties; creating ss. 679.3011, 679.3021, 679.3031, 679.3041, 679.3051, 679.3061, 679.3071, 679.3081, 679.091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.338, 679.340, 679.341, 679.342, F.S.; providing for perfection and priority of security interests; creating ss. 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, 679.409, F.S.; prescribing rights of third parties; creating ss. 679.5011, 679.5021, 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 679.524, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, 679.527, F.S.; prescribing filing procedures for perfection of a security interest; providing forms; providing duties and operation of filing office; creating ss. 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, F.S.; prescribing procedures for default and enforcement of security interests; providing for forms; creating ss. 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, 679.709, F.S.; providing transitional effective dates and savings clause for perfected and unperfected security interests, specified actions, and financing statements; specifying priority of conflicting claims; amending s. 671.105, F.S.; specifying the precedence of law governing the perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens; amending s. 671.201, F.S.; revising definitions used in the Uniform Commercial Code; amending s. 672.103, F.S.; conforming a cross-reference; amending s. 672.210, F.S.; providing that the creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially affects the buyer unless the enforcement actually results in a delegation of material performance of the seller; amending s. 672.326, F.S.; eliminating provisions relating to consignment sales; amending s. 672.502, F.S.; modifying buyers' rights to goods on a seller's repudiation, failure to deliver, or insolvency; amending s. 672.716, F.S.; providing that, for goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property; amending s. 674.2101, F.S.; conforming a cross-reference; creating s. 675.1181, F.S.; specifying conditions under which an issuer or nominated person has a security interest in a document presented under a letter of credit; amending ss. 677.503, 678.1031, F.S.; conforming cross-references; amending s. 678.1061, F.S.; specifying a condition under which a purchaser has control of a security entitlement; amending s. 678.1101, F.S.; modifying rules that determine a securities intermediary's jurisdiction; amending s. 678.3011, F.S.; providing for delivery of a certificated security to a purchaser; amending s. 678.3021, F.S.; eliminating a requirement that a purchaser of a certificated or uncertificated security receive delivery prior to acquiring all rights in the security; amending s. 678.5101, F.S.; prescribing rights of a purchaser of a security entitlement from an entitlement holder; amending ss. 680.1031, 680.303, 680.307, 680.309, F.S.; conforming cross-references; repealing ss. 679.101, 679.102, 679.103, 679.104,

679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, 679.116, F.S., relating to the short title, applicability, and definitions of ch. 679, F.S.; repealing ss. 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, 679.208, F.S., relating to the validity of security agreements and the rights of parties to such agreements; repealing ss. 679.301, 679.302, 679,303, 679.304, 679.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, 679.318, F.S., relating to rights of third parties, perfected and unperfected security interests, and rules of priority; repealing ss. 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, 679.408, F.S., relating to filing of security interests; repealing ss. 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, 679.507, F.S., relating to rights of the parties upon default under a security agreement; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 453215)

Amendment 1 (with title amendment)—On page 4, line 30 remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Part I of chapter 679, Florida Statutes, consisting of sections 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, and 679.116, Florida Statutes, is repealed and a new part I of that chapter, consisting of sections 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, and 679.1101, Florida Statutes, is created to read:

PART I
GENERAL PROVISIONS

679.1011 Short title.—This chapter may be cited as Uniform Commercial Code-Secured Transactions.

679.1021 Definitions and index of definitions.—

(1) In this chapter, the term:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(b) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; for services rendered or to be rendered; for a policy of insurance issued or to be issued; for a secondary obligation incurred or to be incurred; for energy provided or to be provided; for the use or hire of a vessel under a charter or other contract; arising out of the use of a credit or charge card or information contained on or for use with the card; or as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include rights to payment evidenced by chattel paper or an instrument; commercial tort claims; deposit accounts; investment property; letter-of-credit rights or letters of credit; or rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(d) "Accounting," except as used in the term "accounting for," means a record:

1. Authenticated by a secured party;

2. Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

3. Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products:

1. Which secures payment or performance of an obligation for:

a. Goods or services furnished in connection with a debtor's farming operation; or

b. Rent on real property leased by a debtor in connection with the debtor's farming operation;

2. Which is created by statute in favor of a person who:

a. In the ordinary course of the person's business furnished goods or services to a debtor in connection with a debtor's farming operation; or

b. Leased real property to a debtor in connection with the debtor's farming operation; and

3. Whose effectiveness does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means:

1. Oil, gas, or other minerals that are subject to a security interest that:

a. Is created by a debtor having an interest in the minerals before extraction; and

b. Attaches to the minerals as extracted; or

2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(g) "Authenticate" means:

1. To sign; or

2. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include charters or other contracts involving the use or hire of a vessel or records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

1. Proceeds to which a security interest attaches;

2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

3. Goods that are the subject of a consignment.

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or

2. The claimant is an individual and the claim:

a. Arose in the course of the claimant's business or profession; and

b. Does not include damages arising out of personal injury to or the death of an individual.

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person who:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of the person's business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:

a. Deals in goods of that kind under a name other than the name of the person making delivery;

b. Is not an auctioneer; and

c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is $1,000 or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person who delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) "Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation.

(y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) "Consumer transaction" means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes; a security interest secures the obligation; and the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(aa) "Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(bb) "Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

3. A consignee.

(cc) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(dd) "Document" means a document of title or a receipt of the type described in s. 677.201(2).

(ee) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(ff) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(gg) "Equipment" means goods other than inventory, farm products, or consumer goods.

(hh) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

1. Crops grown, growing, or to be grown, including:

a. Crops produced on trees, vines, and bushes; and

b. Aquatic goods produced in aquacultural operations;

2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

3. Supplies used or produced in a farming operation; or

4. Products of crops or livestock in their unmanufactured states.

(ii) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(jj) "File number" means the number assigned to an initial financing statement pursuant to s. 679.519(1).

(kk) "Filing office" means an office designated in s. 679.5011 as the place to file a financing statement.

(ll) "Filing-office rule" means a rule adopted pursuant to s. 679.526.

(mm) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(nn) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying s. 679.502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(oo) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(pp) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(qq) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(rr) "Goods" means all things that are movable when a security interest attaches. The term includes fixtures; standing timber that is to be cut and removed under a conveyance or contract for sale; the unborn young of animals; crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(ss) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(tt) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(uu) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include investment property, letters of credit, or writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(vv) "Inventory" means goods, other than farm products, which:

1. Are leased by a person as lessor;

2. Are held by a person for sale or lease or to be furnished under a contract of service;

3. Are furnished by a person under a contract of service; or

4. Consist of raw materials, work in process, or materials used or consumed in a business.

(ww) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(xx) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(yy) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(zz) "Lien creditor" means:

1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;

3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment.

(aaa) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(bbb) "Manufactured-home transaction" means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(ccc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation, which interest was created or derived from an instrument described in s. 697.01.

(ddd) "New debtor" means a person who becomes bound as debtor under s. 679.2031(4) by a security agreement previously entered into by another person.

(eee) "New value" means money; money's worth in property, services, or new credit; or release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(fff) "Noncash proceeds" means proceeds other than cash proceeds.

(ggg) "Obligor" means a person who, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, owes payment or other performance of the obligation, has provided property other than the collateral to secure payment or other performance of the obligation, or is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(hhh) "Original debtor," except as used in s. 679.3101(3), means a person who, as debtor, entered into a security agreement to which a new debtor has become bound under s. 679.2031(4).

(iii) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(jjj) "Person related to," with respect to an individual, means:

1. The spouse of the individual;

2. A brother, brother-in-law, sister, or sister-in-law of the individual;

3. An ancestor or lineal descendant of the individual or the individual's spouse; or

4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(kkk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;

2. An officer or director of, or a person performing similar functions with respect to, the organization;

3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1.;

4. The spouse of an individual described in subparagraph 1., subparagraph 2., or subparagraph 3.; or

5. An individual who is related by blood or marriage to an individual described in subparagraph 1., subparagraph 2., subparagraph 3., or subparagraph 4. and shares the same home with the individual.

(lll) "Proceeds," except as used in s. 679.609(2), means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

2. Whatever is collected on, or distributed on account of, collateral;

3. Rights arising out of collateral;

4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(mmm) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(nnn) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to ss. 679.620, 679.621, and 679.622.

(ooo) "Public-finance transaction" means a secured transaction in connection with which:

1. Debt securities are issued;

2. All or a portion of the securities issued have an initial stated maturity of at least 20 years; and

3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(ppp) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(qqq) "Record," except as used in the terms "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(rrr) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(sss) "Secondary obligor" means an obligor to the extent that:

1. The obligor's obligation is secondary; or

2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(ttt) "Secured party" means:

1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

2. A person who holds an agricultural lien;

3. A consignor;

4. A person to whom accounts, chattel paper, payment intangibles, or promissory notes have been sold;

5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

6. A person who holds a security interest arising under s. 672.401, s. 672.505, s. 672.711(3), s. 680.508(5), s. 674.2101, or s. 675.118.

(uuu) "Security agreement" means an agreement that creates or provides for a security interest.

(vvv) "Send," in connection with a record or notification, means:

1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

2. To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1.

(www) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(xxx) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(yyy) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(zzz) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(aaaa) "Termination statement" means an amendment of a financing statement which:

1. Identifies, by its file number, or if a fixture filing, by the official records book and page number, the initial financing statement to which it relates; and

2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(bbbb) "Transmitting utility" means a person primarily engaged in the business of:

1. Operating a railroad, subway, street railway, or trolley bus;

2. Transmitting communications electrically, electromagnetically, or by light;

3. Transmitting goods by pipeline or sewer; or

4. Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other chapters apply to this chapter:

"Applicant" s. 675.103.

"Beneficiary" s. 675.103.

"Broker" s. 678.1021.

"Certificated security" s. 678.1021.

"Check" s. 673.1041.

"Clearing corporation" s. 678.1021.

"Contract for sale" s. 672.106.

"Customer" s. 674.104.

"Entitlement holder" s. 678.1021.

"Financial asset" s. 678.1021.

"Holder in due course" s. 673.3021.

"Issuer" (with respect to a letter of credit or letter-of-credit right) s. 675.103.

"Issuer" (with respect to a security) s. 678.2011.

"Lease" s. 680.1031.

"Lease agreement" s. 680.1031.

"Lease contract" s. 680.1031.

"Leasehold interest" s. 680.1031.

"Lessee" s. 680.1031.

"Lessee in ordinary course of business" s. 680.1031.

"Lessor" s. 680.1031.

"Lessor's residual interest" s. 680.1031.

"Letter of credit" s. 675.103.

"Merchant" s. 672.104.

"Negotiable instrument" s. 673.1041.

"Nominated person" s. 675.103.

"Note" s. 673.1041.

"Proceeds of a letter of credit" s. 675.114.

"Prove" s. 673.1031.

"Sale" s. 672.106.

"Securities account" s. 678.5011.

"Securities intermediary" s. 678.1021.

"Security" s. 678.1021.

"Security certificate" s. 678.1021.

"Security entitlement" s. 678.1021.

"Uncertificated security" s. 678.1021.

(3) Chapter 671 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

679.1031 Purchase-money security interest; application of payments; burden of establishing.—

(1) In this section, the term:

(a) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral.

(b) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest;

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(c) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(a) The debtor acquired interest in the software in an integrated transaction in which the debtor acquired an interest in the goods; and

(b) The debtor acquired interest in the software for the principal purpose of using the software in the goods.

(4) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(5) If the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) In accordance with any reasonable method of application to which the parties agree;

(b) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

1. To obligations that are not secured; and

2. If more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(6) A purchase-money security interest does not lose its status as such, even if:

(a) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(b) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(c) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(7) A secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

679.1041 Control of deposit account.—

(1) A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

(c) The secured party becomes the bank's customer with respect to the deposit account.

(2) A secured party that has satisfied subsection (1) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

679.1051 Control of electronic chattel paper.—A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections (4), (5), and (6), unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

679.1061 Control of investment property.—

(1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in s. 678.1061.

(2) A secured party has control of a commodity contract if:

(a) The secured party is the commodity intermediary with which the commodity contract is carried; or

(b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

679.1071 Control of letter-of-credit right.—A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under s. 675.114(3) or otherwise applicable law or practice.

679.1081 Sufficiency of description.—

(1) Except as otherwise provided herein and in subsections (3), (4), and (5), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described. A description of real estate in a record filed to perfect a security interest in crops growing or to be grown or goods which are or are to become fixtures shall be sufficient only if the filing or recording of the same constitutes constructive notice under the laws of this state, other than this chapter, which are applicable to the filing or recording of a record of a mortgage, and a mailing or street address alone shall not be sufficient.

(2) Except as otherwise provided in subsection (4), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(a) Specific listing;

(b) Category;

(c) Except as otherwise provided in subsection (5), a type of collateral defined in the Uniform Commercial Code;

(d) Quantity;

(e) Computational or allocational formula or procedure; or

(f) Except as otherwise provided in subsection (3), any other method, if the identity of the collateral is objectively determinable.

(3) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral for purposes of the security agreement.

(4) Except as otherwise provided in subsection (5), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(a) The collateral by those terms or as investment property; or

(b) The underlying financial asset or commodity contract.

(5) A description only by type of collateral defined in the Uniform Commercial Code is an insufficient description of:

(a) A commercial tort claim; or

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

679.1091 Scope.—

(1) Except as otherwise provided in subsections (3) and (4), this chapter applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under s. 672.401, s. 672.502, s. 672.711, or s. 680.508(5), as provided in s. 679.1101; and

(f) A security interest arising under s. 674.2101 or s. 675.118.

(2) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

(3) This chapter does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this chapter;

(b) Another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;

(c) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under s. 675.114.

(4) This chapter does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but s. 679.333 applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

1. Section 679.340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

2. Section 679.4041 applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

1. Liens on real property in ss. 679.2031 and 679.3081;

2. Fixtures in s. 679.334;

3. Fixture filings in ss. 679.5011, 679.5021, 679.512, 679.516, and 679.519; and

4. Security agreements covering personal and real property in s. 679.604;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(m) An assignment of a deposit account, other than a non-negotiable certificate of deposit, in a consumer transaction, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds; or

(n) Any transfer by a governmental unit.

679.1101 Security interests arising under chapter 672 or chapter 680.—A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is subject to this chapter. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if s. 679.2031(2)(c) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by chapter 672 or chapter 680; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

Section 2. Part II of chapter 679, Florida Statutes, consisting of sections 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, and 679.208, Florida Statutes, is repealed and a new part II of that chapter, consisting of sections 679.2011, 679.2021, 679.2031, 670.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, and 679.210, Florida Statutes, is created to read:

PART II
EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT

679.2011 General effectiveness of security agreement.—

(1) Except as otherwise provided in the Uniform Commercial Code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) Nothing in this chapter validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto. A transaction, although subject to this chapter, is also subject to chapters 516 and 520, and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute shall control. Failure to comply with any applicable statute has only the effect which is specified therein.

679.2021 Title to collateral immaterial.—Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this chapter with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

679.2031 Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.—

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) through (9), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One of the following conditions is met:

1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under s. 679.3131 pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under S. 678.3011 pursuant to the debtor's security agreement; or

4. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 pursuant to the debtor's security agreement.

(3) Subsection (2) is subject to s. 674.2101 on the security interest of a collecting bank, s. 675.118 on the security interest of a letter-of-credit issuer or nominated person, s. 679.1101 on a security interest arising under chapter 672 or chapter 680, and s. 679.2061 on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this chapter or by contract:

(a) The security agreement becomes effective to create a security interest in the person's property; or

(b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(a) The agreement satisfies subsection (2)(c) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) Another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by s. 679.3151 and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

679.2041 After-acquired property; future advances.—

(1) Except as otherwise provided in subsection (2), a security agreement may create or provide for a security interest in after-acquired collateral.

(2) A security interest does not attach under a term constituting an after-acquired property clause to:

(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(b) A commercial tort claim.

(3) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

679.2051 Use or disposition of collateral permissible.—

(1) A security interest is not invalid or fraudulent against creditors solely because:

(a) The debtor has the right or ability to:

1. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

2. Collect, compromise, enforce, or otherwise deal with collateral;

3. Accept the return of collateral or make repossessions; or

4. Use, commingle, or dispose of proceeds; or

(b) The secured party fails to require the debtor to account for proceeds or replace collateral.

(2) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

679.2061 Security interest arising in purchase or delivery of financial asset.—

(1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(a) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(b) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(2) The security interest described in subsection (1) secures the person's obligation to pay for the financial asset.

(3) A security interest in favor of a person who delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(a) The security or other financial asset:

1. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

2. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(b) The agreement calls for delivery against payment.

(4) The security interest described in subsection (3) secures the obligation to make payment for the delivery.

679.2071 Rights and duties of secured party having possession or control of collateral.—

(1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

1. For the purpose of preserving the collateral or its value;

2. As permitted by an order of a court having competent jurisdiction; or

3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

1. To charge back uncollected collateral; or

2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) do not apply.

679.2081 Additional duties of secured party having control of collateral.—

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor:

(a) A secured party having control of a deposit account under s. 679.1041(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under s. 679.1041(1)(c) shall:

1. Pay the debtor the balance on deposit in the deposit account; or

2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under s. 679.1051 shall:

1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or the debtor's designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) A secured party having control of investment property under s. 678.1061(4)(b) or s. 679.1061(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(e) A secured party having control of a letter-of-credit right under s. 679.1071 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

679.209 Duties of secured party if account debtor has been notified of assignment.—

(1) Except as otherwise provided in subsection (3), this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under s. 679.4061(1) an authenticated record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

679.210 Request for accounting; request regarding list of collateral or statement of account.—

(1) In this section, the term:

(a) "Request" means a record of a type described in paragraph (b), paragraph (c), or paragraph (d).

(b) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(e) "Reasonably identifying the transaction or relationship" means that the request provides information sufficient for the person to identify the transaction or relationship and respond to the request. Pursuant to s. 679.603(1), a secured party and debtor may determine by agreement the standards for measuring fulfillment of this duty.

(f) "Person" means a person or entity that is or was a secured party or otherwise claims or has claimed an interest in the collateral.

(2) Subject to subsections (3), (4), (5), and (6), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(4) A person who receives a request regarding a list of collateral, claims no interest in the collateral when the request is received, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the collateral; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person who receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when the request is received, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the obligations; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) A debtor is entitled under this section without charge to one response to a request for an accounting or a request regarding a statement of account for each secured obligation during any 6-month period. A debtor in a consumer transaction is entitled to a single response to a request regarding a list of collateral, for a transaction other than a consumer transaction, without charge during any 6-month period. The secured party may require payment of a charge not exceeding $25 for each additional response to a request for an accounting, a request regarding a statement of account, or a request regarding a list of collateral for a consumer transaction. To the extent provided in an authenticated record, the secured party may require the payment of reasonable expenses, including attorney's fees, reasonably incurred in providing a response to a request regarding a list of collateral for a transaction other than a consumer transaction under this section; otherwise, the secured party may not charge more than $25 for each request regarding a list of collateral. Excluding a request related to a proposed satisfaction of the secured obligation, a secured party is not required to respond to more than 12 of each of the permitted requests in any 12-month period.

Section 3. Part III of chapter 679, Florida Statutes, consisting of sections 679.301, 679.302, 679.303, 679.304, 690.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, and 679.318, Florida Statutes, is repealed and a new part III of that chapter, consisting of sections 679.3011, 679.3021, 679.3031, 679.3041, 690.3051, 679.3061, 679.3071, 679.3081, 679.3091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.3381, 679.339, 679.340, 679.341, and 679.342, Florida Statutes, is created to read:

PART III
PERFECTION AND PRIORITY

679.3011 Law governing perfection and priority of security interests.—Except as otherwise provided in ss. 679.1091, 679.3031, 679.3041, 679.3051, and 679.3061, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the goods by filing a fixture filing;

(b) Perfection of a security interest in timber to be cut; and

(c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

679.3021 Law governing perfection and priority of agricultural liens.—While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

679.3031 Law governing perfection and priority of security interests in goods covered by a certificate of title.—

(1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

679.3041 Law governing perfection and priority of security interests in deposit accounts.—

(1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(2) The following rules determine a bank's jurisdiction for purposes of this part:

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an

office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

679.3051 Law governing perfection and priority of security interests in investment property.—

(1) Except as otherwise provided in subsection (3), the following rules apply:

(a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(b) The local law of the issuer's jurisdiction as specified in s. 678.1101(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The local law of the securities intermediary's jurisdiction as specified in s. 678.1101(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

679.3061 Law governing perfection and priority of security interests in letter-of-credit rights.—

(1) Subject to subsection (3), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in s. 675.116.

(3) This section does not apply to a security interest that is perfected only under s. 679.3081(4).

679.3071 Location of debtor.—

(1) In this section, the term "place of business" means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A debtor who is an individual is located at the individual's principal residence.

(b) A debtor that is an organization and has only one place of business is located at its place of business.

(c) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(3) Subsection (2) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) does not apply, the debtor is located in the District of Columbia.

(4) A person who ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3).

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or subsection (6) notwithstanding:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(11) This section applies only for purposes of this part.

679.3081 When security interest or agricultural lien is perfected; continuity of perfection.—

(1) Except as otherwise provided in this section and s. 679.3091, a security interest is perfected if it has attached and all of the applicable requirements for perfection in ss. 679.3101-679.3161 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in s. 679.3101 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this chapter and is later perfected by another method under this chapter, without an intermediate period during which it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

679.3091 Security interest perfected upon attachment.—The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in s. 679.3111(2) with respect to consumer goods that are subject to a statute or treaty described in s. 679.3111(1);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under s. 674.2101;

(8) A security interest of an issuer or nominated person arising under s. 675.118;

(9) A security interest arising in the delivery of a financial asset under s. 679.2061(3);

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

679.3101 When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.—

(1) Except as otherwise provided in subsection (2) and s. 679.3121(2), a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under s. 679.3081(4), (5), (6), or (7);

(b) That is perfected under s. 679.3091 when it attaches;

(c) In property subject to a statute, regulation, or treaty described in s. 679.3111(1);

(d) In goods in possession of a bailee which is perfected under s. 679.3121(4)(a) or (b);

(e) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under s. 679.3121(5), (6), or (7);

(f) In collateral in the secured party's possession under s. 679.3131;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under s. 679.3131;

(h) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under s. 679.3141;

(i) In proceeds which is perfected under s. 679.3151; or

(j) That is perfected under s. 679.3161.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this chapter is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

679.3111 Perfection of security interests in property subject to certain statutes, regulations, and treaties.—

(1) Except as otherwise provided in subsection (4), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt s. 679.3101(1);

(b) A statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on a certificate of title of such property as a condition or result of perfection, and any non-Uniform Commercial Code central filing statute; or

(c) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in paragraph (1) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this chapter. Except as otherwise provided in subsection (4) and ss.

679.3131 and 679.3161(4) and (5) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) and s. 679.3161(4) and (5), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this chapter.

(4) During any period in which collateral subject to a statute specified in paragraph (1)(b) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

679.3121 Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.—

(1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in s. 679.3151(3) and (4) for proceeds:

(a) A security interest in a deposit account may be perfected only by control under s. 679.3141.

(b) And except as otherwise provided in s. 679.3081(4), a security interest in a letter-of-credit right may be perfected only by control under s. 679.3141.

(c) A security interest in money may be perfected only by the secured party's taking possession under s. 679.3131.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the 20-day period specified in subsection (5), subsection (6), or subsection (7) expires, perfection depends upon compliance with this chapter.

679.3131 When possession by or delivery to secured party perfects security interest without filing.—

(1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under s. 678.3011.

(2) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in s. 679.3161(4).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having authenticated a record acknowledging that the person will hold possession of collateral for the secured party's benefit.

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under s. 678.3011 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that the person holds possession for a secured party's benefit.

(7) If a person acknowledges that the person holds possession for the secured party's benefit:

(a) The acknowledgment is effective under subsection (3) or s. 678.3011(1), even if the acknowledgment violates the rights of a debtor; and

(b) Unless the person otherwise agrees or law other than this chapter otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(a) To hold possession of the collateral for the secured party's benefit; or

(b) To redeliver the collateral to the secured party.

(9) A secured party does not relinquish possession, even if a delivery under subsection (8) violates the rights of a debtor. A person to whom collateral is delivered under subsection (8) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this chapter otherwise provides.

679.3141 Perfection by control.—

(1) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071.

(2) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under s. 679.1041, s. 679.1051, or s. 679.1071 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under s. 679.1061 from the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One of the following occurs:

1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

679.3151 Secured party's rights on disposition of collateral and in proceeds.—

(1) Except as otherwise provided in this chapter and in s. 672.403(2):

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds:

(a) If the proceeds are goods, to the extent provided by s. 679.336; and

(b) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this chapter with respect to commingled property of the type involved.

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds unless:

(a) The following conditions are satisfied:

1. A filed financing statement covers the original collateral;

2. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

3. The proceeds are not acquired with cash proceeds;

(b) The proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected other than under subsection (3) when the security interest attaches to the proceeds or within 20 days thereafter.

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under paragraph (4)(a) becomes unperfected at the later of:

(a) When the effectiveness of the filed financing statement lapses under s. 679.515 or is terminated under s. 679.513; or

(b) The 21st day after the security interest attaches to the proceeds.

679.3161 Continued perfection of security interest following change in governing law.—

(1) A security interest perfected pursuant to the law of the jurisdiction designated in s. 679.3011(1) or s. 679.3051(3) remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of 4 months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of 1 year after a transfer of collateral to a person who thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under s. 679.3111(2) or s. 679.3131 are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(b) The expiration of 4 months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

679.3171 Interests that take priority over or take free of security interest or agricultural lien.—

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under s. 679.322; and

(b) Except as otherwise provided in subsection (5), a person who becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One of the conditions specified in s. 679.2031(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in ss. 679.320 and 679.321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

679.3181 No interest retained in right to payment that is sold; rights and title of seller of account or chattel paper with respect to creditors and purchasers.—

(1) A debtor who has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(2) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor who has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

679.319 Rights and title of consignee with respect to creditors and purchasers.—

(1) Except as otherwise provided in subsection (2), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this chapter determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

679.320 Buyer of goods.—

(1) Except as otherwise provided in subsection (5), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(a) Without knowledge of the security interest;

(b) For value;

(c) Primarily for the buyer's personal, family, or household purposes; and

(d) Before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by s. 679.3161(1) and (2).

(4) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(5) Subsections (1) and (2) do not affect a security interest in goods in the possession of the secured party under s. 679.3131.

679.321 Licensee of general intangible and lessee of goods in ordinary course of business.—

(1) In this section, the term "licensee in ordinary course of business" means a person who becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(3) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

679.322 Priorities among conflicting security interests in and agricultural liens on same collateral.—

(1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter during which is neither filing nor perfection.

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(2) For the purposes of paragraph (1)(a):

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6), a security interest in collateral which qualifies for priority over a conflicting security interest under s. 679.327, s. 679.328, s. 679.329, s. 679.330, or s. 679.331 also has priority over a conflicting security interest in:

(a) Any supporting obligation for the collateral; and

(b) Proceeds of the collateral if:

1. The security interest in proceeds is perfected;

2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) and except as otherwise provided in subsection (6), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) through (5) are subject to:

(a) Subsection (7) and the other provisions of this part;

(b) Section 674.2101 with respect to a security interest of a collecting bank;

(c) Section 675.118 with respect to a security interest of an issuer or nominated person; and

(d) Section 679.1101 with respect to a security interest arising under chapter 672 or chapter 680.

(7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

679.323 Future advances.—

(1) Except as otherwise provided in subsection (3), for purposes of determining the priority of a perfected security interest under s. 679.322(1)(a), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

1. Under s. 679.3091 when it attaches; or

2. Temporarily under s. 679.3121(5), (6), or (7); and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under s. 679.3091 or s. 679.3121(5), (6), or (7).

(2) Except as otherwise provided in subsection (3), a security interest is subordinate to the rights of a person who becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase; or

(b) Forty-five days after the purchase.

(5) Subsection (4) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(6) Except as otherwise provided in subsection (7), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five days after the lease contract becomes enforceable.

(7) Subsection (6) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

679.324 Priority of purchase-money security interests.—

(1) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(2) Subject to subsection (3) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in s. 679.330, and, except as otherwise provided in s. 679.327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(3) Paragraphs (2)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(4) Subject to subsection (5) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in s. 679.327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 6 months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(5) Paragraphs (4)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(6) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than one security interest qualifies for priority in the same collateral under subsection (1), subsection (2), subsection (4), or subsection (6):

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, s. 679.322(1) applies to the qualifying security interests.

679.325 Priority of security interests in transferred collateral.—

(1) Except as otherwise provided in subsection (2), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(a) The debtor acquired the collateral subject to the security interest created by the other person;

(b) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(c) There is no period thereafter during which the security interest is unperfected.

(2) Subsection (1) subordinates a security interest only if the security interest:

(a) Otherwise would have priority solely under s. 679.322(1) or s. 679.324; or

(b) Arose solely under s. 672.711(3) or s. 680.508(5).

679.326 Priority of security interests created by new debtor.—

(1) Subject to subsection (2), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under s. 679.508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under s. 679.508.

(2) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under s. 679.508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

679.327 Priority of security interests in deposit account.—The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under s. 679.1041 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4), security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under s. 679.1041(1)(c) has priority over a security interest held by the bank with which the deposit account is maintained.

679.328 Priority of security interests in investment property.—The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under s. 679.1061 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subsections (3) and (4), conflicting security interests held by secured parties each of which has control under s. 679.1061 rank according to priority in time of:

(a) If the collateral is a security, obtaining control;

(b) If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under s. 678.1061(4)(a), the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under s. 678.1061(4)(b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

3. If the secured party obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this paragraph if the other person were the secured party; or

(c) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in s. 679.1061(2)(b) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under s. 679.3131(1) and not by control under s. 679.3141 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under s. 679.1061 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by ss. 679.322 and 679.323.

679.329 Priority of security interests in letter-of-credit right.—The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under s. 679.1071 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

679.330 Priority of purchaser of chattel paper or instrument.—

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051; and

(b) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in s. 679.327, a purchaser having priority in chattel paper under subsection (1) or subsection (2) also has priority in proceeds of the chattel paper to the extent that:

(a) Section 679.322 provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in s. 679.331(1), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

679.331 Priority of rights of purchasers of instruments, documents, and securities under other articles; priority of interests in financial assets and security entitlements under chapter 678.—

(1) This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in chapters 673, 677, and 678.

(2) This chapter does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under chapter 678.

(3) Filing under this chapter does not constitute notice of a claim or defense to the holders, purchasers, or persons described in subsections (1) and (2).

679.332 Transfer of money; transfer of funds from deposit account.—

(1) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

679.333 Priority of certain liens arising by operation of law.—

(1) In this section, the term "possessory lien" means an interest, other than a security interest or an agricultural lien:

(a) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(b) Which is created by statute or rule of law in favor of the person; and

(c) The effectiveness of which depends on the person's possession of the goods.

(2) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

679.334 Priority of security interests in fixtures and crops.—

(1) A security interest under this chapter may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this chapter in ordinary building materials incorporated into an improvement on land.

(2) This chapter does not prevent creation of an encumbrance upon fixtures under real property law.

(3) A security interest in goods which are or become fixtures is invalid against any person with an interest in the real property at the time the security interest in the goods is perfected or at the time the goods are affixed to the real property, whichever occurs later, unless such person has consented to the security interest or disclaimed an interest in the goods as fixtures.

(4) A security interest in goods which are or become fixtures takes priority as to the goods over the claims of all persons acquiring an interest in the real property subsequent to the perfection of such security interest or the affixing of the goods to the real property, whichever occurs later.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the security interest is:

(a) Created in a manufactured home in a manufactured-home transaction; and

(b) Perfected pursuant to a statute described in s. 679.3111(1)(b).

(6) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(7) Subsection (6) prevails over any inconsistent provisions of the statutes.

679.335 Accessions.—

(1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4), the other provisions of this part determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under s. 679.3111(2).

(5) After default, subject to part VI, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

679.336 Commingled goods.—

(1) In this section, the term "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(2) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(3) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) is perfected.

(5) Except as otherwise provided in subsection (6), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (3).

(6) If more than one security interest attaches to the product or mass under subsection (3), the following rules determine priority:

(a) A security interest that is perfected under subsection (4) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(b) If more than one security interest is perfected under subsection (4), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

679.337 Priority of security interests in goods covered by certificate of title.—If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under s. 679.3111(2), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

679.338 Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.—If a security interest or agricultural lien is perfected by a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

679.339 Priority subject to subordination.—This chapter does not preclude subordination by agreement by a person entitled to priority.

679.340 Effectiveness of right of recoupment or set-off against deposit account.—

(1) Except as otherwise provided in subsection (3), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3), the application of this chapter to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under s. 679.1041(1)(c), if the set-off is based on a claim against the debtor.

679.341 Bank's rights and duties with respect to deposit account.—Except as otherwise provided in s. 679.340(3), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

679.342 Bank's right to refuse to enter into or disclose existence of control agreement.—This chapter does not require a bank to enter into an agreement of the kind described in s. 679.1041(1)(b), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Section 4. Part IV of chapter 679, Florida Statutes, consisting of sections 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, and 679.408, Florida Statutes, is repealed and a new part IV, consisting of sections 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, and 679.409, Florida Statutes, is created to read:

PART IV
RIGHTS OF THIRD PARTIES

679.40111 Alienability of debtor's rights.—

(1) Except as otherwise provided in subsection (2) and ss. 679.4061, 679.4071, 679.4081, and 679.409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this chapter.

(2) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

679.4021 Secured party not obligated on contract of debtor or in tort.—The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

679.4031 Agreement not to assert defenses against assignee.—

(1) In this section, the term "value" has the meaning provided in s. 673.3031(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(a) For value;

(b) In good faith;

(c) Without notice of a claim of a property or possessory right to the property assigned; and

(d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under s. 673.3031(1).

(3) Subsection (2) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under s. 673.3031(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(a) The record has the same effect as if the record included such a statement; and

(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(5) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4), this section does not displace law other than this chapter which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

679.4041 Rights acquired by assignee; claims and defenses against assignee.—

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) through (5), the rights of an assignee are subject to:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(2) Subject to subsection (3) and except as otherwise provided in subsection (4), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

679.4051 Modification of assigned contract.—

(1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) through (4).

(2) Subsection (1) applies to the extent that:

(a) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(b) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under s. 679.4061(1).

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

679.4061 Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.—

(1) Subject to subsections (2) through (9), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8), notification is ineffective under subsection (1):

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this chapter; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

2. A portion has been assigned to another assignee; or

3. The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1).

(4) Except as otherwise provided in subsection (5) and ss. 680.303 and 679.4071, and subject to subsection (8), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) does not apply to the sale of a payment intangible or promissory note.

(6) Except as otherwise provided in ss. 680.303 and 679.4071 and subject to subsections (8) and (9), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsection (8), an account debtor may not waive or vary its option under paragraph (2)(c).

(8) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes. Subsection (6) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim of a debtor who is a natural person against an employer to receive compensation for injuries or sickness while an employee.

(b) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(c) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

However, this provision shall not preclude such debtor's creation, attachment, perfection, or enforcement of a security interest in a settlement arising from a personal injury claim other than one against an employer arising out of the debtor's employment.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

(10) This section prevails over any inconsistent statute, rule, or regulation.

679.4071 Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.—

(1) Except as otherwise provided in subsection (2), a term in a lease agreement is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(2) Except as otherwise provided in s. 680.303(7), a term described in paragraph (1)(b) is effective to the extent that there is:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of s. 680.303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

679.4081 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.—

(1) Except as otherwise provided in subsection (2), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) would be effective under law other than this chapter but is ineffective under subsection (1) or subsection (3), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) This section prevails over any inconsistent statute, rule, or regulation.

(6) Subsection (3) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim of a debtor who is a natural person against an employer to receive compensation for injuries or sickness while an employee.

(b) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(c) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance or support, the assignability of which is expressly prohibited or restricted by any statute.

However, this provision shall not preclude such debtor's creation, attachment, perfection, or enforcement of a security interest in a settlement arising from a personal injury claim other than one against an employer arising out of the debtor's employment.

679.409 Restrictions on assignment of letter-of-credit rights ineffective.—

(1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) but would be effective under law other than this chapter or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(a) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(b) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(c) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

Section 5. *(1) The Legislature finds that it is in the best interest of the citizens and businesses of this state to adopt Part V of Revised Article 9 of the Uniform Commercial Code as proposed by the National Conference of Commissioners on Uniform State Law, "revised Article 9," subject to specific modifications, as revised chapter 679, Florida Statutes. Such revised Article 9 almost exclusively affects secured transactions and the relationships between and among secured creditors, debtors, other creditors, and purchasers of personal property subject to a security interest. Both individuals and business entities are intended to benefit from the enactment of revised Article 9.*

(2) The Legislature also finds that, among other things, revised Article 9 contemplates a more straightforward and efficient system for documenting the perfection, amendment, continuance, termination, assignment, and transfer of security interests and requires less governmental involvement than necessary under existing law. Revised Article 9 suggests the possibility that states may delegate their historical administrative and operational responsibilities over financing statement filings to a nongovernmental entity. This principle complements the legislative policy of reducing government's detailed regulation and involvement with private commerce and business transactions. Consistent with other revisions to current chapter 679, Florida Statutes, being adopted by this act, the requirement for exclusive administration and operation by this state of the system of filing and maintaining documents evidencing secured transactions no longer exists. However, the carrying out of the duties of the filing office and filing officer are very important to the uninterrupted flow of secured transactions and the Secretary of State shall retain oversight over the private filing agency to which the filing office and filing officer duties under revised Article 9, as revised chapter 679, Florida Statutes, may be delegated.

Section 6. Part V of chapter 679, Florida Statutes, consisting of sections 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, and 679.507, Florida Statutes, is repealed and a new part V, consisting of sections 679.5011, 679.5021, 679.5031. 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 671.514, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, and 679.527, Florida Statutes, is created to read:

PART V
FILING

679.5011 Filing office.—

(1) Except as otherwise provided in subsection (2), the office in which to file a financing statement to perfect a security interest or agricultural lien is:

(a) The office of the clerk of the circuit court, if:

1. The collateral is as-extracted collateral or timber to be cut; or

2. The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures;

(b) The office of the Secretary of State, in accordance with ss. 679.3011-679.3071, and in all other cases.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

679.5021 Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.—

(1) Subject to subsection (2), a financing statement is sufficient only if it:

(a) Provides the name of the debtor;

(b) Provides the name of the secured party or a representative of the secured party; and

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in s. 679.5011(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must comply with the requirements of subsection (1) and also:

(a) Indicate that it covers this type of collateral;

(b) Indicate that it is to be filed in the real property records;

(c) Provide a description of the real property to which the collateral is related; and

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage satisfying the requirements of chapter 697 is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a) The record of a mortgage indicates the goods or accounts that it covers;

(b) The goods are or are to become fixtures related to the real property described in the record of a mortgage or the collateral is related to the real property described in the mortgage and is as-extracted collateral or timber to be cut;

(c) The record of a mortgage complies with the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(d) The record of a mortgage is recorded as required by chapter 697.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

679.5031 Name of debtor and secured party.—

(1) A financing statement sufficiently provides the name of the debtor:

(a) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(b) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(c) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

1. Provides the name, if any, specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish a debtor from other trusts having one or more of the same settlors; and

2. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(d) In other cases:

1. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subparagraph (1)(d)2., names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

679.5041 Indication of collateral.—A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to s. 679.1081; or

(2) If the security agreement grants a security interest in all of the debtor's personal property and such property is reasonably identified in the security agreement, as permitted by s. 679.1081, an indication that the financing statement covers all assets or all personal property.

679.5051 Filing and compliance with other statutes and treaties for consignments, leases, bailments, and other transactions.—

(1) A consignor, lessor, or bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in s. 679.3111(1), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(2) This part applies to the filing of a financing statement under subsection (1) and, as appropriate, to compliance that is equivalent to filing a financing statement under s. 679.3111(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

679.5061 Effect of errors or omissions.—

(1) A financing statement substantially complying with the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3), a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1) is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1), the name provided does not make the financing statement seriously misleading.

(4) For purposes of s. 679.508(2), the term "debtor's correct name" as used in subsection (3) means the correct name of the new debtor.

679.5071 Effect of certain events on effectiveness of financing statement.—

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) and s. 679.508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under the standard set forth in s. 679.5061.

(3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the change; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within 4 months after the change.

679.508 Effectiveness of financing statement if new debtor becomes bound by security agreement.—

(1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) to be seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under s. 679.2031(4); and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than 4 months after the new debtor becomes bound under s. 679.2031(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under s. 679.5071(1).

679.509 Persons entitled to file a record.—

(1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (2) or subsection (3); or

(b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as a debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(a) The collateral described in the security agreement; and

(b) Property that becomes collateral under s. 679.3151(1)(b), whether or not the security agreement expressly covers proceeds.

(3) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(a) The secured party of record authorizes the filing; or

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by s. 679.5131(1) or (3).

(4) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (3).

(5) By acquiring collateral in which a security interest or agricultural lien continues under s. 679.3151(1), a debtor authorizes the filing of an initial financing, and an amendment, covering the collateral and property that become collateral under s. 679.3151(1)(b).

679.510 Effectiveness of filed record.—

(1) Subject to subsection (3), a filed record is effective only to the extent that it was filed by a person who may file it under s. 679.509.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) If a person may file a termination statement only under s. 679.509(3)(b), the filed termination statement is effective only if the debtor authorizes the filing and the termination statement indicates that the debtor authorized it to be filed.

(4) A continuation statement that is not filed within the 6-month period prescribed by s. 679.515(4) is ineffective.

679.511 Secured party of record.—

(1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under s. 679.514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under s. 679.514(2), the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

679.512 Amendment of financing statement.—

(1) Subject to s. 679.509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5), otherwise amend the information provided in, a financing statement by filing an amendment that:

(a) Identifies, by its correct file number, if any, the initial financing statement to which the amendment relates, and the name of the debtor and the secured party of record; and

(b) If the amendment relates to an initial financing statement filed or recorded in a filing office described in s. 679.5011(1)(a), provides the information specified in s. 679.5021(2), the official records book and page number of the initial financing statement to which the amendment relates, and the name of the debtor and secured party of record.

(2) Except as otherwise provided in s. 679.515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent it:

(a) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(b) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

679.513 Termination statement.—

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1), a secured party shall cause the secured party of record to file the termination statement:

(a) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in s. 679.510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in s. 679.510, for purposes of ss. 679.519(7) and 679.522(1), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

679.514 Assignment of powers of secured party of record.—

(1) Except as otherwise provided in subsection (3), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(a) Identifies, by its correct file number and the secured party of record, the initial financing statement to which it relates;

(b) Provides the names of the assignor and debtor; and

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a real property mortgage that is effective as a fixture filing under s. 679.5021(3) may be made only by an assignment of record of the mortgage in the manner provided by s. 701.02.

679.515 Duration and effectiveness of financing statement; effect of lapsed financing statement.—

(1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless, before the lapse, a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected without filing. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in s. 679.510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage satisfying the requirements of chapter 697 that is effective as a fixture filing under s. 679.5021(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

679.516 What constitutes filing; effectiveness of filing.—

(1) Except as otherwise provided in subsection (2), communication of a record to a filing office, tender of the processing fee, or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable processing fee is not tendered;

(c) The record does not include the notation required by s. 201.22 indicating that the excise tax required by chapter 201 had been paid or is not required;

(d) The filing office is unable to index the record because:

1. In the case of an initial financing statement, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial;

2. In the case of an amendment or correction statement, the record:

a. Does not correctly identify the initial financing statement as required by s. 679.512 or s. 679.518, as applicable; or

b. Identifies an initial financing statement the effectiveness of which has lapsed under s. 679.515;

3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name and first name or initial; or

4. In the case of a record filed or recorded in the filing office described in s. 679.5011(1)(a), the record does not provide a sufficient description of the real property to which it relates;

(e) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the secured party of record;

(f) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

1. Provide a mailing address for the debtor;

2. Indicate whether the debtor is an individual or an organization; or

3. If the financing statement indicates that the debtor is an organization, provide:

a. A type of organization for the debtor;

b. A jurisdiction of organization for the debtor; or

c. An organizational identification number for the debtor or indicate that the debtor has none;

(g) In the case of an assignment reflected in an initial financing statement under s. 679.514(1) or an amendment filed under s. 679.514(2), the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the assignee;

(h) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by s. 679.515(4);

(i) In the case of an initial financing statement or an amendment, which amendment requires the inclusion of a collateral statement but the record does not provide any, the record does not provide a statement of collateral; or

(3) For purposes of subsection (2):

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by s. 679.512, s. 679.514, or s. 679.518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but that the filing office refuses to accept for a reason other than one set forth in subsection (2), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

(5)(a) If the Secretary of State reasonably and in good faith believes that:

1. A financing statement submitted for filing has been tendered to the wrong office; or

2. An exhibit or attachment specifically mentioned in the record as being attached is not attached; or

(b) If the filing office is unable to index the record because an amendment or correction statement was previously terminated under s. 679.513,

the filing office shall nevertheless conditionally accept the filing and give the financing statement a conditional filing number and record the date of filing as of the date it is received, the "conditional filing date," if it otherwise complies with this part. However, the financing statement may be rejected and the filing number and filing date purged from the filing office records if the person submitting the financing statement does not provide the filing office with information or documents satisfying the requirements of this part within 20 business days after the filing office sends an authenticated record stating an objection to the financing statement as permitted herein, which objection shall be sent within 3 business days after the financing statement is received by the filing office. If not rejected in accordance with this provision, the effective date of a conditionally accepted financing statement shall be the conditional filing date.

(6) If the Secretary of State reasonably and in good faith believes that a financing statement submitted for filing is fraudulent, the filing office shall nevertheless conditionally accept the filing and give the financing statement a conditional filing number and record the date of filing as the date it is received, the "conditional filing date," if it otherwise complies with this part. However, the financing statement may be rejected and the filing number and filing date purged from the filing office records if the person submitting the financing statement does not provide the filing office with information or documents supporting the legitimacy of the financing statement within 20 business days after the filing office sends an authenticated record stating an objection to the financing statement as permitted herein, which objection shall be sent within 3 business days after the financing statement is received by the filing office. If not rejected in accordance with this provision, the effective date of a conditionally accepted financing statement shall be the conditional filing date.

679.517 Effect of indexing errors.—The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

679.518 Claim concerning inaccurate or wrongfully filed record.—

(1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) A correction statement must:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement, the debtor, and the secured party of record to which the record relates;

(b) Indicate that it is a correction statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

679.519 Numbering, maintaining, and indexing records; communicating information provided in records.—

(1) For each record filed in a filing office, the filing office shall, in accordance with such other laws applicable to the recording of instruments by a filing office described in s. 679.5011(1)(a):

(a) Assign a unique number to the filed record;

(b) Create a record that bears the number assigned to the filed record and the date and time of filing;

(c) Maintain the filed record for public inspection; and

(d) Index the filed record in accordance with subsections (3), (4), and (5).

(2) Except as otherwise provided in subsection (9), a file number assigned after January 1, 2002, must include a digit that:

(a) Is mathematically derived from or related to the other digits of the file number; and

(b) Enables the filing office to detect whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5), the filing office shall:

(a) Index an initial financing statement according to the name of the debtor and shall index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(b) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(b) To the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under s. 679.514(1) or an amendment filed under s. 679.514(2):

(a) Under the name of the assignor as grantor; and

(b) To the extent that the law of this state provides for indexing the assignment of a real property mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability for:

(a) Retrieving a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(b) Associating and retrieving with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office may not remove a debtor's name from the index until 1 year after the effectiveness of a financing statement naming the debtor lapses under s. 679.515 with respect to all secured parties of record.

(8) Except as otherwise provided in subsection (9), the filing office shall perform the acts required by subsections (1) through (5) at the time and in the manner prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the record in question, if practical.

(9) Subsections (1), (2), and (8) do not apply to a filing office described in s. 679.5011(1)(a).

679.520 Acceptance and refusal to accept record.—

(1) A filing office shall refuse to accept a record for filing for a reason set forth in s. 679.516(2) and may refuse to accept a record for filing only for a reason set forth in s. 679.516(2).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by any filing-office rule but, in the case of a filing office described in s. 679.5011(1)(b), in no event more than 3 business days after the filing office receives the record, if practical.

(3) A filed financing statement satisfying s. 679.5021(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, s. 679.338 applies to a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

679.521 Uniform form of written financing statement and amendment.—The Secretary of State shall develop or approve mandatory forms for use in filing under this chapter. Such forms must be in accord with the requirements of Florida law, including s. 201.22. The secretary may, if he or she finds that such forms meet these requirements, approve the use of a standard national form for this purpose.

679.522 Maintenance and destruction of records.—

(1) The filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the financing statement has lapsed under s. 679.515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number, or official records book and page number if a fixture filing, assigned to the initial financing statement to which the record relates.

(2) Except to the extent that chapter 119 governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (1).

679.523 Information from filing office; sale or license of records.—

(1) If a person files a written record, the filing office shall make available, on the database, an image of the record showing the number assigned to the record pursuant to s. 679.519(1)(a) and the date of the filing of the record or, if requested, send to the person a separate printed acknowledgement indicating the debtor's name, the number assigned to the record pursuant to s. 679.519(1)(a), and the date of the filing of the record.

(2) If a person files a record other than a written record, the filing office described in s. 679.5011(l)(b) shall communicate to the person an image that provides:

(a) The information in the record;

(b) The number assigned to the record pursuant to s. 679.519(1)(a); and

(c) The date and time of the filing of the record.

(3) In complying with its duty under this chapter, the filing office described in s. 679.5011(1)(b) may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate or a record that can be admitted into evidence in the courts of the state without extrinsic evidence of its authenticity.

(4) The filing office described in s. 679.5011(1)(b) shall perform the acts required by subsections (1) and (2) at the time and in the manner

prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the request, if practical.

679.524 Delay by filing office.—Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

679.525 Processing fees.—

(1) Except as otherwise provided in subsection (3), the nonrefundable processing fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in s. 679.5021(3), is:

(a) For filing a financing statement, $25 for the first page, which shall include the cost of filing a termination statement for the financing statement;

(b) For filing an amendment, $12 for the first page;

(c) For indexing by additional debtor, secured party, or assignee, $3 per additional name indexed;

(d) For use of a nonapproved form, $5;

(e) For each additional facing page attached to a record, $3;

(f) For filing a financing statement communicated by an electronic filing process authorized by the filing office, $15 with no additional fees for multiple names or attached pages;

(g) For filing an amendment communicated by an electronic filing process authorized by the filing office, $5 with no additional fees for multiple names or attached pages;

(h) For a certified copy of a financing statement and any and all associated amendments, $30; and

(i) For a photocopy of a filed record, $1 per page.

(2) Except as otherwise provided in subsection (3), the fee for filing and indexing an initial financing statement of the kind described in s. 679.5021(3) is the amount specified in chapter 28.

(3) This section does not require a fee with respect to a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under s. 679.5021(3). However, the recording and satisfaction fees that otherwise would be applicable to the mortgage apply.

679.526 Filing-office rules.—The Department of State may adopt and publish rules to administer this chapter. The filing-office rules must be:

(1) Consistent with this chapter.

(2) Adopted and published in accordance with the Administrative Procedure Act.

679.527 Authority to delegate.—

(1) Except as otherwise provided in this section, the Secretary of State may delegate the duties of the filing office and filing officer under this chapter to a private filing agency qualified to transact business in this state which otherwise has satisfied all other requirements of law and has entered into an approved written contract with the Department of State. Upon the effective date of such contract, the private filing agency shall, subject to the review of the Secretary of State or his or her designee, fully and diligently perform and carry out the responsibilities of the filing office and filing officer under this chapter, except as proscribed in the contract or this chapter.

(2) Notwithstanding any contract with the private filing agency, the Secretary of State, or his or her designee who is an employee of the Department of State, shall retain the sole authority to conditionally accept and later reject a purportedly fraudulent financing statement as permitted under s. 679.515. The decision to reject shall be made within 3 business days after the financing statement is received by the filing office. However, the private filing agency may recommend to the Secretary of State or his or her designee action as to any purportedly fraudulent financing statement and shall send to the party submitting the financing statement immediately after the decision is made an authenticated record of any determination of conditional acceptance or rejection made by the Secretary of State or his or her designee. Further, notwithstanding any such contract, the Secretary of State or his or her designee also may review and reverse any decision by the private filing agency to reject a financing statement under this chapter.

(3) The Secretary of State shall immediately after the effective date of this act develop and issue a request for qualifications seeking qualified entities to perform the duties of the filing officer and filing office under this chapter which are delegable.

(a) The qualifications and any contract shall, at a minimum, require:

1. The creation and maintenance of a central filing, recording, retrieval, and response system that is capable of fully satisfying the filing officer and filing office requirements under this chapter.

2. Record maintenance in compliance with chapter 119.

3. Oversight by the Department of State, including compliance audits of the performance standards described in subsection (5).

4. Access by the public, including review at no charge through the Internet or such other substitute medium, of all financing statements maintained by the Department of State under chapter 679 existing as of the date of the enactment of this act, and of all financing statements filed after the effective date of this act, subject to any requirements or limitations of chapter 119 and this chapter.

5. Maintenance for at least 5 years of the type and amount of fees and procedures for the deposit of revenues, net of operating costs, prescribed by the Department of State as of the effective date of this act, consistent with chapter 15.

(4) Notwithstanding the requirements of chapter 287, the Secretary of State or his or her designee may determine and select the most qualified respondent to the request for qualifications as the private filing agency under this chapter.

(5) The Secretary of State or his or her designee shall develop performance standards to assure that the system to be used and actually used by the private filing agency is accurate, efficient, and complete and that the system satisfies the responsibilities of the filing office and filing officer under this chapter and meets the needs of various persons and entities using or affected by the filing system.

(6) Because of the unique role the filing office and filing officer have in administering and overseeing the system of filing, amending, terminating, and assigning financing statements, and the importance to commerce within this state of uninterrupted, consistent, and credible service to parties affected by the filing system, any contract between the Department of State and the private filing agency shall not be assignable without the express written consent of the Secretary of State, which consent may be withheld in his or her sole and absolute discretion.

(7) If:

(a) The private filing agency ceases, is unable, or fails to perform all of the duties required under this chapter required of the filing office and filing officer or as provided for in any contract, as determined by the Secretary of State in his or her sole discretion;

(b) An assignee for the benefit of creditor is appointed for the private filing agency or its assets or a receiver is appointed for the private filing agency or its assets other than by the Secretary of State;

(c) Bankruptcy or other insolvency proceedings are commenced by the private filing agency; or

(d) An involuntary bankruptcy case is commenced against the private filing agency and the case is not dismissed within 5 business days after the filing of the petition,

the Secretary of State shall, immediately or as soon as practicable thereafter, assume the duties of the filing office and filing officer under this chapter; appoint a receiver for the private filing agency to fulfill the duties of the filing office and filing officer under this chapter and any existing contract; or redelegate such duties to a new private filing agency that meets the requirements of this section and enters into a new approved contract with the Secretary of State. Upon any assumption, appointment, or redelegation by the Secretary of State under this subsection, any rights of the private filing agency pertaining to the contract or otherwise with respect to this chapter shall immediately terminate.

(8) All financing statements, logs, or indices evidencing information regarding the filing, amendment, continuation, termination, or assignment of financing statements, and all other records pertaining to financing statements received or sent by the private filing agency, regardless of the form in which they are maintained, shall be and remain the property of this state, and upon demand shall be immediately turned over to the Secretary of State upon the occurrence of any event described in paragraph (7)(a), paragraph (7)(b), paragraph (7)(c), or paragraph (7)(d). The Secretary of State shall be entitled to injunctive relief on an emergency basis if the private filing agency fails to turn over any of such records.

Section 7. Part VI of chapter 679, Florida Statutes, consisting of sections 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, and 679.628, Florida Statutes, is created to read:

PART VI
DEFAULT

679.601 Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.—

(1) After default, a secured party has the rights provided in this part and, except as otherwise provided in s. 679.602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 has the rights and duties provided in s. 679.2071.

(3) The rights under subsections (1) and (2) are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) and s. 679.605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.

(7) Except as otherwise provided in s. 679.607(3), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

679.602 Waiver and variance of rights and duties.—Except as otherwise provided in s. 679.624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) Section 679.2071(2)(d)3., which deals with use and operation of the collateral by the secured party;

(2) Section 679.210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Section 679.607(3), which deals with collection and enforcement of collateral;

(4) Sections 679.608(1) and 679.615(3) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Sections 679.608(1) and 679.615(4) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 679.609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Sections 679.610(2), 679.611, 679.613, and 679.614, which deal with disposition of collateral;

(8) Section 679.615(6), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

(9) Section 679.616, which deals with explanation of the calculation of a surplus or deficiency;

(10) Sections 679.620, 679.621, and 679.622, which deal with acceptance of collateral in satisfaction of obligation;

(11) Section 679.623, which deals with redemption of collateral;

(12) Section 679.624, which deals with permissible waivers; and

(13) Sections 679.625 and 679.626, which deal with the secured party's liability for failure to comply with this article.

679.603 Agreement on standards concerning rights and duties.—

(1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in s. 679.602 if the standards are not manifestly unreasonable.

(2) Subsection (1) does not apply to the duty under s. 679.609 to refrain from breaching the peace.

679.604 Procedure if security agreement covers real property or fixtures.—

(1) If a security agreement covers both personal and real property, a secured party may proceed:

(a) Under this part as to the personal property without prejudicing any rights with respect to the real property; or

(b) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(2) Subject to subsection (3), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(a) Under this part; or

(b) In accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(3) Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property. The secured party shall give reasonable notification of its intent to remove the collateral to all persons entitled to reimbursement under subsection (4).

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse. This subsection does not prohibit a secured party and the person entitled to reimbursement from entering into an authenticated record providing for the removal of fixtures and reimbursement for any damage caused thereby.

679.605 Unknown debtor or secondary obligor.—A secured party does not owe a duty based on its status as secured party:

(1) To a person who is a debtor or obligor, unless the secured party knows:

(a) That the person is a debtor or obligor;

(b) The identity of the person; and

(c) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(a) That the person is a debtor; and

(b) The identity of the person.

679.606 Time of default for agricultural lien.—For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

679.607 Collection and enforcement by secured party.—

(1) If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under s. 679.3151;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(a), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(b) or (c), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under paragraph (1)(c) the right of a debtor to enforce a mortgage nonjudicially outside this state, the secured party may record in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

1. A default has occurred; and

2. The secured party is entitled to enforce the mortgage nonjudicially outside this state.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

(6) Nothing in subsection (2) is intended to create a right of nonjudicial foreclosure in this state.

679.608 Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.—

(1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under s. 679.607 in the following order to:

1. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

2. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

3. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time and agree to indemnify the secured party on reasonable terms acceptable to the secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under subparagraph (a)3.

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under s. 679.607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

(3) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there

are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor has its chief executive office or principal residence in this state, as applicable. If authorized in an authenticated record, the interpleading secured party is entitled to be paid from the remaining proceeds the actual costs of the filing fee and an attorney's fee in the amount of $250 incurred in connection with filing the interpleader action and obtaining an order approving the interpleader of funds. The debtor in a consumer transaction may not be assessed for the attorney's fees and costs incurred in the interpleader action by the holders of subordinate security interests or other liens based upon disputes among said holders, and a debtor in a transaction other than a consumer transaction may only recover such fees and costs to the extent provided for in an authenticated record. If authorized in an authenticated record, the court in the interpleader action may award reasonable attorney's fees and costs to the prevailing party in a dispute between the debtor and a holder of a security interest or lien which claims an interest in the remaining interplead proceeds, but only if the debtor challenges the validity, priority, or extent of said security interest or lien. Except as provided in this subsection, a debtor may not be assessed attorney's fees and costs incurred by any party in an interpleader action commenced under this section.

679.609 Secured party's right to take possession after default.—

(1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under s. 679.610.

(2) A secured party may proceed under subsection (1):

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

679.610 Disposition of collateral after default.—

(1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4):

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) if it indicates that "there is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

679.611 Notification before disposition of collateral.—

(1) In this section, the term "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4), a secured party that disposes of collateral under s. 679.610 shall send to the persons specified in subsection (3) a reasonable authenticated notification of disposition.

(3) To comply with subsection (2), the secured party shall send an authenticated notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

1. Any other person from whom the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

2. Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

3. Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(4) Subsection (2) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subparagraph (3)(c)2. if:

(a) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subparagraph (3)(c)2.; and

(b) Before the notification date, the secured party:

1. Did not receive a response to the request for information; or

2. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

(6) For purposes of subsection (3), the secured party may send the authenticated notification as follows:

(a) If the collateral is other than consumer goods, to the debtor at the address in the financing statement, unless the secured party has received an authenticated record from the debtor notifying the secured party of a

different address for such notification purposes or the secured party has actual knowledge of the address of the debtor's chief executive office or principal residence, as applicable, at the time the notification is sent;

(b) If the collateral is other than consumer goods, to any secondary obligor at the address, if any, in the authenticated agreement, unless the secured party has received an authenticated record from the secondary obligor notifying the secured party of a different address for such notification purposes or the secured party has actual knowledge of the address of the secondary obligor's chief executive office or principal residence, as applicable, at the time the notification is sent; and

(c) If the collateral is other than consumer goods:

1. To the person described in subparagraph (3)(c)1., at the address stated in the notification;

2. To the person described in subparagraph (3)(c)2., at the address stated in the financing statement;

3. To the person described in subparagraph (3)(c)3., at the address stated in the official records of the recording or registration agency.

679.612 Timeliness of notification before disposition of collateral.—

(1) Except as otherwise provided in subsection (2), whether a notification is sent within a reasonable time is a question of fact.

(2) A notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

679.613 Contents and form of notification before disposition of collateral; general.—Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(a) Describes the debtor and the secured party;

(b) Describes the collateral that is the subject of the intended disposition;

(c) States the method of intended disposition;

(d) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(e) States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subsection (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subsection (1) are sufficient, even if the notification includes:

(a) Information not specified by that paragraph; or

(b) Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in s. 679.614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To:. . . . (Name of debtor, obligor, or other person to which the notification is sent). . . .

From:. . . . (Name, address, and telephone number of secured party). . . .

Name of Debtor(s):. . . . (Include only if debtor(s) are not an addressee). . . .

[For a public disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . to the highest qualified bidder in public as follows:

Day and Date:

Time:

Place:

[For a private disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . privately sometime after . . . . (day and date). . . . .

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] for a charge of $______. You may request an accounting by calling us at . . . . (telephone number). . . . .

679.614 Contents and form of notification before disposition of collateral; consumer-goods transaction.—In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(a) The information specified in s. 679.613(1);

(b) A description of any liability for a deficiency of the person to whom the notification is sent;

(c) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under s. 679.623 is available; and

(d) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

. . . . (Name and address of secured party). . . .

. . . . (Date). . . .

NOTICE OF OUR PLAN TO SELL PROPERTY

. . . . (Name and address of any obligor who is also a debtor). . . .

Subject:. . . . (Identification of Transaction). . . .

We have your . . . . (describe collateral). . . . , because you broke promises in our agreement.

[For a public disposition:]

We will sell . . . . (describe collateral). . . . at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:

Time:

Place:

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell . . . . (describe collateral). . . . at private sale sometime after . . . . (date). . . . . A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you . . . . (will or will not, as applicable). . . . still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our

expenses. To learn the exact amount you must pay, call us at . . . . (telephone number). . . . .

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . and request a written explanation. We will charge you $_____ for the explanation if we sent you another written explanation of the amount you owe us within the last 6 months.

If you need more information about the sale, call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . .

We are sending this notice to the following other people who have an interest in . . . . (describe collateral). . . . or who owe money under your agreement:

. . . . (Names of all other debtors and obligors, if any). . . .

(4) A notification in the form of subsection (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subsection (3) is sufficient, even if it includes errors in information not required by subsection (1), unless the error is misleading with respect to rights arising under this chapter.

(6) If a notification under this section is not in the form of subsection (3), law other than this chapter determines the effect of including information not required by subsection (1).

679.615 Application of proceeds of disposition; liability for deficiency and right to surplus.—

(1) A secured party shall apply or pay over for application the cash proceeds of disposition under s. 679.610 in the following order to:

(a) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

1. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

2. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(d) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time after receipt of the request and agree to indemnify the secured party on reasonable terms acceptable to the secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(c).

(3) A secured party need not apply or pay over for application noncash proceeds of disposition under s. 679.610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) and permitted by subsection (3):

(a) Unless paragraph (1)(d) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(a) The debtor is not entitled to any surplus; and

(b) The obligor is not liable for any deficiency.

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(7) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) Takes the cash proceeds free of the security interest or other lien;

(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

(8) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor's chief executive office or principal residence is located in this state, as applicable. The interpleading secured party and any other parties in the interpleader action shall only be entitled to recover attorney's fees and costs as permitted in s. 679.608(3).

679.616 Explanation of calculation of surplus or deficiency.—

(1) In this section, the term:

(a) "Explanation" means a writing that:

1. States the amount of the surplus or deficiency;

2. Provides an explanation in accordance with subsection (3) of how the secured party calculated the surplus or deficiency;

3. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

4. Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b) "Request" means a record:

1. Authenticated by a debtor or consumer obligor;

2. Requesting that the recipient provide an explanation; and

3. Sent after disposition of the collateral under s. 679.610.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under s. 679.615, the secured party shall:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

1. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

2. Within 14 days after receipt of a request; or

(b) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(3) To comply with subparagraph (1)(a)2., a writing must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

1. If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

2. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a); and

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to one response to a request under this section during any 6-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to paragraph (2)(a). The secured party may require payment of a charge not exceeding $25 for each additional response.

679.617 Rights of transferee of collateral.—

(1) A secured party's disposition of collateral after default:

(a) Transfers to a transferee for value all of the debtor's rights in the collateral;

(b) Discharges the security interest under which the disposition is made; and

(c) Discharges any subordinate security interest or other subordinate lien other than liens created under statutes providing for liens, if any, that are not to be discharged.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1), even if the secured party fails to comply with this chapter or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1), the transferee takes the collateral subject to:

(a) The debtor's rights in the collateral;

(b) The security interest or agricultural lien under which the disposition is made; and

(c) Any other security interest or other lien.

679.618 Rights and duties of certain secondary obligors.—

(1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(a) Receives an assignment of a secured obligation from the secured party;

(b) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(c) Is subrogated to the rights of a secured party with respect to collateral.

(2) An assignment, transfer, or subrogation described in subsection (1):

(a) Is not a disposition of collateral under s. 679.610; and

(b) Relieves the secured party of further duties under this chapter.

679.619 Transfer of record or legal title.—

(1) In this section, the term "transfer statement" means a record authenticated by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor, and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) or otherwise is not of itself a disposition of collateral under this chapter and does not of itself relieve the secured party of its duties under this chapter.

679.620 Acceptance of collateral in full or partial satisfaction of obligation; compulsory dispostion of collateral.—

(1) Except as otherwise provided in subsection (7), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection (3);

(b) The secured party does not receive, within the time set forth in subsection (4), a notification of objection to the proposal authenticated by:

1. A person to whom the secured party was required to send a proposal under s. 679.621; or

2. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection (5) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to s. 679.624.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection (1) are met.

(3) For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

1. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

2. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures, and, in a consumer transaction, provides notice that the proposal will be deemed accepted if it is not objected to by an authenticated notice within 30 days after the date the proposal is sent by the secured party; and

3. Does not receive a notification of objection authenticated by the debtor within 30 days after the proposal is sent.

(4) To be effective under paragraph (1)(b), a notification of objection must be received by the secured party:

(a) In the case of a person to whom the proposal was sent pursuant to s. 679.621, within 20 days after notification was sent to that person; and

(b) In other cases:

1. Within 20 days after the last notification was sent pursuant to s. 679.621; or

2. If a notification was not sent, before the debtor consents to the acceptance under subsection (3).

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to s. 679.610 within the time specified in subsection (6) if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5), the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

679.621 Notification of proposal to accept collateral.—

(1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from whom the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and

3. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1).

(3) A secured party shall send its proposal under s. 679.621(1) or (2) to the affected party at the address prescribed in s. 679.611(6).

679.622 Effect of acceptance of collateral.—

(1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(a) Discharges the obligation to the extent consented to by the debtor;

(b) Transfers to the secured party all of a debtor's rights in the collateral;

(c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(d) Terminates any other subordinate interest.

(2) A subordinate interest is discharged or terminated under subsection (1), even if the secured party fails to comply with this chapter.

679.623 Right to redeem collateral.—

(1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender:

(a) Fulfillment of all obligations secured by the collateral; and

(b) The reasonable expenses and attorney's fees described in s. 679.615(1)(a).

(3) A redemption may occur at any time before a secured party:

(a) Has collected collateral under s. 679.607;

(b) Has disposed of collateral or entered into a contract for its disposition under s. 679.610; or

(c) Has accepted collateral in full or partial satisfaction of the obligation it secures under s. 679.622.

679.624 Waiver.—

(1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under s. 679.611 only by an agreement to that effect entered into and authenticated after default.

(2) A debtor may waive the right to require disposition of collateral under s. 679.620(5) only by an agreement to that effect entered into and authenticated after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under s. 679.623 only by an agreement to that effect entered into and authenticated after default.

679.625 Remedies for failure to comply with article.—

(1) If it is established that a secured party is not proceeding in accordance with this chapter, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions. This subsection shall not preclude a debtor other than a consumer and a secured party, or two or more secured parties in other than a consumer transaction, from agreeing in an authenticated record that the debtor or secured party must first provide to the alleged offending secured party notice of a violation of this chapter and opportunity to cure before commencing any legal proceeding under this section.

(2) Subject to subsections (3), (4), and (6), a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter, including damages suffered by the debtor resulting from the debtor's inability to obtain, or increased costs of alternative financing, but not including consequential, special, or penal damages, unless the conduct giving rise to the failure constitutes an independent claim under the laws of this state other than this chapter and then only to the extent otherwise recoverable under law.

(3) Except as otherwise provided in s. 671.628:

(a) A person who, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) for the person's loss; and

(b) If the collateral is consumer goods, a person who was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the obligation or the time-price differential plus 10 percent of the cash price.

(4) A debtor whose deficiency is eliminated under s. 679.626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under s. 679.626 may not otherwise recover under subsection (2) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(5) In lieu of damages recoverable under subsection (2), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover $500 in each case from a person who:

(a) Fails to comply with s. 679.2081;

(b) Fails to comply with s. 679.209;

(c) Files a record that the person is not entitled to file under s. 679.509(1);

(d) Fails to cause the secured party of record to file or send a termination statement as required by s. 679.513(1) or (3) after receipt of an authenticated record notifying the person of such noncompliance;

(e) Fails to comply with s. 679.616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(f) Fails to comply with s. 679.616(2)(b) with respect to a consumer transaction, and with respect to a transaction other than a consumer transaction, after receipt of an authenticated record notifying the person of such noncompliance.

(6) A debtor or consumer obligor may recover damages under subsection (2) and, in addition, $500 in each case from a person who, without reasonable cause, fails to comply with a request under s. 679.210. A recipient of a request under s. 679.210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under S. 679.210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person who is reasonably misled by the failure.

679.626 Action in which deficiency or surplus is in issue.—In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in s. 679.628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, reasonable expenses, and, to the extent provided for by agreement and not prohibited by law, attorney's fees exceeds the greater of:

(a) The proceeds of the collection, enforcement, disposition, or acceptance; or

(b) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of paragraph (3)(b), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under s. 679.615(6), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

679.627 Determination of whether conduct was commercially reasonable.—

(1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(a) In the usual manner on any recognized market;

(b) At the price current in any recognized market at the time of the disposition; or

(c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(a) In a judicial proceeding;

(b) By a bona fide creditors' committee;

(c) By a representative of creditors; or

(d) By an assignee for the benefit of creditors.

(4) Approval under subsection (3) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

679.628 Nonliability and limitation on liability of secured party; liability of secondary obligor.—

(1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this chapter; and

(b) The secured party's failure to comply with this chapter does not affect the liability of the person for a deficiency.

(2) A secured party is not liable because of its status as a secured party:

(a) To a person who is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(b) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(4) A secured party is not liable to any person under s. 679.625(3)(b) for its failure to comply with s. 679.616.

(5) A secured party is not liable under s. 679.625(3)(b) more than once with respect to any one secured obligation.

Section 8. Part VII of chapter 679, Florida Statutes, consisting of sections 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, and 679.709, Florida Statutes, is created to read:

PART VII
TRANSITION

679.701 Effective date.—This act takes effect July 1, 2001.

679.702 Savings clause.—

(1) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(2) Except as otherwise provided in subsection (3) and ss. 679.703-679.709:

(a) Transactions and liens that were not governed by chapter 679, Florida Statutes 2000, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(3) This act does not affect an action, case, or proceeding commenced before this act takes effect.

679.703 Security interest perfected before effective date.—

(1) A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person who becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(2) Except as otherwise provided in s. 679.705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person who becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

(a) Is a perfected security interest for 1 year after this act takes effect;

(b) Remains enforceable thereafter only if the security interest becomes enforceable under s. 679.203 before the year expires; and

(c) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

679.704 Security interest unperfected before effective date.—A security interest that is enforceable immediately before this act takes effect but that would be subordinate to the rights of a person who becomes a lien creditor at that time:

(1) Remains an enforceable security interest for 1 year after this act takes effect;

(2) Remains enforceable thereafter if the security interest becomes enforceable under s. 679.203 when this act takes effect or within 1 year thereafter; and

(3) Becomes perfected:

(a) Without further action when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or

(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

679.705 Effectiveness of action taken before effective date.—

(1) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person who becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within 1 year after this act takes effect. An attached security interest becomes unperfected 1 year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(2) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(3) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000. However, except as otherwise provided in subsections (4) and (5) and s. 679.706, the financing statement ceases to be effective at the earlier of:

(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(b) June 30, 2006.

(4) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before

this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part III, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(5) Paragraph (3)(b) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000, only to the extent that part III provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part V for an initial financing statement.

679.706 When initial financing statement suffices to continue effectiveness of financing statement.—

(1) The filing of an initial financing statement in the office specified in s. 679.5011 continues the effectiveness of a financing statement filed before this act takes effect if:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(b) The pre-effective date financing statement was filed in an office in another state or another office in this state; and

(c) The initial financing statement satisfies subsection (3).

(2) The filing of an initial financing statement under subsection (1) continues the effectiveness of the pre-effective date financing statement:

(a) If the initial financing statement is filed before this act takes effect, for the period provided in s. 679.403, Florida Statutes 2000, with respect to a financing statement; and

(b) If the initial financing statement is filed after this act takes effect, for the period provided in s. 679.515 with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1), an initial financing statement must:

(a) Satisfy the requirements of part V for an initial financing statement;

(b) Identify the pre-effective date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective date financing statement remains effective.

679.707 Amendment or pre-effective date financing statement.—

(1) In this section, the term "pre-effective date financing statement" means a financing statement filed before this act takes effect.

(2) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in a pre-effective date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part III. However, the effectiveness of a pre-effective date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective date financing statement may be amended after this act takes effect only if:

(a) The pre-effective date financing statement and an amendment are filed in the office specified in s. 679.5011;

(b) An amendment is filed in the office specified in s. 679.5011 concurrently with, or after the filing in that office of, an initial financing statement that satisfies s. 671.706(3); or

(c) An initial financing statement that provides the information as amended and satisfies s. 679.706(3) is filed in the office specified in s. 679.5011.

(4) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement may be continued only under s. 679.705(4) and (6) or s. 679.706.

(5) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective date financing statement is filed, unless an initial financing statement that satisfies s. 679.706(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part III as the office in which to file a financing statement.

679.708 Persons entitled to file initial financing statement or continuation statement.—A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(a) To continue the effectiveness of a financing statement filed before this act takes effect; or

(b) To perfect or continue the perfection of a security interest.

679.709 Priority.—

(1) This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, chapter 679, Florida Statutes 2000, determines priority.

(2) For purposes of s. 679.322(1), the priority of a security interest that becomes enforceable under s. 679.2031 of this act dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under chapter 679, Florida Statutes 2000. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Section 9. Subsection (2) of section 671.105, Florida Statutes, is amended to read:

671.105 Territorial application of the code; parties' power to choose applicable law.—

(2) When one of the following provisions of this code specifies the applicable law, that provision governs; and a contrary agreement is effective only to the extent permitted by the law (including the conflict-of-laws rules) so specified:

(a) Governing law in the chapter on funds transfers. (s. 670.507)

(b) Rights of sellers' creditors against sold goods. (s. 672.402)

(c) Applicability of the chapter on bank deposits and collections. (s. 674.102)

(d) Applicability of the chapter on letters of credit. (s. 675.116)

(e) Applicability of the chapter on investment securities. (s. 678.1101)

(f) *Law governing* perfection*, the effect* ~~provisions~~ of *perfection or nonperfection, and* the *priority of security interests and agricultural liens* ~~chapter on secured transactions~~. *(ss. 679.3011-679.3071)* ~~(s. 679.103)~~

(g) Applicability of the chapter on leases. (ss. 680.1051 and 680.1061)

Section 10. Subsections (9), (32), and (37) of section 671.201, Florida Statutes, are amended to read:

671.201 General definitions.—Subject to additional definitions contained in the subsequent chapters of this code which are applicable to specific chapters or parts thereof, and unless the context otherwise requires, in this code:

(9) "Buyer in ordinary course of business" means a person who *buys goods* in good faith ~~and~~ without knowledge that the sale *violates* ~~to him or her is in violation of~~ the ~~ownership~~ rights ~~or security interest~~ of *another person* ~~a third party~~ in the goods*, and* ~~buys~~ in *the* ordinary course from a person*, other than a pawnbroker,* in the business of selling goods of that kind ~~but does not include a pawnbroker~~. *A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person who sells oil, gas, or other minerals at the wellhead or minehead is a person* ~~All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ in the business of selling goods of that kind. *A buyer in the ordinary course of business* ~~"Buying"~~ may *buy* ~~be~~ for cash*,* ~~or~~ by exchange of other property*,* or on secured or unsecured credit and *may acquire* ~~includes receiving~~ goods or documents of title under a preexisting contract for sale ~~but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt~~. *Only a buyer who takes possession of the goods or has a right to recover the goods from the seller under chapter 672 may be a buyer in the ordinary course of business. A person who acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in the ordinary course of business.*

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, *security interest,* issue or reissue, gift or any other voluntary transaction creating an interest in property.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (s. 672.401) is limited in effect to a reservation of a security interest.~~ The term also includes any interest of *a consignor and* a buyer of accounts*,* ~~or~~ chattel paper*, a payment intangible, or a promissory note in a transaction* which is subject to chapter 679. The special property interest of a buyer of goods on identification of those goods to a contract for sale under s. 672.401 is not a security interest, but a buyer may also acquire a security interest by complying with chapter 679. *Except as otherwise provided in s. 672.505, the right of a seller or lessor of goods under chapter 672 or chapter 680 to retain or acquire possession of the goods is not a security interest, but a seller or lessor may also acquire a security interest by complying with chapter 679. The retention or reservation of title by a seller of goods, notwithstanding shipment or delivery to the buyer (s. 672.401), is limited in effect to a reservation of a security interest.* ~~Unless a consignment is intended as security, reservation of title thereunder is not a security interest, but a consignment is in any event subject to the provisions on consignment sales (s. 672.326).~~ Whether a transaction creates a lease or security interest is determined by the facts of each case; however:

(a) A transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and;

1. The original term of the lease is equal to or greater than the remaining economic life of the goods;

2. The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

3. The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

4. The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

1. The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

2. The lessee assumes the risk of loss of the goods or agrees to pay taxes; insurance; filing, recording, or registration fees; or service or maintenance costs with respect to the goods;

3. The lessee has an option to renew the lease or to become the owner of the goods;

4. The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

5. The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection:

1. Additional consideration is not nominal if, when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed or if, when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

2. "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

3. "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

Section 11. Subsection (3) of section 672.103, Florida Statutes, is amended to read:

672.103 Definitions and index of definitions.—

(3) The following definitions in other chapters apply to this chapter:

"Check," s. 673.1041.

"Consignee," s. 677.102.

"Consignor," s. 677.102.

"Consumer goods," s. *679.1021* ~~679.109~~.

"Dishonor," s. 673.5021.

"Draft," s. 673.1041.

Section 12. Section 672.210, Florida Statutes, is amended to read:

672.210 Delegation of performance; assignment of rights.—

(1) A party may perform her or his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having her or his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) *Except as otherwise provided in s. 679.4061,* unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on her or him by her or his contract, or impair materially her or his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of her or his entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer. A court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4)~~(3)~~ Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5)~~(4)~~ An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by her or him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6)~~(5)~~ The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to her or his rights against the assignor demand assurances from the assignee (s. 672.609).

Section 13. Section 672.326, Florida Statutes, is amended to read:

672.326 Sale on approval and sale or return; ~~consignment sales and~~ rights of creditors.—

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

(a) A "sale on approval" if the goods are delivered primarily for use, and

(b) A "sale or return" if the goods are delivered primarily for resale.

(2) ~~Except as provided in subsection (3),~~ Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

~~(3) Where goods are delivered to a person for sale and such person maintains a place of business at which she or he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery:~~

~~(a) Complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) Establishes that the person conducting the business is generally known by her or his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) Complies with the filing provisions of the chapter on secured transactions (chapter 679).~~

(3)~~(4)~~ Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this chapter (s. 672.201) and as contradicting the sale aspect of the contract within the provisions of this chapter on parol or extrinsic evidence (s. 672.202).

Section 14. Section 672.502, Florida Statutes, is amended to read:

672.502 Buyer's right to goods on seller's *repudiation, failure to deliver, or* insolvency.—

(1) Subject to *subsections* ~~subsection~~ (2) *and (3),* and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which she or he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if*:*

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

(b) In all cases, the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under paragraph (1)(a) vests upon acquisition of a special property, even if the seller has not then repudiated or failed to deliver.

(3)~~(2)~~ If the identification creating her or his special property has been made by the buyer she or he acquires the right to recover the goods only if they conform to the contract for sale.

Section 15. Section 672.716, Florida Statutes, is amended to read:

672.716 Buyer's right to specific performance or replevin.—

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort she or he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. *In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.*

Section 16. Subsection (3) of section 674.2101, Florida Statutes, is amended to read:

674.2101 Security interest of collecting bank in items, accompanying documents, and proceeds.—

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to chapter 679, but:

(a) No security agreement is necessary to make the security interest enforceable (s. *679.2031(2)(c)1.* ~~679.203(1)(a)~~);

(b) No filing is required to perfect the security interest; and

(c) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 17. Section 675.1181, Florida Statutes, is created to read:

675.1181 Security interest of issuer of nominated person.—

(1) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(2) As long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (1), the security interest continues and is subject to chapter 679, but a security agreement is not necessary to make the security interest enforceable under s. 679.2031(2)(c):

(a) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(b) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Section 18. Subsection (1) of section 677.503, Florida Statutes, is amended to read:

677.503 Document of title to goods defeated in certain cases.—

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither:

(a) Delivered or entrusted them or any document of title covering them to the bailor or the bailor's nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this chapter (s. 677.403) or with power of disposition under this code (ss. 672.403 and *679.320* ~~679.307~~) or other statute or rule of law; nor

(b) Acquiesced in the procurement by the bailor or the bailor's nominee of any document of title.

Section 19. Subsection (6) of section 678.1031, Florida Statutes, is amended to read:

678.1031 Rules for determining whether certain obligations and interests are securities or financial assets.—

(6) A commodity contract, as defined in s. *679.1021(1)(o)* ~~679.115~~, is not a security or a financial asset.

Section 20. Subsections (4) and (6) of section 678.1061, Florida Statutes, are amended to read:

678.1061 Control.—

(4) A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder; ~~or~~

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder*; or*~~.~~

(c) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that the person has control on behalf of the purchaser.

(6) A purchaser who has satisfied the requirements of *subsection* ~~paragraph~~ (3)~~(b)~~ or *subsection* ~~paragraph~~ (4)~~(b)~~ has control, even if the registered owner in the case of *subsection* ~~paragraph~~ (3)~~(b)~~ or the entitlement holder in the case of *subsection* ~~paragraph~~ (4)~~(b)~~ retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

Section 21. Subsection (5) of section 678.1101, Florida Statutes, is amended to read:

678.1101 Applicability; choice of law.—

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder *governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this chapter, or this code* ~~specifies that it is governed by the law of a particular jurisdiction~~, that jurisdiction is the securities intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(c)~~(b)~~ If *neither paragraph (a) nor paragraph (b) applies and* an agreement between the securities intermediary and its entitlement holder *governing the securities account* ~~does not specify the governing law as provided in paragraph (a), but~~ expressly *provides* ~~specifies~~ that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d)~~(c)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the office identified in an account statement as the office serving the entitlement holder's account *is located*.

(e)~~(d)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (c)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the chief executive office of the securities intermediary *is located*.

Section 22. Subsection (1) of section 678.3011, Florida Statutes, is amended to read:

678.3011 Delivery.—

(1) Delivery of a certificated security to a purchaser occurs when:

(a) The purchaser acquires possession of the security certificate;

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and *is registered in the name of the purchaser, payable to the order of the purchaser, or* ~~has been~~ specially indorsed to the purchaser by an effective indorsement *and has not been endorsed to the securities intermediary or in blank*.

Section 23. Section 678.3021, Florida Statutes, is amended to read:

678.3021 Rights of purchaser.—

(1) Except as otherwise provided in subsections (2) and (3), *a purchaser* ~~upon delivery~~ of a certificated or uncertificated security ~~to a~~

~~purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Section 24. Section 678.5101, Florida Statutes, is amended to read:

678.5101 Rights of purchaser of security entitlement from entitlement holder.—

(1) *In a case not covered by the priority rules in chapter 679 or the rules stated in subsection (3),* an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under s. 678.5021, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(3) In a case not covered by the priority rules in chapter 679, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. *Except as otherwise provided in subsection (4),* purchasers who have control rank *according to priority in time of:*

(a) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under s. 678.1061(4)(a);

(b) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under s. 678.1061(4)(b); or

(c) If the purchaser obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this subsection if the other person were the secured party. ~~equally, except that~~

(4) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Section 25. Subsection (3) of section 680.1031, Florida Statutes, is amended to read:

680.1031 Definitions and index of definitions.—

(3) The following definitions in other chapters of this code apply to this chapter:

(a) "Account," s. *679.1021(1)(b)* ~~679.106~~.

(b) "Between merchants," s. 672.104(3).

(c) "Buyer," s. 672.103(1)(a).

(d) "Chattel paper," s. *679.1021(1)(k)* ~~679.105(1)(b)~~.

(e) "Consumer goods," s. *679.1021(1)(w)* ~~679.109(1)~~.

(f) "Document," s. *679.1021(1)(dd)* ~~679.105(1)(f)~~.

(g) "Entrusting," s. 672.403(3).

(h) "General *intangible* ~~intangibles~~," s. *679.1021(1)(pp)* ~~679.106~~.

(i) "Good faith," s. 672.103(1)(b).

(j) "Instrument," s. *679.1021(1)(uu)* ~~679.105(1)(i)~~.

(k) "Merchant," s. 672.104(1).

(l) "Mortgage," s. *679.1021(1)(ccc)* ~~679.105(1)(j)~~.

(m) "Pursuant to a commitment," s. *679.1021(1)(ppp)* ~~679.105(1)(k)~~.

(n) "Receipt," s. 672.103(1)(c).

(o) "Sale," s. 672.106(1).

(p) "Sale on approval," s. 672.326(1).

(q) "Sale or return," s. 672.326(1).

(r) "Seller," s. 672.103(1)(d).

Section 26. Section 680.303, Florida Statutes, is amended to read:

680.303 Alienability of party's interest under lease contract or of lessor's residual interest in goods; delegation of performance; transfer of rights.—

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to chapter 679 *by reason of s. 679.1091(1)(c)*.

(2) Except as provided in *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~, a provision in a lease agreement which:

(a) Prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or

(b) Makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection *(4)* ~~(5)~~, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

~~(3) A provision in a lease agreement which:~~

~~(a) Prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or~~

~~(b) Makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

(3)~~(4)~~ A provision in a lease agreement which:

(a) Prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation; or

(b) Makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection *(4)* ~~(5)~~.

(4)~~(5)~~ Subject to *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~:

(a) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in s. 680.501(2);

(b) If paragraph (a) is not applicable and if a transfer is made that is prohibited under a lease agreement or materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5)~~(6)~~ A transfer of "the lease" or of "all my rights under the lease" or a transfer in similar general terms is a transfer of rights, and unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6)~~(7)~~ Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7)~~(8)~~ In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Section 27. Section 680.307, Florida Statutes, is amended to read:

680.307 Priority of liens arising by attachment or levy on, security interests in, and other claims to goods.—

(1) Except as otherwise provided in s. 680.306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in *subsection* ~~subsections~~ (3) ~~and (4)~~ and in ss. 680.306 and 680.308, a creditor of a lessor takes subject to the lease contract unless~~:~~

~~(a)~~ the creditor holds a lien that attached to the goods before the lease contract became enforceable.~~;~~

~~(b) The creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interests; or~~

~~(c) The creditor holds a security interest in the goods which was perfected (s. 679.303) before the lease contract became enforceable.~~

(3) *Except as otherwise provided in ss. 679.3171, 679.321, and 679.323, a lessee takes a leasehold interest subject to a security interest held by a creditor or lessor.* ~~A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (s. 679.303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.~~

Section 28. Paragraph (b) of subsection (1) of section 680.309, Florida Statutes, is amended to read:

680.309 Lessor's and lessee's rights when goods become fixtures.—

(1) In this section:

(b) A "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of s. *679.5021(1) and (2)* ~~679.402(5)~~.

Section 29. This act shall take effect January 1, 2002.

And the title is amended as follows:

On page 1, line 2, through page 4, line 27
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to the Uniform Commercial Code; revising ch. 679, F.S., relating to secured transactions; creating ss. 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, 679.1101, F.S.; providing a short title, definitions, and general concepts; creating ss. 679.2011, 679.2021, 679.2031, 679.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, 679.210, F.S.; providing for the effectiveness and attachment of security agreements; prescribing rights and duties of secured parties; creating ss. 679.3011, 679.3021, 679.3031, 679.3041, 679.3051, 679.3061, 679.3071, 679.3081, 679.091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.338, 679.340, 679.341, 679.342, F.S.; providing for perfection and priority of security interests; creating ss. 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, 679.409, F.S.; prescribing rights of third parties; providing legislative findings; creating ss. 679.5011, 679.5021, 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 679.524, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, 679.527, F.S.; prescribing filing procedures for perfection of a security interest; providing forms; providing duties and operation of filing office; providing authority for the Secretary of State to delegate certain filing functions to a private filing agency under certain circumstances; providing criteria, requirements, procedures, and limitations; creating ss. 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, F.S.; prescribing procedures for default and enforcement of security interests; providing for forms; creating ss. 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, 679.709, F.S.; providing transitional effective dates and savings clause for perfected and unperfected security interests, specified actions, and financing statements; specifying priority of conflicting claims; amending s. 671.105, F.S.; specifying the precedence of law governing the perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens; amending s. 671.201, F.S.; revising definitions used in the Uniform Commercial Code; amending s. 672.103, F.S.; conforming a cross-reference; amending s. 672.210, F.S.; providing that the creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially affects the buyer unless the enforcement actually results in a delegation of material performance of the seller; amending s. 672.326, F.S.; eliminating provisions relating to consignment sales; amending s. 672.502, F.S.; modifying buyers' rights to goods on a seller's repudiation, failure to deliver, or insolvency; amending s. 672.716, F.S.; providing that, for goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property; amending s. 674.2101, F.S.; conforming a cross-reference; creating s. 675.1181, F.S.; specifying conditions under which an issuer or nominated person has a security interest in a document presented under a letter of credit; amending ss. 677.503, 678.1031, F.S.; conforming cross-references; amending s. 678.1061, F.S.; specifying a condition under which a purchaser has control of a security entitlement; amending s. 678.1101, F.S.; modifying rules that determine a securities intermediary's jurisdiction; amending s. 678.3011, F.S.; providing for delivery of a certificated security to a purchaser; amending s. 678.3021, F.S.; eliminating a requirement that a purchaser of a certificated or uncertificated security receive delivery prior to acquiring all rights in the security; amending s. 678.5101, F.S.; prescribing rights of a purchaser of a security entitlement from an entitlement holder; amending ss. 680.1031, 680.303, 680.307, 680.309, F.S.; conforming cross-references; repealing ss. 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113,

679.114, 679.115, 679.116, F.S., relating to the short title, applicability, and definitions of ch. 679, F.S.; repealing ss. 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, 679.208, F.S., relating to the validity of security agreements and the rights of parties to such agreements; repealing ss. 679.301, 679.302, 679,303, 679.304, 679.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, 679.318, F.S., relating to rights of third parties, perfected and unperfected security interests, and rules of priority; repealing ss. 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, 679.408, F.S., relating to filing of security interests; repealing ss. 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, 679.507, F.S., relating to rights of the parties upon default under a security agreement; providing effective dates.

Rep. Kottkamp moved the adoption of the amendment.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 393613)

Amendment 1 to Amendment 1—On page 90, lines 3-18, and on page 94, lines 12-27,
remove from the amendment: all of said lines

and insert in lieu thereof:

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(c) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(d) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 770081)

Amendment 2 to Amendment 1—On page 15, lines 21-29
remove from the amendment: all of said lines
(Renumber subsequent subparagraphs)

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 513705)

Amendment 3 to Amendment 1—On page 25, line 28, through page 26, line 8 of the amendment
remove from the amendment: all of said lines

and insert in lieu thereof:

States preempts this chapter; or

(b) The rights of a transferee beneficiary or

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 175599)

Amendment 4 to Amendment 1—On page 28, line 1 of the amendment
after the word “a” insert: *government or*

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 153725)

Amendment 5 to Amendment 1—On page 97, lines 25-30
remove from the amendment: all of said lines

and insert in lieu thereof:

(b) The Florida Secured Transaction Registry, in accordance with ss. 679.3011-679.3071, and in all other cases.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the Office of the Secretary of State, or the filing office authorized by s. 697.527 to accept filings for the Florida Secured Transaction Registry. The financing statement also constitutes

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 560865)

Amendment 6 to Amendment 1—On page 113, line 24, through page 115, line 7
remove from the amendment: all of said lines

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 445133)

Amendment 7 to Amendment 1—On page 119, line 6
remove from the amendment: *mandatory*

and insert in lieu thereof: *acceptable*

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 035637)

Amendment 8 to Amendment 1—On page 121, lines 8-15
remove from the amendment: all of said lines

and insert in lieu thereof:

(a) For filing an initial financing statement, $28 for the first page, and second page, if any, which shall include the cost of filing a termination statement for the financing statement;

(c) For indexing by additional debtor, secured party, or assignee, $3 per additional name indexed;

(d) For each additional page attached to a

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 610769)

Amendment 9 to Amendment 1—On page 122, line 12, through page 126, line 8
remove from the amendment: all of said lines

and insert in lieu thereof:

679.527 Florida Secured Transaction Registry and Authority to Contract Filing Office and Filing Officer Duties Under Part V.—

(1) The "Florida Secured Transaction Registry" means that centralized data base for which all initial financing statements, amendments, assignments, and other statements of change ("UCC Records"), that are authorized to be filed under this chapter, are filed, maintained, and can be retrieved from. The Florida Secured Transaction Registry shall include the data and other information pertaining to UCC records filed with the Florida Secretary of State and effective under this chapter before October 1, 2001, or filed with the Secretary of State or filed with the Private Filing Agency as authorized in this section after October 1, 2001. Consistent with s. 679.5011(1)(a), this section does not apply to initial financing statements, amendments, assignments, and other statements of change filed under this chapter with an office of the clerk of the circuit court.

(2) Except as otherwise provided in this section, the duties of the filing office and filing officer under this chapter may be performed by an entity qualified to transact business in the State of Florida (the "Private Filing Agency") which has entered into a written contract with the Department of State satisfying the minimum requirements provided in this section. The Private Filing Agency, among its other duties conferred by contract or by this part, shall have the responsibility for acting as the filing office under this chapter and overseeing the continued existence and maintenance of the Florida Secured Transaction Registry.

(3) The Secretary of State, or the Private Filing Agency if authorized by the Secretary of State, may enter into a contract with an entity qualified to transact business in the State of Florida for the purpose of physically performing the filing officer duties under this part. However, the Private Filing Agency, unless displaced by the Secretary of State or a subsequent Private Filing Agency, shall remain the filing office under this chapter.

(4) Upon the effective date of the contract with the Private Filing Agency or October 31, 2001, whichever occurs later, the Secretary of State shall cease acting as the filing officer and filing office under this part, although the Secretary of State shall retain the authority and powers as otherwise provided in this section or by other applicable law.

(5) The Secretary of State is authorized to and shall immediately develop and issue a Request for Qualifications seeking a qualified entity to perform the duties of the Private Filing Agency under this chapter. The qualifications and any contract shall, at a minimum, require:

(a) Creation and maintenance of a central filing, recording, retrieval, and response system as part of the Florida Secured Transaction Registry that is capable of satisfying the filing officer and filing office requirements under this chapter, which system shall be comparable and compatible with the filing system in existence immediately prior to the effective date of this section to the fullest extent possible as determined by the Secretary of State;

(b) Continuous and easy access by the public, including review at no charge through the Internet or such other substitute medium acceptable to the Secretary of State, of all UCC Records filed and maintained by the Department of State under this chapter as of the effective date of this section, subject to any requirements or limitations of chapter 119 and this chapter;

(c) Records maintenance in compliance with this part and chapter 119;

(d) Oversight by the Secretary of State, including compliance audits of the performance standards described below;

(e) Maintenance of the current level of filing fees and procedures for the deposit of revenues, net of operating costs, consistent with chapter 15; and

(f) Bonding in an amount acceptable to the Secretary of State.

(6) Except as otherwise provided in a contract approved by the Secretary of State, the Private Filing Agency shall not be liable to any person harmed by the failure of the Private Filing Agency to comply with the filing office or filing officer requirements under this chapter, unless such failure is due to specific acts or omissions done recklessly or committed knowingly and with malicious intent and then only to the extent such acts or omissions directly and proximately cause identifiable damages.

(7) Notwithstanding the requirements of chapter 287, the Secretary of State shall have the authority to determine and select the most qualified respondent to the Request for Qualifications as the Private Filing Agency under this section and negotiate and enter into one or more contracts as provided in this section.

(8) The Secretary of State shall develop performance standards to ensure that the Florida Secured Transaction Registry and its central filing system to be implemented and maintained by the Private Filing Agency is accurate and complete, that the system implements and maintains the responsibilities of the filing office and filing officer under this chapter, and that the system implemented meets the needs of various persons and entities using or affected by the filing system.

(9) Any contract between the Secretary of State and the Private Filing Agency shall not be assignable, absolutely or for security, or otherwise transferable, without the express written consent of the Secretary of State, which consent may be withheld in his or her sole and absolute discretion.

(10) The Secretary of State shall immediately assume, either temporarily or permanently, the duties of the filing office and filing officer under this chapter, or assign such filing office and filing officer duties to a new Private Filing Agency that meets the requirements of this chapter and enters into a new contract with the Secretary of State satisfying the requirements of this section, upon the happening of any one of the following:

(a) a Private Filing Agency has not been approved by the Secretary of State and a contract required by this section has not been executed;

(b) the Private Filing Agency ceases, is unable, or fails, to perform the duties required under this chapter by the filing office or filing officer or as provided for in any contract, as determined by the Secretary of State in accordance with the terms of the contract;

(c) an assignee for the benefit of creditors is appointed for the Private Filing Agency or its assets or a receiver is appointed for the Private Filing Agency or its assets other than the Secretary of State;

(d) a bankruptcy case or other insolvency proceeding is commenced by the Private Filing Agency; or

(e) an involuntary bankruptcy case or other insolvency proceeding is commenced against the Private Filing Agency and the case or proceeding is not dismissed within five (5) business days of the filing of the petition.

(11) Immediately upon the occurrence of an event described in subsection (10) any rights of the Private Filing Agency pertaining to the contract or otherwise, with respect to this chapter, shall terminate without any further action being required. Additionally, any rights of the Private Filing Agency pertaining to the contract or otherwise, with respect to this chapter shall terminate in the discretion of the Secretary of State upon written notice to said Private Filing Agency.

(12) If required by the Secretary of State, any contracts with the Private Filing Agency entered into pursuant to this section shall provide that any exclusive rights of the Private Filing Agency shall terminate automatically without further action upon any default under the contract, even if the default is capable of being cured.

(13) The Florida Secured Transaction Registry; data bases, source or object codes, and any software relating to the Florida Secured Transaction Registry and system for central filing under this part, and all information contained in any of the foregoing; all documents and records, in whatever form or medium, filed with, created by or maintained by the Private Filing Agency under this chapter, including all UCC Records and any other records or documents relating to the UCC Records, in whatever form or medium, whether existing prior to the effective date of this section or thereafter (collectively, the "UCC Filing Office Materials and Records"); are and shall remain the sole and exclusive property of the State of Florida, and upon demand the originals and all copies are subject to the immediate turnover by the Private Filing

Agency to the Secretary of State upon the occurrence of any of the events in subsection (10). The Secretary of State shall have the right to inspect at anytime, and make copies of, the UCC Filing Office Materials and Records. The Private Filing Agency shall not acquire rights to the Florida Secured Transaction Registry or the UCC Filing Office Materials and Records, and may not sell, license, lease, donate, copyright, patent, trademark, pledge or otherwise transfer any of the UCC Filing Office Materials and Records to any person or entity, except as authorized in writing by the Secretary of State.

(14) To the extent permitted by its contract with the Secretary of State and provided the procedures for certification required by the Secretary of State are complied with, the Private Filing Agency is authorized to certify any of the UCC Records for the purposes of admissibility in a state or federal court or other tribunal proceeding, upon request for an authenticated record. Said certified record shall constitute a public record under s. 90.803(8).

(15) The Private Filing Agency shall be subject to the exclusive original jurisdiction of the Circuit Court of Leon County, Florida, for any litigation between the Secretary of State and the Private Filing Agency. The Secretary of State shall be entitled to injunctive relief on an emergency basis if the Private Filing Agency or its agents or employees fail to turn over any of the UCC Filing Office Materials and Records or otherwise fails to comply with the contracts or with the filing officer or filing office duties under this chapter.

(16) The terms "Florida Secretary of State," "Secretary of State," or "Secretary", when employed in this chapter in and connection with carrying out the filing office and filing officer duties assigned under this chapter, also shall mean the Private Filing Agency except as otherwise provided in the approved contract with said entities.

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 895353)

Amendment 10 to Amendment 1—On page 156, line 31 of the amendment

after the words "cost of" insert: *,*

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 892039)

Amendment 11 to Amendment 1—On page 162, lines 16-17
remove from the amendment: all of said lines

and insert in lieu thereof:

679.701 Effective date.—This part takes effect January 1, 2002.

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The question recurred on the adoption of **Amendment 1**, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 614339)

Amendment 2—On page 97, lines 22-26
remove from the bill: all of said lines

and insert in lieu thereof:

2. The collateral is goods that are or are to become fixtures in this state, in which event the financing statement shall be filed as a fixture filing.

(b) The Office of the Secretary of State, in accordance with ss. 679.3011-679.3071, in all other cases, including a case in which the collateral is goods that are or are to become fixtures outside this state.

Rep. Kottkamp moved the adoption of the amendment, which failed of adoption.

Representative(s) Crow offered the following:

(Amendment Bar Code: 830539)

Amendment 3 (with title amendment)—On page 4, line 30,
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Part I of chapter 679, Florida Statutes, consisting of sections 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, and 679.116, Florida Statutes, is repealed and a new part I of that chapter, consisting of sections 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, and 679.1101, Florida Statutes, is created to read:

PART I
GENERAL PROVISIONS

679.1011 Short title.—This chapter may be cited as Uniform Commercial Code-Secured Transactions.

679.1021 Definitions and index of definitions.—

(1) In this chapter, the term:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(b) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; for services rendered or to be rendered; for a policy of insurance issued or to be issued; for a secondary obligation incurred or to be incurred; for energy provided or to be provided; for the use or hire of a vessel under a charter or other contract; arising out of the use of a credit or charge card or information contained on or for use with the card; or as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include rights to payment evidenced by chattel paper or an instrument; commercial tort claims; deposit accounts; investment property; letter-of-credit rights or letters of credit; or rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(d) "Accounting," except as used in the term "accounting for," means a record:

1. Authenticated by a secured party;

2. Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

3. Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products:

1. Which secures payment or performance of an obligation for:

a. Goods or services furnished in connection with a debtor's farming operation; or

b. Rent on real property leased by a debtor in connection with the debtor's farming operation;

2. Which is created by statute in favor of a person who:

a. In the ordinary course of the person's business furnished goods or services to a debtor in connection with a debtor's farming operation; or

b. Leased real property to a debtor in connection with the debtor's farming operation; and

3. Whose effectiveness does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means:

1. Oil, gas, or other minerals that are subject to a security interest that:

a. Is created by a debtor having an interest in the minerals before extraction; and

b. Attaches to the minerals as extracted; or

2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(g) "Authenticate" means:

1. To sign; or

2. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include charters or other contracts involving the use or hire of a vessel or records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

1. Proceeds to which a security interest attaches;

2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

3. Goods that are the subject of a consignment.

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or

2. The claimant is an individual and the claim:

a. Arose in the course of the claimant's business or profession; and

b. Does not include damages arising out of personal injury to or the death of an individual.

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person who:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of the person's business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:

a. Deals in goods of that kind under a name other than the name of the person making delivery;

b. Is not an auctioneer; and

c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is $1,000 or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person who delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) "Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation.

(y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) "Consumer transaction" means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes; a security interest secures the obligation; and the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(aa) "Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(bb) "Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

3. A consignee.

(cc) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(dd) "Document" means a document of title or a receipt of the type described in s. 677.201(2).

(ee) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(ff) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(gg) "Equipment" means goods other than inventory, farm products, or consumer goods.

(hh) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

1. Crops grown, growing, or to be grown, including:

a. Crops produced on trees, vines, and bushes; and

b. Aquatic goods produced in aquacultural operations;

2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

3. Supplies used or produced in a farming operation; or

4. Products of crops or livestock in their unmanufactured states.

(ii) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(jj) "File number" means the number assigned to an initial financing statement pursuant to s. 679.519(1).

(kk) "Filing office" means an office designated in s. 679.5011 as the place to file a financing statement.

(ll) "Filing-office rule" means a rule adopted pursuant to s. 679.526.

(mm) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(nn) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying s. 679.502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(oo) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(pp) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(qq) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(rr) "Goods" means all things that are movable when a security interest attaches. The term includes fixtures; standing timber that is to be cut and removed under a conveyance or contract for sale; the unborn young of animals; crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(ss) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(tt) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(uu) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include investment property, letters of credit, or writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(vv) "Inventory" means goods, other than farm products, which:

1. Are leased by a person as lessor;

2. Are held by a person for sale or lease or to be furnished under a contract of service;

3. Are furnished by a person under a contract of service; or

4. Consist of raw materials, work in process, or materials used or consumed in a business.

(ww) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(xx) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(yy) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(zz) "Lien creditor" means:

1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;

3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment.

(aaa) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(bbb) "Manufactured-home transaction" means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(ccc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation, which interest was created or derived from an instrument described in s. 697.01.

(ddd) "New debtor" means a person who becomes bound as debtor under s. 679.2031(4) by a security agreement previously entered into by another person.

(eee) "New value" means money; money's worth in property, services, or new credit; or release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(fff) "Noncash proceeds" means proceeds other than cash proceeds.

(ggg) "Obligor" means a person who, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, owes payment or other performance of the obligation, has provided property other than the collateral to secure payment or other performance of the obligation, or is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(hhh) "Original debtor," except as used in s. 679.3101(3), means a person who, as debtor, entered into a security agreement to which a new debtor has become bound under s. 679.2031(4).

(iii) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(jjj) "Person related to," with respect to an individual, means:

1. The spouse of the individual;

2. A brother, brother-in-law, sister, or sister-in-law of the individual;

3. An ancestor or lineal descendant of the individual or the individual's spouse; or

4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(kkk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;

2. An officer or director of, or a person performing similar functions with respect to, the organization;

3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1.;

4. The spouse of an individual described in subparagraph 1., subparagraph 2., or subparagraph 3.; or

5. An individual who is related by blood or marriage to an individual described in subparagraph 1., subparagraph 2., subparagraph 3., or subparagraph 4. and shares the same home with the individual.

(lll) "Proceeds," except as used in s. 679.609(2), means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

2. Whatever is collected on, or distributed on account of, collateral;

3. Rights arising out of collateral;

4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(mmm) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(nnn) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to ss. 679.620, 679.621, and 679.622.

(ooo) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(ppp) "Record," except as used in the terms "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(qqq) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(rrr) "Secondary obligor" means an obligor to the extent that:

1. The obligor's obligation is secondary; or

2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(sss) "Secured party" means:

1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

2. A person who holds an agricultural lien;

3. A consignor;

4. A person to whom accounts, chattel paper, payment intangibles, or promissory notes have been sold;

5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

6. A person who holds a security interest arising under s. 672.401, s. 672.505, s. 672.711(3), s. 680.508(5), s. 674.2101, or s. 675.118.

(ttt) "Security agreement" means an agreement that creates or provides for a security interest.

(uuu) "Send," in connection with a record or notification, means:

1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

2. To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1.

(vvv) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(www) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(xxx) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(yyy) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(zzz) "Termination statement" means an amendment of a financing statement which:

1. Identifies, by its file number, or if a fixture filing, by the official records book and page number, the initial financing statement to which it relates; and

2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(aaaa) "Transmitting utility" means a person primarily engaged in the business of:

1. Operating a railroad, subway, street railway, or trolley bus;

2. Transmitting communications electrically, electromagnetically, or by light;

3. Transmitting goods by pipeline or sewer; or

4. Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other chapters apply to this chapter:

"Applicant"	*s. 675.103.*
"Beneficiary"	*s. 675.103.*
"Broker"	*s. 678.1021.*
"Certificated security"	*s. 678.1021.*
"Check"	*s. 673.1041.*
"Clearing corporation"	*s. 678.1021.*
"Contract for sale"	*s. 672.106.*
"Customer"	*s. 674.104.*
"Entitlement holder"	*s. 678.1021.*
"Financial asset"	*s. 678.1021.*
"Holder in due course"	*s. 673.3021.*
"Issuer" (with respect to a letter of credit or letter-of-credit right)	*s. 675.103.*
"Issuer" (with respect to a security)	*s. 678.2011.*
"Lease"	*s. 680.1031.*
"Lease agreement"	*s. 680.1031.*
"Lease contract"	*s. 680.1031.*
"Leasehold interest"	*s. 680.1031.*
"Lessee"	*s. 680.1031.*
"Lessee in ordinary course of business"	*s. 680.1031.*
"Lessor"	*s. 680.1031.*
"Lessor's residual interest"	*s. 680.1031.*
"Letter of credit"	*s. 675.103.*
"Merchant"	*s. 672.104.*
"Negotiable instrument"	*s. 673.1041.*
"Nominated person"	*s. 675.103.*
"Note"	*s. 673.1041.*
"Proceeds of a letter of credit"	*s. 675.114.*
"Prove"	*s. 673.1031.*
"Sale"	*s. 672.106.*
"Securities account"	*s. 678.5011.*
"Securities intermediary"	*s. 678.1021.*
"Security"	*s. 678.1021.*
"Security certificate"	*s. 678.1021.*
"Security entitlement"	*s. 678.1021.*
"Uncertificated security"	*s. 678.1021.*

(3) Chapter 671 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

679.1031 Purchase-money security interest; application of payments; burden of establishing.—

(1) In this section, the term:

(a) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral.

(b) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest;

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(c) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(a) The debtor acquired interest in the software in an integrated transaction in which the debtor acquired an interest in the goods; and

(b) The debtor acquired interest in the software for the principal purpose of using the software in the goods.

(4) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(5) If the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) In accordance with any reasonable method of application to which the parties agree;

(b) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

1. To obligations that are not secured; and

2. If more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(6) A purchase-money security interest does not lose its status as such, even if:

(a) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(b) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(c) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(7) A secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

679.1041 Control of deposit account.—

(1) A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

(c) The secured party becomes the bank's customer with respect to the deposit account.

(2) A secured party that has satisfied subsection (1) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

679.1051 Control of electronic chattel paper.—A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections (4), (5), and (6), unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

679.1061 Control of investment property.—

(1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in s. 678.1061.

(2) A secured party has control of a commodity contract if:

(a) The secured party is the commodity intermediary with which the commodity contract is carried; or

(b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

679.1071 Control of letter-of-credit right.—A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under s. 675.114(3) or otherwise applicable law or practice.

679.1081 Sufficiency of description.—

(1) Except as otherwise provided herein and in subsections (3), (4), and (5), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described. A description of real estate in a record filed to perfect a security interest in crops growing or to be grown or goods which are or are to become fixtures shall be sufficient only if the filing or recording of the same constitutes constructive notice under the laws of this state, other than this chapter, which are applicable to the filing or recording of a record of a mortgage, and a mailing or street address alone shall not be sufficient.

(2) Except as otherwise provided in subsection (4), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(a) Specific listing;

(b) Category;

(c) Except as otherwise provided in subsection (5), a type of collateral defined in the Uniform Commercial Code;

(d) Quantity;

(e) Computational or allocational formula or procedure; or

(f) Except as otherwise provided in subsection (3), any other method, if the identity of the collateral is objectively determinable.

(3) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral for purposes of the security agreement.

(4) Except as otherwise provided in subsection (5), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(a) The collateral by those terms or as investment property; or

(b) The underlying financial asset or commodity contract.

(5) A description only by type of collateral defined in the Uniform Commercial Code is an insufficient description of:

(a) A commercial tort claim; or

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

679.1091 Scope.—

(1) Except as otherwise provided in subsections (3) and (4), this chapter applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under s. 672.401, s. 672.502, s. 672.711, or s. 680.508(5), as provided in s. 679.1101; and

(f) A security interest arising under s. 674.2101 or s. 675.118.

(2) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

(3) This chapter does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this chapter; or

(b) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under s. 675.114.

(4) This chapter does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but s. 679.333 applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

1. Section 679.340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

2. Section 679.4041 applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

1. Liens on real property in ss. 679.2031 and 679.3081;

2. Fixtures in s. 679.334;

3. Fixture filings in ss. 679.5011, 679.5021, 679.512, 679.516, and 679.519; and

4. Security agreements covering personal and real property in s. 679.604;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(m) An assignment of a deposit account, other than a non-negotiable certificate of deposit, in a consumer transaction, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds; or

(n) Any transfer by a government or governmental unit.

679.1101 Security interests arising under chapter 672 or chapter 680.—A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is subject to this chapter. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if s. 679.2031(2)(c) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by chapter 672 or chapter 680; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

Section 2. Part II of chapter 679, Florida Statutes, consisting of sections 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, and 679.208, Florida Statutes, is repealed and a new part II of that chapter, consisting of sections 679.2011, 679.2021, 679.2031, 670.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, and 679.210, Florida Statutes, is created to read:

PART II
EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT

679.2011 General effectiveness of security agreement.—

(1) Except as otherwise provided in the Uniform Commercial Code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) Nothing in this chapter validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto. A transaction, although subject to this chapter, is also subject to chapters 516 and 520, and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute shall control. Failure to comply with any applicable statute has only the effect which is specified therein.

679.2021 Title to collateral immaterial.—Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this chapter with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

679.2031 Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.—

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) through (9), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One of the following conditions is met:

1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under s. 679.3131 pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under S. 678.3011 pursuant to the debtor's security agreement; or

4. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 pursuant to the debtor's security agreement.

(3) Subsection (2) is subject to s. 674.2101 on the security interest of a collecting bank, s. 675.118 on the security interest of a letter-of-credit issuer or nominated person, s. 679.1101 on a security interest arising under chapter 672 or chapter 680, and s. 679.2061 on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this chapter or by contract:

(a) The security agreement becomes effective to create a security interest in the person's property; or

(b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(a) The agreement satisfies subsection (2)(c) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) Another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by s. 679.3151 and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

679.2041 After-acquired property; future advances.—

(1) Except as otherwise provided in subsection (2), a security agreement may create or provide for a security interest in after-acquired collateral.

(2) A security interest does not attach under a term constituting an after-acquired property clause to:

(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(b) A commercial tort claim.

(3) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

679.2051 Use or disposition of collateral permissible.—

(1) A security interest is not invalid or fraudulent against creditors solely because:

(a) The debtor has the right or ability to:

1. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

2. Collect, compromise, enforce, or otherwise deal with collateral;

3. Accept the return of collateral or make repossessions; or

4. Use, commingle, or dispose of proceeds; or

(b) The secured party fails to require the debtor to account for proceeds or replace collateral.

(2) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

679.2061 Security interest arising in purchase or delivery of financial asset.—

(1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(a) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(b) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(2) The security interest described in subsection (1) secures the person's obligation to pay for the financial asset.

(3) A security interest in favor of a person who delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(a) The security or other financial asset:

1. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

2. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(b) The agreement calls for delivery against payment.

(4) The security interest described in subsection (3) secures the obligation to make payment for the delivery.

679.2071 Rights and duties of secured party having possession or control of collateral.—

(1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

1. For the purpose of preserving the collateral or its value;

2. As permitted by an order of a court having competent jurisdiction; or

3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

1. To charge back uncollected collateral; or

2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) do not apply.

679.2081 Additional duties of secured party having control of collateral.—

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor:

(a) A secured party having control of a deposit account under s. 679.1041(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under s. 679.1041(1)(c) shall:

1. Pay the debtor the balance on deposit in the deposit account; or

2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under s. 679.1051 shall:

1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or the debtor's designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) A secured party having control of investment property under s. 678.1061(4)(b) or s. 679.1061(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(e) A secured party having control of a letter-of-credit right under s. 679.1071 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

679.209 Duties of secured party if account debtor has been notified of assignment.—

(1) Except as otherwise provided in subsection (3), this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under s. 679.4061(1) an authenticated record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

679.210 Request for accounting; request regarding list of collateral or statement of account.—

(1) In this section, the term:

(a) "Request" means a record of a type described in paragraph (b), paragraph (c), or paragraph (d).

(b) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(e) "Reasonably identifying the transaction or relationship" means that the request provides information sufficient for the person to identify the transaction or relationship and respond to the request. Pursuant to s. 679.603(1), a secured party and debtor may determine by agreement the standards for measuring fulfillment of this duty.

(f) "Person" means a person or entity that is or was a secured party or otherwise claims or has claimed an interest in the collateral.

(2) Subject to subsections (3), (4), (5), and (6), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(4) A person who receives a request regarding a list of collateral, claims no interest in the collateral when the request is received, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the collateral; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person who receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when the request is received, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the obligations; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) A debtor is entitled under this section without charge to one response to a request for an accounting or a request regarding a statement of account for each secured obligation during any 6-month period. A debtor in a consumer transaction is entitled to a single response to a request regarding a list of collateral, for a transaction other than a consumer transaction, without charge during any 6-month period. The secured party may require payment of a charge not exceeding $25 for each additional response to a request for an accounting, a request regarding a statement of account, or a request regarding a list of collateral for a consumer transaction. To the extent provided in an authenticated record, the secured party may require the payment of reasonable expenses, including attorney's fees, reasonably incurred in providing a response to a request regarding a list of collateral for a transaction other than a consumer transaction under this section; otherwise, the secured party may not charge more than $25 for each request regarding a list of collateral. Excluding a request related to a proposed satisfaction of the secured obligation, a secured party is not required to respond to more than 12 of each of the permitted requests in any 12-month period.

Section 3. Part III of chapter 679, Florida Statutes, consisting of sections 679.301, 679.302, 679.303, 679.304, 690.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, and 679.318, Florida Statutes, is repealed and a new part III of that chapter, consisting of sections 679.3011, 679.3021, 679.3031, 679.3041, 690.3051, 679.3061, 679.3071, 679.3081, 679.3091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.3381, 679.339, 679.340, 679.341, and 679.342, Florida Statutes, is created to read:

PART III
PERFECTION AND PRIORITY

679.3011 Law governing perfection and priority of security interests.—Except as otherwise provided in ss. 679.1091, 679.3031, 679.3041, 679.3051, and 679.3061, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the goods by filing a fixture filing;

(b) Perfection of a security interest in timber to be cut; and

(c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

679.3021 Law governing perfection and priority of agricultural liens.—While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

679.3031 Law governing perfection and priority of security interests in goods covered by a certificate of title.—

(1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

679.3041 Law governing perfection and priority of security interests in deposit accounts.—

(1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(2) The following rules determine a bank's jurisdiction for purposes of this part:

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

679.3051 Law governing perfection and priority of security interests in investment property.—

(1) Except as otherwise provided in subsection (3), the following rules apply:

(a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(b) The local law of the issuer's jurisdiction as specified in s. 678.1101(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The local law of the securities intermediary's jurisdiction as specified in s. 678.1101(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

679.3061 Law governing perfection and priority of security interests in letter-of-credit rights.—

(1) Subject to subsection (3), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in s. 675.116.

(3) This section does not apply to a security interest that is perfected only under s. 679.3081(4).

679.3071 Location of debtor.—

(1) In this section, the term "place of business" means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A debtor who is an individual is located at the individual's principal residence.

(b) A debtor that is an organization and has only one place of business is located at its place of business.

(c) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(3) Subsection (2) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) does not apply, the debtor is located in the District of Columbia.

(4) A person who ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3).

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or subsection (6) notwithstanding:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(11) This section applies only for purposes of this part.

679.3081 When security interest or agricultural lien is perfected; continuity of perfection.—

(1) Except as otherwise provided in this section and s. 679.3091, a security interest is perfected if it has attached and all of the applicable requirements for perfection in ss. 679.3101-679.3161 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in s. 679.3101 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this chapter and is later perfected by another method under this chapter, without an intermediate period during which it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

679.3091 Security interest perfected upon attachment.—The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in s. 679.3111(2) with respect to consumer goods that are subject to a statute or treaty described in s. 679.3111(1);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under s. 674.2101;

(8) A security interest of an issuer or nominated person arising under s. 675.118;

(9) A security interest arising in the delivery of a financial asset under s. 679.2061(3);

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

679.3101 When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.—

(1) Except as otherwise provided in subsection (2) and s. 679.3121(2), a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under s. 679.3081(4), (5), (6), or (7);

(b) That is perfected under s. 679.3091 when it attaches;

(c) In property subject to a statute, regulation, or treaty described in s. 679.3111(1);

(d) In goods in possession of a bailee which is perfected under s. 679.3121(4)(a) or (b);

(e) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under s. 679.3121(5), (6), or (7);

(f) In collateral in the secured party's possession under s. 679.3131;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under s. 679.3131;

(h) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under s. 679.3141;

(i) In proceeds which is perfected under s. 679.3151; or

(j) That is perfected under s. 679.3161.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this chapter is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

679.3111 Perfection of security interests in property subject to certain statutes, regulations, and treaties.—

(1) Except as otherwise provided in subsection (4), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt s. 679.3101(1);

(b) A statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on a certificate of title of such property as a condition or result of perfection, and any non-Uniform Commercial Code central filing statute; or

(c) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in paragraph (1) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this chapter. Except as otherwise provided in subsection (4) and ss. 679.3131 and 679.3161(4) and (5) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) and s. 679.3161(4) and (5), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this chapter.

(4) During any period in which collateral subject to a statute specified in paragraph (1)(b) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

679.3121 Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.—

(1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in s. 679.3151(3) and (4) for proceeds:

(a) A security interest in a deposit account may be perfected only by control under s. 679.3141.

(b) And except as otherwise provided in s. 679.3081(4), a security interest in a letter-of-credit right may be perfected only by control under s. 679.3141.

(c) A security interest in money may be perfected only by the secured party's taking possession under s. 679.3131.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the 20-day period specified in subsection (5), subsection (6), or subsection (7) expires, perfection depends upon compliance with this chapter.

679.3131 When possession by or delivery to secured party perfects security interest without filing.—

(1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under s. 678.3011.

(2) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in s. 679.3161(4).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having authenticated a record acknowledging that the person will hold possession of collateral for the secured party's benefit.

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under s. 678.3011 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that the person holds possession for a secured party's benefit.

(7) If a person acknowledges that the person holds possession for the secured party's benefit:

(a) The acknowledgment is effective under subsection (3) or s. 678.3011(1), even if the acknowledgment violates the rights of a debtor; and

(b) Unless the person otherwise agrees or law other than this chapter otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(a) To hold possession of the collateral for the secured party's benefit; or

(b) To redeliver the collateral to the secured party.

(9) A secured party does not relinquish possession, even if a delivery under subsection (8) violates the rights of a debtor. A person to whom collateral is delivered under subsection (8) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this chapter otherwise provides.

679.3141 Perfection by control.—

(1) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071.

(2) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under s. 679.1041, s. 679.1051, or s. 679.1071 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under s. 679.1061 from the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One of the following occurs:

1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

679.3151 Secured party's rights on disposition of collateral and in proceeds.—

(1) Except as otherwise provided in this chapter and in s. 672.403(2):

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds:

(a) If the proceeds are goods, to the extent provided by s. 679.336; and

(b) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this chapter with respect to commingled property of the type involved.

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds unless:

(a) The following conditions are satisfied:

1. A filed financing statement covers the original collateral;

2. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

3. The proceeds are not acquired with cash proceeds;

(b) The proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected other than under subsection (3) when the security interest attaches to the proceeds or within 20 days thereafter.

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under paragraph (4)(a) becomes unperfected at the later of:

(a) When the effectiveness of the filed financing statement lapses under s. 679.515 or is terminated under s. 679.513; or

(b) The 21st day after the security interest attaches to the proceeds.

679.3161 Continued perfection of security interest following change in governing law.—

(1) A security interest perfected pursuant to the law of the jurisdiction designated in s. 679.3011(1) or s. 679.3051(3) remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of 4 months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of 1 year after a transfer of collateral to a person who thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under s. 679.3111(2) or s. 679.3131 are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(b) The expiration of 4 months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

679.3171 Interests that take priority over or take free of security interest or agricultural lien.—

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under s. 679.322; and

(b) Except as otherwise provided in subsection (5), a person who becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One of the conditions specified in s. 679.2031(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in ss. 679.320 and 679.321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

679.3181 No interest retained in right to payment that is sold; rights and title of seller of account or chattel paper with respect to creditors and purchasers.—

(1) A debtor who has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(2) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor who has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

679.319 Rights and title of consignee with respect to creditors and purchasers.—

(1) Except as otherwise provided in subsection (2), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this chapter determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

679.320 Buyer of goods.—

(1) Except as otherwise provided in subsection (5), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(a) Without knowledge of the security interest;

(b) For value;

(c) Primarily for the buyer's personal, family, or household purposes; and

(d) Before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by s. 679.3161(1) and (2).

(4) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(5) Subsections (1) and (2) do not affect a security interest in goods in the possession of the secured party under s. 679.3131.

679.321 Licensee of general intangible and lessee of goods in ordinary course of business.—

(1) In this section, the term "licensee in ordinary course of business" means a person who becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(3) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

679.322 Priorities among conflicting security interests in and agricultural liens on same collateral.—

(1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made

or the security interest or agricultural lien is first perfected, if there is no period thereafter during which is neither filing nor perfection.

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(2) For the purposes of paragraph (1)(a):

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6), a security interest in collateral which qualifies for priority over a conflicting security interest under s. 679.327, s. 679.328, s. 679.329, s. 679.330, or s. 679.331 also has priority over a conflicting security interest in:

(a) Any supporting obligation for the collateral; and

(b) Proceeds of the collateral if:

1. The security interest in proceeds is perfected;

2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) and except as otherwise provided in subsection (6), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) through (5) are subject to:

(a) Subsection (7) and the other provisions of this part;

(b) Section 674.2101 with respect to a security interest of a collecting bank;

(c) Section 675.118 with respect to a security interest of an issuer or nominated person; and

(d) Section 679.1101 with respect to a security interest arising under chapter 672 or chapter 680.

(7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

679.323 Future advances.—

(1) Except as otherwise provided in subsection (3), for purposes of determining the priority of a perfected security interest under s. 679.322(1)(a), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

1. Under s. 679.3091 when it attaches; or

2. Temporarily under s. 679.3121(5), (6), or (7); and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under s. 679.3091 or s. 679.3121(5), (6), or (7).

(2) Except as otherwise provided in subsection (3), a security interest is subordinate to the rights of a person who becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase; or

(b) Forty-five days after the purchase.

(5) Subsection (4) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(6) Except as otherwise provided in subsection (7), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five days after the lease contract becomes enforceable.

(7) Subsection (6) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

679.324 Priority of purchase-money security interests.—

(1) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(2) Subject to subsection (3) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in s. 679.330, and, except as otherwise provided in s. 679.327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(3) Paragraphs (2)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(4) Subject to subsection (5) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in s. 679.327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 6 months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(5) Paragraphs (4)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(6) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than one security interest qualifies for priority in the same collateral under subsection (1), subsection (2), subsection (4), or subsection (6):

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, s. 679.322(1) applies to the qualifying security interests.

679.325 Priority of security interests in transferred collateral.—

(1) Except as otherwise provided in subsection (2), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(a) The debtor acquired the collateral subject to the security interest created by the other person;

(b) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(c) There is no period thereafter during which the security interest is unperfected.

(2) Subsection (1) subordinates a security interest only if the security interest:

(a) Otherwise would have priority solely under s. 679.322(1) or s. 679.324; or

(b) Arose solely under s. 672.711(3) or s. 680.508(5).

679.326 Priority of security interests created by new debtor.—

(1) Subject to subsection (2), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under s. 679.508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under s. 679.508.

(2) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under s. 679.508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

679.327 Priority of security interests in deposit account.—The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under s. 679.1041 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4), security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under s. 679.1041(1)(c) has priority over a security interest held by the bank with which the deposit account is maintained.

679.328 Priority of security interests in investment property.—The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under s. 679.1061 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subsections (3) and (4), conflicting security interests held by secured parties each of which has control under s. 679.1061 rank according to priority in time of:

(a) If the collateral is a security, obtaining control;

(b) If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under s. 678.1061(4)(a), the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under s. 678.1061(4)(b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

3. If the secured party obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this paragraph if the other person were the secured party; or

(c) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in

s. 679.1061(2)(b) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under s. 679.3131(1) and not by control under s. 679.3141 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under s. 679.1061 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by ss. 679.322 and 679.323.

679.329 Priority of security interests in letter-of-credit right.—The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under s. 679.1071 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

679.330 Priority of purchaser of chattel paper or instrument.—

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051; and

(b) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in s. 679.327, a purchaser having priority in chattel paper under subsection (1) or subsection (2) also has priority in proceeds of the chattel paper to the extent that:

(a) Section 679.322 provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in s. 679.331(1), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

679.331 Priority of rights of purchasers of instruments, documents, and securities under other articles; priority of interests in financial assets and security entitlements under chapter 678.—

(1) This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in chapters 673, 677, and 678.

(2) This chapter does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under chapter 678.

(3) Filing under this chapter does not constitute notice of a claim or defense to the holders, purchasers, or persons described in subsections (1) and (2).

679.332 Transfer of money; transfer of funds from deposit account.—

(1) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

679.333 Priority of certain liens arising by operation of law.—

(1) In this section, the term "possessory lien" means an interest, other than a security interest or an agricultural lien:

(a) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(b) Which is created by statute or rule of law in favor of the person; and

(c) The effectiveness of which depends on the person's possession of the goods.

(2) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

679.334 Priority of security interests in fixtures and crops.—

(1) A security interest under this chapter may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this chapter in ordinary building materials incorporated into an improvement on land.

(2) This chapter does not prevent creation of an encumbrance upon fixtures under real property law.

(3) A security interest in goods which are or become fixtures is invalid against any person with an interest in the real property at the time the security interest in the goods is perfected or at the time the goods are affixed to the real property, whichever occurs later, unless such person has consented to the security interest or disclaimed an interest in the goods as fixtures.

(4) A security interest in goods which are or become fixtures takes priority as to the goods over the claims of all persons acquiring an interest in the real property subsequent to the perfection of such security interest or the affixing of the goods to the real property, whichever occurs later.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the security interest is:

(a) Created in a manufactured home in a manufactured-home transaction; and

(b) Perfected pursuant to a statute described in s. 679.3111(1)(b).

(6) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(7) Subsection (6) prevails over any inconsistent provisions of the statutes.

679.335 Accessions.—

(1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4), the other provisions of this part determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under s. 679.3111(2).

(5) After default, subject to part VI, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

679.336 Commingled goods.—

(1) In this section, the term "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(2) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(3) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) is perfected.

(5) Except as otherwise provided in subsection (6), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (3).

(6) If more than one security interest attaches to the product or mass under subsection (3), the following rules determine priority:

(a) A security interest that is perfected under subsection (4) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(b) If more than one security interest is perfected under subsection (4), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

679.337 Priority of security interests in goods covered by certificate of title.—If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under s. 679.3111(2), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

679.338 Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.—If a security interest or agricultural lien is perfected by a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

679.339 Priority subject to subordination.—This chapter does not preclude subordination by agreement by a person entitled to priority.

679.340 Effectiveness of right of recoupment or set-off against deposit account.—

(1) Except as otherwise provided in subsection (3), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3), the application of this chapter to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under s. 679.1041(1)(c), if the set-off is based on a claim against the debtor.

679.341 Bank's rights and duties with respect to deposit account.—Except as otherwise provided in s. 679.340(3), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

679.342 Bank's right to refuse to enter into or disclose existence of control agreement.—This chapter does not require a bank to enter into an agreement of the kind described in s. 679.1041(1)(b), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Section 4. Part IV of chapter 679, Florida Statutes, consisting of sections 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, and 679.408, Florida Statutes, is repealed and a new part IV, consisting of sections 679.40111, 679.4021, 679.4031, 679.4041,

679.4051, 679.4061, 679.4071, 679.4081, and 679.409, Florida Statutes, is created to read:

PART IV
RIGHTS OF THIRD PARTIES

679.40111 Alienability of debtor's rights.—

(1) Except as otherwise provided in subsection (2) and ss. 679.4061, 679.4071, 679.4081, and 679.409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this chapter.

(2) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

679.4021 Secured party not obligated on contract of debtor or in tort.—The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

679.4031 Agreement not to assert defenses against assignee.—

(1) In this section, the term "value" has the meaning provided in s. 673.3031(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(a) For value;

(b) In good faith;

(c) Without notice of a claim of a property or possessory right to the property assigned; and

(d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under s. 673.3031(1).

(3) Subsection (2) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under s. 673.3031(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(a) The record has the same effect as if the record included such a statement; and

(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(5) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4), this section does not displace law other than this chapter which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

679.4041 Rights acquired by assignee; claims and defenses against assignee.—

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) through (5), the rights of an assignee are subject to:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(2) Subject to subsection (3) and except as otherwise provided in subsection (4), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

679.4051 Modification of assigned contract.—

(1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) through (4).

(2) Subsection (1) applies to the extent that:

(a) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(b) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under s. 679.4061(1).

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

679.4061 Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.—

(1) Subject to subsections (2) through (9), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8), notification is ineffective under subsection (1):

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a

person other than the seller and the limitation is effective under law other than this chapter; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

2. A portion has been assigned to another assignee; or

3. The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1).

(4) Except as otherwise provided in subsection (5) and ss. 680.303 and 679.4071, and subject to subsection (8), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) does not apply to the sale of a payment intangible or promissory note.

(6) Except as otherwise provided in ss. 680.303 and 679.4071 and subject to subsections (8) and (9), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsection (8), an account debtor may not waive or vary its option under paragraph (2)(c).

(8) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes. Subsection (6) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(c) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(d) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

(10) This section prevails over any inconsistent statute, rule, or regulation.

679.4071 Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.—

(1) Except as otherwise provided in subsection (2), a term in a lease agreement is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(2) Except as otherwise provided in s. 680.303(7), a term described in paragraph (1)(b) is effective to the extent that there is:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of s. 680.303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

679.4081 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.—

(1) Except as otherwise provided in subsection (2), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account

debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) would be effective under law other than this chapter but is ineffective under subsection (1) or subsection (3), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) This section prevails over any inconsistent statute, rule, or regulation.

(6) Subsection (3) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(c) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(d) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

679.409 Restrictions on assignment of letter-of-credit rights ineffective.—

(1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) but would be effective under law other than this chapter or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(a) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(b) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(c) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

Section 5. *(1) The Legislature finds that it is in the best interest of the citizens and businesses of this state to adopt Part V of Revised Article 9 of the Uniform Commercial Code as proposed by the National Conference of Commissioners on Uniform State Law, "revised Article 9," subject to specific modifications, as revised chapter 679, Florida Statutes. Such revised Article 9 almost exclusively affects secured transactions and the relationships between and among secured creditors, debtors, other creditors, and purchasers of personal property subject to a security interest. Both individuals and business entities are intended to benefit from the enactment of revised Article 9.*

(2) The Legislature also finds that, among other things, revised Article 9 contemplates a more straightforward and efficient system for documenting the perfection, amendment, continuance, termination, assignment, and transfer of security interests and requires less governmental involvement than necessary under existing law. Revised Article 9 suggests the possibility that states may delegate their historical administrative and operational responsibilities over financing statement filings to a nongovernmental entity. This principle complements the legislative policy of reducing government's detailed regulation and involvement with private commerce and business transactions. Consistent with other revisions to current chapter 679, Florida Statutes, being adopted by this act, the requirement for exclusive administration and operation by this state of the system of filing and maintaining documents evidencing secured transactions no longer exists. However, the carrying out of the duties of the filing office and filing officer are very important to the uninterrupted flow of secured transactions and the Secretary of State shall retain oversight over the private filing agency to which the filing office and filing officer duties under revised Article 9, as revised chapter 679, Florida Statutes, may be delegated.

Section 6. Part V of chapter 679, Florida Statutes, consisting of sections 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, and 679.507, Florida Statutes, is repealed and a new part V, consisting of sections 679.5011, 679.5021, 679.5031. 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 671.514, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, and 679.527, Florida Statutes, is created to read:

PART V
FILING

679.5011 Filing office.—

(1) Except as otherwise provided in subsection (2), the office in which to file a financing statement to perfect a security interest or agricultural lien is:

(a) The office of the clerk of the circuit court, if:

1. The collateral is as-extracted collateral or timber to be cut; or

2. The collateral is goods that are or are to become fixtures in this state, in which event the financing statement shall be filed as a fixture filing.

(b) The Florida Secured Transaction Registry, in accordance with ss. 679.3011-679.3071, and in all other cases.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the Office of the Secretary of State, or the filing office authorized by s. 697.527 to accept filings for the Florida Secured Transaction Registry. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

679.5021 Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.—

(1) Subject to subsection (2), a financing statement is sufficient only if it:

(a) Provides the name of the debtor;

(b) Provides the name of the secured party or a representative of the secured party; and

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in s. 679.5011(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must comply with the requirements of subsection (1) and also:

(a) Indicate that it covers this type of collateral;

(b) Indicate that it is to be filed in the real property records;

(c) Provide a description of the real property to which the collateral is related; and

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage satisfying the requirements of chapter 697 is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a) The record of a mortgage indicates the goods or accounts that it covers;

(b) The goods are or are to become fixtures related to the real property described in the record of a mortgage or the collateral is related to the real property described in the mortgage and is as-extracted collateral or timber to be cut;

(c) The record of a mortgage complies with the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(d) The record of a mortgage is recorded as required by chapter 697.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

679.5031 Name of debtor and secured party.—

(1) A financing statement sufficiently provides the name of the debtor:

(a) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(b) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(c) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

1. Provides the name, if any, specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish a debtor from other trusts having one or more of the same settlors; and

2. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(d) In other cases:

1. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subparagraph (1)(d)2., names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

679.5041 Indication of collateral.—A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to s. 679.1081; or

(2) If the security agreement grants a security interest in all of the debtor's personal property and such property is reasonably identified in the security agreement, as permitted by s. 679.1081, an indication that the financing statement covers all assets or all personal property.

679.5051 Filing and compliance with other statutes and treaties for consignments, leases, bailments, and other transactions.—

(1) A consignor, lessor, or bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in s. 679.3111(1), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(2) This part applies to the filing of a financing statement under subsection (1) and, as appropriate, to compliance that is equivalent to filing a financing statement under s. 679.3111(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

679.5061 Effect of errors or omissions.—

(1) A financing statement substantially complying with the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3), a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1) is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1), the name provided does not make the financing statement seriously misleading.

(4) For purposes of s. 679.508(2), the term "debtor's correct name" as used in subsection (3) means the correct name of the new debtor.

679.5071 Effect of certain events on effectiveness of financing statement.—

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) and s. 679.508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under the standard set forth in s. 679.5061.

(3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the change; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within 4 months after the change.

679.508 Effectiveness of financing statement if new debtor becomes bound by security agreement.—

(1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) to be seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under s. 679.2031(4); and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than 4 months after the new debtor becomes bound under s. 679.2031(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under s. 679.5071(1).

679.509 Persons entitled to file a record.—

(1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (2) or subsection (3); or

(b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as a debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(a) The collateral described in the security agreement; and

(b) Property that becomes collateral under s. 679.3151(1)(b), whether or not the security agreement expressly covers proceeds.

(3) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(a) The secured party of record authorizes the filing; or

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by s. 679.5131(1) or (3).

(4) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (3).

(5) By acquiring collateral in which a security interest or agricultural lien continues under s. 679.3151(1), a debtor authorizes the filing of an initial financing, and an amendment, covering the collateral and property that become collateral under s. 679.3151(1)(b).

679.510 Effectiveness of filed record.—

(1) Subject to subsection (3), a filed record is effective only to the extent that it was filed by a person who may file it under s. 679.509.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) If a person may file a termination statement only under s. 679.509(3)(b), the filed termination statement is effective only if the debtor authorizes the filing and the termination statement indicates that the debtor authorized it to be filed.

(4) A continuation statement that is not filed within the 6-month period prescribed by s. 679.515(4) is ineffective.

679.511 Secured party of record.—

(1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under s. 679.514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under s. 679.514(2), the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

679.512 Amendment of financing statement.—

(1) Subject to s. 679.509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5), otherwise amend the information provided in, a financing statement by filing an amendment that:

(a) Identifies, by its correct file number, if any, the initial financing statement to which the amendment relates, and the name of the debtor and the secured party of record; and

(b) If the amendment relates to an initial financing statement filed or recorded in a filing office described in s. 679.5011(1)(a), provides the information specified in s. 679.5021(2), the official records book and page number of the initial financing statement to which the amendment relates, and the name of the debtor and secured party of record.

(2) Except as otherwise provided in s. 679.515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent it:

(a) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(b) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

679.513 Termination statement.—

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1), a secured party shall cause the secured party of record to file the termination statement:

(a) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in s. 679.510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in s. 679.510, for purposes of ss. 679.519(7) and 679.522(1), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

679.514 Assignment of powers of secured party of record.—

(1) Except as otherwise provided in subsection (3), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(a) Identifies, by its correct file number and the secured party of record, the initial financing statement to which it relates;

(b) Provides the names of the assignor and debtor; and

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a real property mortgage that is effective as a fixture filing under s. 679.5021(3) may be made only by an assignment of record of the mortgage in the manner provided by s. 701.02.

679.515 Duration and effectiveness of financing statement; effect of lapsed financing statement.—

(1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless, before the lapse, a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected without filing. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in s. 679.510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage satisfying the requirements of chapter 697 that is effective as a fixture filing under s. 679.5021(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

679.516 What constitutes filing; effectiveness of filing.—

(1) Except as otherwise provided in subsection (2), communication of a record to a filing office, tender of the processing fee, or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable processing fee is not tendered;

(c) The record does not include the notation required by s. 201.22 indicating that the excise tax required by chapter 201 had been paid or is not required;

(d) The filing office is unable to index the record because:

1. In the case of an initial financing statement, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial;

2. In the case of an amendment or correction statement, the record:

a. Does not correctly identify the initial financing statement as required by s. 679.512 or s. 679.518, as applicable; or

b. Identifies an initial financing statement the effectiveness of which has lapsed under s. 679.515;

3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name and first name or initial; or

4. In the case of a record filed or recorded in the filing office described in s. 679.5011(1)(a), the record does not provide a sufficient description of the real property to which it relates;

(e) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the secured party of record;

(f) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

1. Provide a mailing address for the debtor;

2. Indicate whether the debtor is an individual or an organization; or

3. If the financing statement indicates that the debtor is an organization, provide:

a. A type of organization for the debtor;

b. A jurisdiction of organization for the debtor; or

c. An organizational identification number for the debtor or indicate that the debtor has none;

(g) In the case of an assignment reflected in an initial financing statement under s. 679.514(1) or an amendment filed under s. 679.514(2), the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the assignee;

(h) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by s. 679.515(4);

(i) In the case of an initial financing statement or an amendment, which amendment requires the inclusion of a collateral statement but the record does not provide any, the record does not provide a statement of collateral; or

(3) For purposes of subsection (2):

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by s. 679.512, s. 679.514, or s. 679.518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but that the filing office refuses to accept for a reason other than one set forth in subsection (2), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

679.517 Effect of indexing errors.—The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

679.518 Claim concerning inaccurate or wrongfully filed record.—

(1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) A correction statement must:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement, the debtor, and the secured party of record to which the record relates;

(b) Indicate that it is a correction statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

679.519 Numbering, maintaining, and indexing records; communicating information provided in records.—

(1) For each record filed in a filing office, the filing office shall, in accordance with such other laws applicable to the recording of instruments by a filing office described in s. 679.5011(1)(a):

(a) Assign a unique number to the filed record;

(b) Create a record that bears the number assigned to the filed record and the date and time of filing;

(c) Maintain the filed record for public inspection; and

(d) Index the filed record in accordance with subsections (3), (4), and (5).

(2) Except as otherwise provided in subsection (9), a file number assigned after January 1, 2002, must include a digit that:

(a) Is mathematically derived from or related to the other digits of the file number; and

(b) Enables the filing office to detect whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5), the filing office shall:

(a) Index an initial financing statement according to the name of the debtor and shall index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(b) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(b) To the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or,

if indexing is by description, as if the financing statement were a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under s. 679.514(1) or an amendment filed under s. 679.514(2):

(a) Under the name of the assignor as grantor; and

(b) To the extent that the law of this state provides for indexing the assignment of a real property mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability for:

(a) Retrieving a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(b) Associating and retrieving with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office may not remove a debtor's name from the index until 1 year after the effectiveness of a financing statement naming the debtor lapses under s. 679.515 with respect to all secured parties of record.

(8) Except as otherwise provided in subsection (9), the filing office shall perform the acts required by subsections (1) through (5) at the time and in the manner prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the record in question, if practical.

(9) Subsections (1), (2), and (8) do not apply to a filing office described in s. 679.5011(1)(a).

679.520 Acceptance and refusal to accept record.—

(1) A filing office shall refuse to accept a record for filing for a reason set forth in s. 679.516(2) and may refuse to accept a record for filing only for a reason set forth in s. 679.516(2).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by any filing-office rule but, in the case of a filing office described in s. 679.5011(1)(b), in no event more than 3 business days after the filing office receives the record, if practical.

(3) A filed financing statement satisfying s. 679.5021(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, s. 679.338 applies to a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

679.521 Uniform form of written financing statement and amendment.—The Secretary of State shall develop or approve acceptable forms for use in filing under this chapter. Such forms must be in accord with the requirements of Florida law, including s. 201.22. The secretary may, if he or she finds that such forms meet these requirements, approve the use of a standard national form for this purpose.

679.522 Maintenance and destruction of records.—

(1) The filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the financing statement has lapsed under s. 679.515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number, or official records book and page number if a fixture filing, assigned to the initial financing statement to which the record relates.

(2) Except to the extent that chapter 119 governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (1).

679.523 Information from filing office; sale or license of records.—

(1) If a person files a written record, the filing office shall make available, on the database, an image of the record showing the number assigned to the record pursuant to s. 679.519(1)(a) and the date of the filing of the record or, if requested, send to the person a separate printed acknowledgement indicating the debtor's name, the number assigned to the record pursuant to s. 679.519(1)(a), and the date of the filing of the record.

(2) If a person files a record other than a written record, the filing office described in s. 679.5011(l)(b) shall communicate to the person an image that provides:

(a) The information in the record;

(b) The number assigned to the record pursuant to s. 679.519(1)(a); and

(c) The date and time of the filing of the record.

(3) In complying with its duty under this chapter, the filing office described in s. 679.5011(1)(b) may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate or a record that can be admitted into evidence in the courts of the state without extrinsic evidence of its authenticity.

(4) The filing office described in s. 679.5011(1)(b) shall perform the acts required by subsections (1) and (2) at the time and in the manner prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the request, if practical.

679.524 Delay by filing office.—Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

679.525 Processing fees.—

(1) Except as otherwise provided in subsection (3), the nonrefundable processing fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in s. 679.5021(3), is:

(a) For filing an initial financing statement, $28 for the first page, and second page, if any, which shall include the cost of filing a termination statement for the financing statement;

(b) For filing an amendment, $12 for the first page;

(c) For indexing by additional debtor, secured party, or assignee, $3 per additional name indexed;

(d) For use of a nonapproved form, $5;

(e) For each additional page attached to a record, $3;

(f) For filing a financing statement communicated by an electronic filing process authorized by the filing office, $15 with no additional fees for multiple names or attached pages;

(g) For filing an amendment communicated by an electronic filing process authorized by the filing office, $5 with no additional fees for multiple names or attached pages;

(h) For a certified copy of a financing statement and any and all associated amendments, $30; and

(i) For a photocopy of a filed record, $1 per page.

(2) Except as otherwise provided in subsection (3), the fee for filing and indexing an initial financing statement of the kind described in s. 679.5021(3) is the amount specified in chapter 28.

(3) This section does not require a fee with respect to a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under s. 679.5021(3). However, the recording and satisfaction fees that otherwise would be applicable to the mortgage apply.

679.526 Filing-office rules.—The Department of State may adopt and publish rules to administer this chapter. The filing-office rules must be:

(1) Consistent with this chapter.

(2) Adopted and published in accordance with the Administrative Procedure Act.

679.527 Florida Secured Transaction Registry.—

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

(a) The "Florida Secured Transaction Registry" or "registry" means the centralized database in which all initial financing statements, amendments, assignments, and other statements of change authorized to be filed under this chapter are filed, maintained, and retrieved. The term does not apply to documents that are filed under this chapter with the clerk of a circuit court.

(b) "Department" means the Department of State.

(c) "Materials and records" includes, but is not limited to data bases, source or object codes, and any software relating to the Florida Secured Transaction Registry or system for centralized filing under this part, regardless of the original source of its creation or maintenance.

(2) The Department of State may contract for the performance of the administrative and operational functions under this part of the filing office and filing officer for the Florida Secured Transaction Registry, provided that any such contract shall not be assignable or otherwise transferable without the express written consent of the department, notwithstanding any limitations imposed by ss. 679.4061 or 679.4081.

(3) The department shall perform the administrative and operational functions, as filing officer and filing office, for the Florida Secured Transaction Registry until October 1, 2001, or upon the effective date of a contract executed by the department to administer and operate the registry, whichever occurs later. At such time, the department shall cease serving as the designated filing officer and filing office for the registry under this part, and thereafter, except to the extent it reclaims such responsibilities as provided below, shall not be responsible for the duties of the filing office and officer under this part, including determining whether documents tendered for filing under this part satisfy the requirements of law. The department shall retain authority under this part to approve the forms required to be filed under this part. If authorized by the contract, the entity performing the duties of the filing office may certify a copy of a financing statement or amendment thereto which shall be admissible in a state or federal court or other tribunal proceeding.

(4) Notwithstanding the terms and conditions of any contract to perform the administrative and operational functions of the filing office or filing officer under this part for the Florida Secured Transaction Registry, the department and the state shall retain sole and exclusive ownership of the materials and records of the registry, shall have the right to inspect and make copies of the materials and records of the registry, and shall have the right to immediately reclaim and take possession and control of the original materials and records of the registry if any entity under contract with the department to administer and operate the registry does not, or cannot, perform the terms and conditions of the contract for any reason or commences or consents to an insolvency proceeding. If the department reclaims control of the materials and records of the registry, the department shall provide for the uninterrupted fulfillment of the duties of the filing office and filing officer by administration and operation by the department until a subsequent contract for such duties can be executed. The department shall be entitled to injunctive relief if the entity fails to turn over the materials and records upon demand, and the Circuit Court for Leon County, Florida shall have exclusive original jurisdiction to adjudicate any disputes pertaining to this section or any contract entered into under this section.

(5) The Department of State shall immediately develop and issue a Request for Qualifications seeking capable parties to perform both the administrative and operational functions currently being performed by the department as a filing officer and filing office under the Uniform Commercial Code.

(a) The qualifications shall, at a minimum, provide for the organization and maintenance of the Florida Secured Transaction Registry as the centralized Uniform Commercial Code filing and retrieval system, which:

1. Is comparable and compatible with the existing filing system.

2. Is open to the public and accessible through the Internet, to permit the review of all existing filings of the department and all future filings, in compliance with chapter 119.

3. Provides for oversight and compliance audits by the department.

4. Requires records maintenance in compliance with this part and chapter 119.

5. Maintains the current level of filing fees and procedures for the deposit of revenues with the department as specified in chapter 15, net of operating costs, for a period of 5 years.

(b) The Department of State shall develop performance standards to ensure that the filing system is accurate and complete and that the users thereof are being well-served. Periodically, the department shall verify that these performance standards are being met or modified as may be needed from time to time.

Section 7. Part VI of chapter 679, Florida Statutes, consisting of sections 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, and 679.628, Florida Statutes, is created to read:

PART VI
DEFAULT

679.601 Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.—

(1) After default, a secured party has the rights provided in this part and, except as otherwise provided in s. 679.602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 has the rights and duties provided in s. 679.2071.

(3) The rights under subsections (1) and (2) are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) and s. 679.605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.

(7) Except as otherwise provided in s. 679.607(3), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

679.602 Waiver and variance of rights and duties.—Except as otherwise provided in s. 679.624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) Section 679.2071(2)(d)3., which deals with use and operation of the collateral by the secured party;

(2) Section 679.210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Section 679.607(3), which deals with collection and enforcement of collateral;

(4) Sections 679.608(1) and 679.615(3) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Sections 679.608(1) and 679.615(4) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 679.609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Sections 679.610(2), 679.611, 679.613, and 679.614, which deal with disposition of collateral;

(8) Section 679.615(6), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

(9) Section 679.616, which deals with explanation of the calculation of a surplus or deficiency;

(10) Sections 679.620, 679.621, and 679.622, which deal with acceptance of collateral in satisfaction of obligation;

(11) Section 679.623, which deals with redemption of collateral;

(12) Section 679.624, which deals with permissible waivers; and

(13) Sections 679.625 and 679.626, which deal with the secured party's liability for failure to comply with this article.

679.603 Agreement on standards concerning rights and duties.—

(1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in s. 679.602 if the standards are not manifestly unreasonable.

(2) Subsection (1) does not apply to the duty under s. 679.609 to refrain from breaching the peace.

679.604 Procedure if security agreement covers real property or fixtures.—

(1) If a security agreement covers both personal and real property, a secured party may proceed:

(a) Under this part as to the personal property without prejudicing any rights with respect to the real property; or

(b) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(2) Subject to subsection (3), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(a) Under this part; or

(b) In accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(3) Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property. The secured party shall give reasonable notification of its intent to remove the collateral to all persons entitled to reimbursement under subsection (4).

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse. This subsection does not prohibit a secured party and the person entitled to reimbursement from entering into an authenticated record providing for the removal of fixtures and reimbursement for any damage caused thereby.

679.605 Unknown debtor or secondary obligor.—A secured party does not owe a duty based on its status as secured party:

(1) To a person who is a debtor or obligor, unless the secured party knows:

(a) That the person is a debtor or obligor;

(b) The identity of the person; and

(c) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(a) That the person is a debtor; and

(b) The identity of the person.

679.606 Time of default for agricultural lien.—For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

679.607 Collection and enforcement by secured party.—

(1) If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under s. 679.3151;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(a), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(b) or (c), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under paragraph (1)(c) the right of a debtor to enforce a mortgage nonjudicially outside this state, the secured party may record in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

1. A default has occurred; and

2. The secured party is entitled to enforce the mortgage nonjudicially outside this state.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

(6) Nothing in subsection (2) is intended to create a right of nonjudicial foreclosure in this state.

679.608 Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.—

(1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under s. 679.607 in the following order to:

1. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

2. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

3. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time and agree to indemnify the secured party on reasonable terms acceptable to the secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under subparagraph (a)3.

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under s. 679.607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

(3) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor has its chief executive office or principal residence in this state, as applicable. If authorized in an authenticated record, the interpleading secured party is entitled to be paid from the remaining proceeds the actual costs of the filing fee and an attorney's fee in the amount of $250 incurred in connection with filing the interpleader action and obtaining an order approving the interpleader of funds. The debtor in a consumer transaction may not be assessed for the attorney's fees and costs incurred in the interpleader action by the holders of subordinate security interests or other liens based upon disputes among said holders, and a debtor in a transaction other than a consumer transaction may only recover such fees and costs to the extent provided for in an authenticated record. If authorized in an authenticated record, the court in the interpleader action may award reasonable attorney's fees and costs to the prevailing party in a dispute between the debtor and a holder of a security interest or lien which claims an interest in the remaining interplead proceeds, but only if the debtor challenges the validity, priority, or extent of said security interest or lien. Except as provided in this subsection, a debtor may not be assessed attorney's fees and costs incurred by any party in an interpleader action commenced under this section.

679.609 Secured party's right to take possession after default.—

(1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under s. 679.610.

(2) A secured party may proceed under subsection (1):

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

679.610 Disposition of collateral after default.—

(1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4):

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) if it indicates that "there is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

679.611 Notification before disposition of collateral.—

(1) In this section, the term "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4), a secured party that disposes of collateral under s. 679.610 shall send to the persons specified in subsection (3) a reasonable authenticated notification of disposition.

(3) To comply with subsection (2), the secured party shall send an authenticated notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

1. Any other person from whom the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

2. Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

3. Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(4) Subsection (2) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subparagraph (3)(c)2. if:

(a) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subparagraph (3)(c)2.; and

(b) Before the notification date, the secured party:

1. Did not receive a response to the request for information; or

2. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

(6) For purposes of subsection (3), the secured party may send the authenticated notification as follows:

(a) If the collateral is other than consumer goods, to the debtor at the address in the financing statement, unless the secured party has received an authenticated record from the debtor notifying the secured party of a different address for such notification purposes or the secured party has actual knowledge of the address of the debtor's chief executive office or principal residence, as applicable, at the time the notification is sent;

(b) If the collateral is other than consumer goods, to any secondary obligor at the address, if any, in the authenticated agreement, unless the secured party has received an authenticated record from the secondary obligor notifying the secured party of a different address for such notification purposes or the secured party has actual knowledge of the address of the secondary obligor's chief executive office or principal residence, as applicable, at the time the notification is sent; and

(c) If the collateral is other than consumer goods:

1. To the person described in subparagraph (3)(c)1., at the address stated in the notification;

2. To the person described in subparagraph (3)(c)2., at the address stated in the financing statement;

3. To the person described in subparagraph (3)(c)3., at the address stated in the official records of the recording or registration agency.

679.612 Timeliness of notification before disposition of collateral.—

(1) Except as otherwise provided in subsection (2), whether a notification is sent within a reasonable time is a question of fact.

(2) A notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

679.613 Contents and form of notification before disposition of collateral; general.—Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(a) Describes the debtor and the secured party;

(b) Describes the collateral that is the subject of the intended disposition;

(c) States the method of intended disposition;

(d) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(e) States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subsection (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subsection (1) are sufficient, even if the notification includes:

(a) Information not specified by that paragraph; or

(b) Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in s. 679.614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To:. . . . (Name of debtor, obligor, or other person to which the notification is sent). . . .

From:. . . . (Name, address, and telephone number of secured party). . . .

Name of Debtor(s):. . . . (Include only if debtor(s) are not an addressee). . . .

[For a public disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . to the highest qualified bidder in public as follows:

Day and Date:

Time:

Place:

[For a private disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . privately sometime after . . . . (day and date). . . . .

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] for a charge of $______. You may request an accounting by calling us at . . . . (telephone number). . . . .

679.614 Contents and form of notification before disposition of collateral; consumer-goods transaction.—In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(a) The information specified in s. 679.613(1);

(b) A description of any liability for a deficiency of the person to whom the notification is sent;

(c) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under s. 679.623 is available; and

(d) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

. . . . (Name and address of secured party). . . .

. . . . (Date). . . .

NOTICE OF OUR PLAN TO SELL PROPERTY

. . . . (Name and address of any obligor who is also a debtor). . . .

Subject:. . . . (Identification of Transaction). . . .

We have your . . . . (describe collateral). . . . , because you broke promises in our agreement.

[For a public disposition:]

We will sell . . . . (describe collateral). . . . at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:

Time:

Place:

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell . . . . (describe collateral). . . . at private sale sometime after . . . . (date). . . . . A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you . . . . (will or will not, as applicable). . . . still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at . . . . (telephone number). . . . .

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . and request a written explanation. We will charge you $_____ for the explanation if we sent you another written explanation of the amount you owe us within the last 6 months.

If you need more information about the sale, call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . .

We are sending this notice to the following other people who have an interest in . . . . (describe collateral). . . . or who owe money under your agreement:

. . . . (Names of all other debtors and obligors, if any). . . .

(4) A notification in the form of subsection (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subsection (3) is sufficient, even if it includes errors in information not required by subsection (1), unless the error is misleading with respect to rights arising under this chapter.

(6) If a notification under this section is not in the form of subsection (3), law other than this chapter determines the effect of including information not required by subsection (1).

679.615 Application of proceeds of disposition; liability for deficiency and right to surplus.—

(1) A secured party shall apply or pay over for application the cash proceeds of disposition under s. 679.610 in the following order to:

(a) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

1. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

2. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(d) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time after receipt of the request and agree to indemnify the secured party on reasonable terms acceptable to the

secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(c).

(3) A secured party need not apply or pay over for application noncash proceeds of disposition under s. 679.610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) and permitted by subsection (3):

(a) Unless paragraph (1)(d) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(a) The debtor is not entitled to any surplus; and

(b) The obligor is not liable for any deficiency.

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(7) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) Takes the cash proceeds free of the security interest or other lien;

(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

(8) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor's chief executive office or principal residence is located in this state, as applicable. The interpleading secured party and any other parties in the interpleader action shall only be entitled to recover attorney's fees and costs as permitted in s. 679.608(3).

679.616 Explanation of calculation of surplus or deficiency.—

(1) In this section, the term:

(a) "Explanation" means a writing that:

1. States the amount of the surplus or deficiency;

2. Provides an explanation in accordance with subsection (3) of how the secured party calculated the surplus or deficiency;

3. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

4. Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b) "Request" means a record:

1. Authenticated by a debtor or consumer obligor;

2. Requesting that the recipient provide an explanation; and

3. Sent after disposition of the collateral under s. 679.610.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under s. 679.615, the secured party shall:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

1. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

2. Within 14 days after receipt of a request; or

(b) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(3) To comply with subparagraph (1)(a)2., a writing must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

1. If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

2. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a); and

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to one response to a request under this section during any 6-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to paragraph (2)(a). The secured party may require payment of a charge not exceeding $25 for each additional response.

679.617 Rights of transferee of collateral.—

(1) A secured party's disposition of collateral after default:

(a) Transfers to a transferee for value all of the debtor's rights in the collateral;

(b) Discharges the security interest under which the disposition is made; and

(c) Discharges any subordinate security interest or other subordinate lien other than liens created under statutes providing for liens, if any, that are not to be discharged.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1), even if the secured party fails to comply with this chapter or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1), the transferee takes the collateral subject to:

(a) The debtor's rights in the collateral;

(b) The security interest or agricultural lien under which the disposition is made; and

(c) Any other security interest or other lien.

679.618 Rights and duties of certain secondary obligors.—

(1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(a) Receives an assignment of a secured obligation from the secured party;

(b) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(c) Is subrogated to the rights of a secured party with respect to collateral.

(2) An assignment, transfer, or subrogation described in subsection (1):

(a) Is not a disposition of collateral under s. 679.610; and

(b) Relieves the secured party of further duties under this chapter.

679.619 Transfer of record or legal title.—

(1) In this section, the term "transfer statement" means a record authenticated by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor, and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) or otherwise is not of itself a disposition of collateral under this chapter and does not of itself relieve the secured party of its duties under this chapter.

679.620 Acceptance of collateral in full or partial satisfaction of obligation; compulsory dispostion of collateral.—

(1) Except as otherwise provided in subsection (7), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection (3);

(b) The secured party does not receive, within the time set forth in subsection (4), a notification of objection to the proposal authenticated by:

1. A person to whom the secured party was required to send a proposal under s. 679.621; or

2. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection (5) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to s. 679.624.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection (1) are met.

(3) For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

1. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

2. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures, and, in a consumer transaction, provides notice that the proposal will be deemed accepted if it is not objected to by an authenticated notice within 30 days after the date the proposal is sent by the secured party; and

3. Does not receive a notification of objection authenticated by the debtor within 30 days after the proposal is sent.

(4) To be effective under paragraph (1)(b), a notification of objection must be received by the secured party:

(a) In the case of a person to whom the proposal was sent pursuant to s. 679.621, within 20 days after notification was sent to that person; and

(b) In other cases:

1. Within 20 days after the last notification was sent pursuant to s. 679.621; or

2. If a notification was not sent, before the debtor consents to the acceptance under subsection (3).

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to s. 679.610 within the time specified in subsection (6) if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5), the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

679.621 Notification of proposal to accept collateral.—

(1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from whom the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and

3. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1).

(3) A secured party shall send its proposal under s. 679.621(1) or (2) to the affected party at the address prescribed in s. 679.611(6).

679.622 Effect of acceptance of collateral.—

(1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(a) Discharges the obligation to the extent consented to by the debtor;

(b) Transfers to the secured party all of a debtor's rights in the collateral;

(c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(d) Terminates any other subordinate interest.

(2) A subordinate interest is discharged or terminated under subsection (1), even if the secured party fails to comply with this chapter.

679.623 Right to redeem collateral.—

(1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender:

(a) Fulfillment of all obligations secured by the collateral; and

(b) The reasonable expenses and attorney's fees described in s. 679.615(1)(a).

(3) A redemption may occur at any time before a secured party:

(a) Has collected collateral under s. 679.607;

(b) Has disposed of collateral or entered into a contract for its disposition under s. 679.610; or

(c) Has accepted collateral in full or partial satisfaction of the obligation it secures under s. 679.622.

679.624 Waiver.—

(1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under s. 679.611 only by an agreement to that effect entered into and authenticated after default.

(2) A debtor may waive the right to require disposition of collateral under s. 679.620(5) only by an agreement to that effect entered into and authenticated after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under s. 679.623 only by an agreement to that effect entered into and authenticated after default.

679.625 Remedies for failure to comply with article.—

(1) If it is established that a secured party is not proceeding in accordance with this chapter, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions. This subsection shall not preclude a debtor other than a consumer and a secured party, or two or more secured parties in other than a consumer transaction, from agreeing in an authenticated record that the debtor or secured party must first provide to the alleged offending secured party notice of a violation of this chapter and opportunity to cure before commencing any legal proceeding under this section.

(2) Subject to subsections (3), (4), and (6), a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter, including damages suffered by the debtor resulting from the debtor's inability to obtain, or increased costs of, alternative financing, but not including consequential, special, or penal damages, unless the conduct giving rise to the failure constitutes an independent claim under the laws of this state other than this chapter and then only to the extent otherwise recoverable under law.

(3) Except as otherwise provided in s. 679.628:

(a) A person who, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) for the person's loss; and

(b) If the collateral is consumer goods, a person who was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the obligation or the time-price differential plus 10 percent of the cash price.

(4) A debtor whose deficiency is eliminated under s. 679.626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under s. 679.626 may not otherwise recover under subsection (2) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(5) In lieu of damages recoverable under subsection (2), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover $500 in each case from a person who:

(a) Fails to comply with s. 679.2081;

(b) Fails to comply with s. 679.209;

(c) Files a record that the person is not entitled to file under s. 679.509(1);

(d) Fails to cause the secured party of record to file or send a termination statement as required by s. 679.513(1) or (3) after receipt of an authenticated record notifying the person of such noncompliance;

(e) Fails to comply with s. 679.616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(f) Fails to comply with s. 679.616(2)(b) with respect to a consumer transaction, and with respect to a transaction other than a consumer transaction, after receipt of an authenticated record notifying the person of such noncompliance.

(6) A debtor or consumer obligor may recover damages under subsection (2) and, in addition, $500 in each case from a person who, without reasonable cause, fails to comply with a request under s. 679.210. A recipient of a request under s. 679.210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under S. 679.210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person who is reasonably misled by the failure.

679.626 Action in which deficiency or surplus is in issue.—In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in s. 679.628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, reasonable expenses, and, to the extent provided for by agreement and not prohibited by law, attorney's fees exceeds the greater of:

(a) The proceeds of the collection, enforcement, disposition, or acceptance; or

(b) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of paragraph (3)(b), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under s. 679.615(6), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

679.627 Determination of whether conduct was commercially reasonable.—

(1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(a) In the usual manner on any recognized market;

(b) At the price current in any recognized market at the time of the disposition; or

(c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(a) In a judicial proceeding;

(b) By a bona fide creditors' committee;

(c) By a representative of creditors; or

(d) By an assignee for the benefit of creditors.

(4) Approval under subsection (3) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

679.628 Nonliability and limitation on liability of secured party; liability of secondary obligor.—

(1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this chapter; and

(b) The secured party's failure to comply with this chapter does not affect the liability of the person for a deficiency.

(2) A secured party is not liable because of its status as a secured party:

(a) To a person who is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(b) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(4) A secured party is not liable to any person under s. 679.625(3)(b) for its failure to comply with s. 679.616.

(5) A secured party is not liable under s. 679.625(3)(b) more than once with respect to any one secured obligation.

Section 8. Part VII of chapter 679, Florida Statutes, consisting of sections 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, and 679.709, Florida Statutes, is created to read:

PART VII
TRANSITION

679.701 Effective date.—This part takes effect January 1, 2002.

679.702 Savings clause.—

(1) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(2) Except as otherwise provided in subsection (3) and ss. 679.703-679.709:

(a) Transactions and liens that were not governed by chapter 679, Florida Statutes 2000, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(3) This act does not affect an action, case, or proceeding commenced before this act takes effect.

679.703 Security interest perfected before effective date.—

(1) A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person who becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(2) Except as otherwise provided in s. 679.705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person who becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

(a) Is a perfected security interest for 1 year after this act takes effect;

(b) Remains enforceable thereafter only if the security interest becomes enforceable under s. 679.203 before the year expires; and

(c) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

679.704 Security interest unperfected before effective date.—A security interest that is enforceable immediately before this act takes effect but that would be subordinate to the rights of a person who becomes a lien creditor at that time:

(1) Remains an enforceable security interest for 1 year after this act takes effect;

(2) Remains enforceable thereafter if the security interest becomes enforceable under s. 679.203 when this act takes effect or within 1 year thereafter; and

(3) Becomes perfected:

(a) Without further action when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or

(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

679.705 Effectiveness of action taken before effective date.—

(1) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person who becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within 1 year after this act takes effect. An attached security interest becomes unperfected 1 year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(2) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(3) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000. However, except as otherwise provided in subsections (4) and (5) and s. 679.706, the financing statement ceases to be effective at the earlier of:

(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(b) June 30, 2006.

(4) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part III, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(5) Paragraph (3)(b) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000, only to the extent that part III provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part V for an initial financing statement.

679.706 When initial financing statement suffices to continue effectiveness of financing statement.—

(1) The filing of an initial financing statement in the office specified in s. 679.5011 continues the effectiveness of a financing statement filed before this act takes effect if:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(b) The pre-effective date financing statement was filed in an office in another state or another office in this state; and

(c) The initial financing statement satisfies subsection (3).

(2) The filing of an initial financing statement under subsection (1) continues the effectiveness of the pre-effective date financing statement:

(a) If the initial financing statement is filed before this act takes effect, for the period provided in s. 679.403, Florida Statutes 2000, with respect to a financing statement; and

(b) If the initial financing statement is filed after this act takes effect, for the period provided in s. 679.515 with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1), an initial financing statement must:

(a) Satisfy the requirements of part V for an initial financing statement;

(b) Identify the pre-effective date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective date financing statement remains effective.

679.707 Amendment or pre-effective date financing statement.—

(1) In this section, the term "pre-effective date financing statement" means a financing statement filed before this act takes effect.

(2) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in a pre-effective date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part III. However, the effectiveness of a pre-effective date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective date financing statement may be amended after this act takes effect only if:

(a) The pre-effective date financing statement and an amendment are filed in the office specified in s. 679.5011;

(b) An amendment is filed in the office specified in s. 679.5011 concurrently with, or after the filing in that office of, an initial financing statement that satisfies s. 671.706(3); or

(c) An initial financing statement that provides the information as amended and satisfies s. 679.706(3) is filed in the office specified in s. 679.5011.

(4) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement may be continued only under s. 679.705(4) and (6) or s. 679.706.

(5) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective date financing statement is filed, unless an initial financing statement that satisfies s. 679.706(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part III as the office in which to file a financing statement.

679.708 Persons entitled to file initial financing statement or continuation statement.—A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(a) To continue the effectiveness of a financing statement filed before this act takes effect; or

(b) To perfect or continue the perfection of a security interest.

679.709 Priority.—

(1) This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, chapter 679, Florida Statutes 2000, determines priority.

(2) For purposes of s. 679.322(1), the priority of a security interest that becomes enforceable under s. 679.2031 of this act dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under chapter 679, Florida Statutes 2000. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Section 9. Subsection (2) of section 671.105, Florida Statutes, is amended to read:

671.105 Territorial application of the code; parties' power to choose applicable law.—

(2) When one of the following provisions of this code specifies the applicable law, that provision governs; and a contrary agreement is effective only to the extent permitted by the law (including the conflict-of-laws rules) so specified:

(a) Governing law in the chapter on funds transfers. (s. 670.507)

(b) Rights of sellers' creditors against sold goods. (s. 672.402)

(c) Applicability of the chapter on bank deposits and collections. (s. 674.102)

(d) Applicability of the chapter on letters of credit. (s. 675.116)

(e) Applicability of the chapter on investment securities. (s. 678.1101)

(f) *Law governing* perfection*, the effect* ~~provisions~~ of *perfection or nonperfection, and* the *priority of security interests and agricultural liens* ~~chapter on secured transactions~~. *(ss. 679.3011-679.3071)* ~~(s. 679.103)~~

(g) Applicability of the chapter on leases. (ss. 680.1051 and 680.1061)

Section 10. Subsections (9), (32), and (37) of section 671.201, Florida Statutes, are amended to read:

671.201 General definitions.—Subject to additional definitions contained in the subsequent chapters of this code which are applicable to specific chapters or parts thereof, and unless the context otherwise requires, in this code:

(9) "Buyer in ordinary course of business" means a person who *buys goods* in good faith ~~and~~ without knowledge that the sale *violates* ~~to him or her is in violation of~~ the ~~ownership~~ rights ~~or security interest~~ of *another person* ~~a third party~~ in the goods*, and* ~~buys~~ in *the* ordinary course from a person*, other than a pawnbroker,* in the business of selling goods of that kind ~~but does not include a pawnbroker~~. *A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person who sells oil, gas, or other minerals at the wellhead or minehead is a person* ~~All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ in the business of selling goods of that kind. *A buyer in the ordinary course of business* ~~"Buying"~~ may *buy* ~~be~~ for cash*,* ~~or~~ by exchange of other property, or on secured or unsecured credit and *may acquire* ~~includes receiving~~ goods or documents of title under a preexisting contract for sale ~~but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt~~. *Only a buyer who takes possession of the goods or has a right to recover the goods from the seller under chapter 672 may be a buyer in the ordinary course of business. A person who acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in the ordinary course of business.*

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, *security interest,* issue or reissue, gift or any other voluntary transaction creating an interest in property.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (s. 672.401) is limited in effect to a reservation of a security interest.~~ The term also includes any interest of *a consignor and* a buyer of accounts*,* ~~or~~ chattel paper*, a payment intangible, or a promissory note in a transaction* which is subject to

chapter 679. The special property interest of a buyer of goods on identification of those goods to a contract for sale under s. 672.401 is not a security interest, but a buyer may also acquire a security interest by complying with chapter 679. *Except as otherwise provided in s. 672.505, the right of a seller or lessor of goods under chapter 672 or chapter 680 to retain or acquire possession of the goods is not a security interest, but a seller or lessor may also acquire a security interest by complying with chapter 679. The retention or reservation of title by a seller of goods, notwithstanding shipment or delivery to the buyer (s. 672.401), is limited in effect to a reservation of a security interest.* ~~Unless a consignment is intended as security, reservation of title thereunder is not a security interest, but a consignment is in any event subject to the provisions on consignment sales (s. 672.326).~~ Whether a transaction creates a lease or security interest is determined by the facts of each case; however:

(a) A transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and;

1. The original term of the lease is equal to or greater than the remaining economic life of the goods;

2. The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

3. The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

4. The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

1. The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

2. The lessee assumes the risk of loss of the goods or agrees to pay taxes; insurance; filing, recording, or registration fees; or service or maintenance costs with respect to the goods;

3. The lessee has an option to renew the lease or to become the owner of the goods;

4. The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

5. The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection:

1. Additional consideration is not nominal if, when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed or if, when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

2. "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

3. "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

Section 11. Subsection (3) of section 672.103, Florida Statutes, is amended to read:

672.103 Definitions and index of definitions.—

(3) The following definitions in other chapters apply to this chapter:

"Check," s. 673.1041.

"Consignee," s. 677.102.

"Consignor," s. 677.102.

"Consumer goods," s. *679.1021* ~~679.109~~.

"Dishonor," s. 673.5021.

"Draft," s. 673.1041.

Section 12. Section 672.210, Florida Statutes, is amended to read:

672.210 Delegation of performance; assignment of rights.—

(1) A party may perform her or his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having her or his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) *Except as otherwise provided in s. 679.4061,* unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on her or him by her or his contract, or impair materially her or his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of her or his entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer. A court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4)~~(3)~~ Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5)~~(4)~~ An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by her or him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6)~~(5)~~ The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to her or his rights against the assignor demand assurances from the assignee (s. 672.609).

Section 13. Section 672.326, Florida Statutes, is amended to read:

672.326 Sale on approval and sale or return; ~~consignment sales and~~ rights of creditors.—

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

(a) A "sale on approval" if the goods are delivered primarily for use, and

(b) A "sale or return" if the goods are delivered primarily for resale.

(2) ~~Except as provided in subsection (3),~~ Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

~~(3) Where goods are delivered to a person for sale and such person maintains a place of business at which she or he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery:~~

~~(a) Complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) Establishes that the person conducting the business is generally known by her or his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) Complies with the filing provisions of the chapter on secured transactions (chapter 679).~~

(3)~~(4)~~ Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this chapter (s. 672.201) and as contradicting the sale aspect of the contract within the provisions of this chapter on parol or extrinsic evidence (s. 672.202).

Section 14. Section 672.502, Florida Statutes, is amended to read:

672.502 Buyer's right to goods on seller's *repudiation, failure to deliver, or* insolvency.—

(1) Subject to *subsections* ~~subsection~~ (2) *and (3),* and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which she or he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if*:*

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

(b) In all cases, the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under paragraph (1)(a) vests upon acquisition of a special property, even if the seller has not then repudiated or failed to deliver.

(3)~~(2)~~ If the identification creating her or his special property has been made by the buyer she or he acquires the right to recover the goods only if they conform to the contract for sale.

Section 15. Section 672.716, Florida Statutes, is amended to read:

672.716 Buyer's right to specific performance or replevin.—

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort she or he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. *In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.*

Section 16. Subsection (3) of section 674.2101, Florida Statutes, is amended to read:

674.2101 Security interest of collecting bank in items, accompanying documents, and proceeds.—

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to chapter 679, but:

(a) No security agreement is necessary to make the security interest enforceable (s. *679.2031(2)(c)1.* ~~679.203(1)(a)~~);

(b) No filing is required to perfect the security interest; and

(c) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 17. Section 675.1181, Florida Statutes, is created to read:

675.1181 Security interest of issuer of nominated person.—

(1) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(2) As long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (1), the security interest continues and is subject to chapter 679, but a security agreement is not necessary to make the security interest enforceable under s. 679.2031(2)(c):

(a) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(b) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Section 18. Subsection (1) of section 677.503, Florida Statutes, is amended to read:

677.503 Document of title to goods defeated in certain cases.—

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither:

(a) Delivered or entrusted them or any document of title covering them to the bailor or the bailor's nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this chapter (s. 677.403) or with power of disposition under this code (ss. 672.403 and *679.320* ~~679.307~~) or other statute or rule of law; nor

(b) Acquiesced in the procurement by the bailor or the bailor's nominee of any document of title.

Section 19. Subsection (6) of section 678.1031, Florida Statutes, is amended to read:

678.1031 Rules for determining whether certain obligations and interests are securities or financial assets.—

(6) A commodity contract, as defined in s. *679.1021(1)(o)* ~~679.115~~, is not a security or a financial asset.

Section 20. Subsections (4) and (6) of section 678.1061, Florida Statutes, are amended to read:

678.1061 Control.—

(4) A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder; ~~or~~

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder*; or*~~.~~

(c) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that the person has control on behalf of the purchaser.

(6) A purchaser who has satisfied the requirements of *subsection* ~~paragraph~~ (3)~~(b)~~ or *subsection* ~~paragraph~~ (4)~~(b)~~ has control, even if the registered owner in the case of *subsection* ~~paragraph~~ (3)~~(b)~~ or the entitlement holder in the case of *subsection* ~~paragraph~~ (4)~~(b)~~ retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

Section 21. Subsection (5) of section 678.1101, Florida Statutes, is amended to read:

678.1101 Applicability; choice of law.—

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder *governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this chapter, or this code* ~~specifies that it is governed by the law of a particular jurisdiction~~, that jurisdiction is the securities intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(c)~~(b)~~ If *neither paragraph (a) nor paragraph (b) applies and* an agreement between the securities intermediary and its entitlement holder *governing the securities account* ~~does not specify the governing law as provided in paragraph (a), but~~ expressly *provides* ~~specifies~~ that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d)~~(c)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the office identified in an account statement as the office serving the entitlement holder's account *is located*.

(e)~~(d)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (c)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the chief executive office of the securities intermediary *is located*.

Section 22. Subsection (1) of section 678.3011, Florida Statutes, is amended to read:

678.3011 Delivery.—

(1) Delivery of a certificated security to a purchaser occurs when:

(a) The purchaser acquires possession of the security certificate;

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and *is registered in the name of the purchaser, payable to the order of the purchaser, or* ~~has been~~ specially indorsed to the purchaser by an effective indorsement *and has not been endorsed to the securities intermediary or in blank*.

Section 23. Section 678.3021, Florida Statutes, is amended to read:

678.3021 Rights of purchaser.—

(1) Except as otherwise provided in subsections (2) and (3), *a purchaser* ~~upon delivery~~ of a certificated or uncertificated security ~~to a purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Section 24. Section 678.5101, Florida Statutes, is amended to read:

678.5101 Rights of purchaser of security entitlement from entitlement holder.—

(1) *In a case not covered by the priority rules in chapter 679 or the rules stated in subsection (3),* an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under s. 678.5021, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(3) In a case not covered by the priority rules in chapter 679, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. *Except as otherwise provided in subsection (4),* purchasers who have control rank *according to priority in time of:*

(a) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under s. 678.1061(4)(a);

(b) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under s. 678.1061(4)(b); or

(c) If the purchaser obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this subsection if the other person were the secured party. ~~equally, except that~~

(4) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Section 25. Subsection (3) of section 680.1031, Florida Statutes, is amended to read:

680.1031 Definitions and index of definitions.—

(3) The following definitions in other chapters of this code apply to this chapter:

(a) "Account," s. *679.1021(1)(b)* ~~679.106~~.

(b) "Between merchants," s. 672.104(3).

(c) "Buyer," s. 672.103(1)(a).

(d) "Chattel paper," s. *679.1021(1)(k)* ~~679.105(1)(b)~~.

(e) "Consumer goods," s. *679.1021(1)(w)* ~~679.109(1)~~.

(f) "Document," s. *679.1021(1)(dd)* ~~679.105(1)(f)~~.

(g) "Entrusting," s. 672.403(3).

(h) "General *intangible* ~~intangibles~~," s. *679.1021(1)(pp)* ~~679.106~~.

(i) "Good faith," s. 672.103(1)(b).

(j) "Instrument," s. *679.1021(1)(uu)* ~~679.105(1)(i)~~.

(k) "Merchant," s. 672.104(1).

(l) "Mortgage," s. *679.1021(1)(ccc)* ~~679.105(1)(j)~~.

(m) "Pursuant to a commitment," s. *679.1021(1)(ppp)* ~~679.105(1)(k)~~.

(n) "Receipt," s. 672.103(1)(c).

(o) "Sale," s. 672.106(1).

(p) "Sale on approval," s. 672.326(1).

(q) "Sale or return," s. 672.326(1).

(r) "Seller," s. 672.103(1)(d).

Section 26. Section 680.303, Florida Statutes, is amended to read:

680.303 Alienability of party's interest under lease contract or of lessor's residual interest in goods; delegation of performance; transfer of rights.—

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to chapter 679 *by reason of s. 679.1091(1)(c)*.

(2) Except as provided in *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~, a provision in a lease agreement which:

(a) Prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or

(b) Makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection *(4)* ~~(5)~~, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

~~(3) A provision in a lease agreement which:~~

~~(a) Prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or~~

~~(b) Makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

(3)~~(4)~~ A provision in a lease agreement which:

(a) Prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation; or

(b) Makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection *(4)* ~~(5)~~.

(4)~~(5)~~ Subject to *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~:

(a) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in s. 680.501(2);

(b) If paragraph (a) is not applicable and if a transfer is made that is prohibited under a lease agreement or materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5)~~(6)~~ A transfer of "the lease" or of "all my rights under the lease" or a transfer in similar general terms is a transfer of rights, and unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6)~~(7)~~ Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7)~~(8)~~ In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Section 27. Section 680.307, Florida Statutes, is amended to read:

680.307 Priority of liens arising by attachment or levy on, security interests in, and other claims to goods.—

(1) Except as otherwise provided in s. 680.306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in *subsection* ~~subsections~~ (3) ~~and (4)~~ and in ss. 680.306 and 680.308, a creditor of a lessor takes subject to the lease contract unless~~:~~

~~(a)~~ the creditor holds a lien that attached to the goods before the lease contract became enforceable.~~;~~

~~(b) The creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interests; or~~

~~(c) The creditor holds a security interest in the goods which was perfected (s. 679.303) before the lease contract became enforceable.~~

(3) *Except as otherwise provided in ss. 679.3171, 679.321, and 679.323, a lessee takes a leasehold interest subject to a security interest held by a creditor or lessor.* ~~A lessee in the ordinary course of business~~

~~takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (s. 679.303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.~~

Section 28. Paragraph (b) of subsection (1) of section 680.309, Florida Statutes, is amended to read:

680.309 Lessor's and lessee's rights when goods become fixtures.—

(1) In this section:

(b) A "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of s. *679.5021(1) and (2)* ~~679.402(5)~~.

Section 29. This act shall take effect January 1, 2002.

And the title is amended as follows:
remove the entire title from the bill:

and insert in lieu thereof: An act relating to the Uniform Commercial Code; revising ch. 679, F.S., relating to secured transactions; creating ss. 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, 679.1101, F.S.; providing a short title, definitions, and general concepts; creating ss. 679.2011, 679.2021, 679.2031, 679.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, 679.210, F.S.; providing for the effectiveness and attachment of security agreements; prescribing rights and duties of secured parties; creating ss. 679.3011, 679.3021, 679.3031, 679.3041, 679.3051, 679.3061, 679.3071, 679.3081, 679.091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.338, 679.340, 679.341, 679.342, F.S.; providing for perfection and priority of security interests; creating ss. 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, 679.409, F.S.; prescribing rights of third parties; providing legislative findings; creating ss. 679.5011, 679.5021, 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 679.524, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, 679.527, F.S.; prescribing filing procedures for perfection of a security interest; providing forms; providing duties and operation of filing office; providing definitions relating to the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to contracting for the administration, operation, and maintenance of the registry; providing criteria for the registry; operation of a filing office; providing definitions relating to the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to contracting for the administration, operation, and maintenance of the registry; creating ss. 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, F.S.; prescribing procedures for default and enforcement of security interests; providing for forms; creating ss. 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, 679.709, F.S.; providing transitional effective dates and savings clause for perfected and unperfected security interests, specified actions, and financing statements; specifying priority of conflicting claims; amending s. 671.105, F.S.; specifying the precedence of law governing the perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens; amending s. 671.201, F.S.; revising definitions used in the Uniform Commercial Code; amending s. 672.103, F.S.; conforming a cross-reference; amending s. 672.210, F.S.; providing that the creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially affects the buyer unless the enforcement actually results in a delegation of material performance of the seller; amending s. 672.326, F.S.; eliminating provisions relating to consignment sales; amending s. 672.502, F.S.; modifying buyers' rights to goods on a seller's repudiation, failure to deliver, or insolvency; amending s. 672.716, F.S.; providing that, for goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property; amending s. 674.2101, F.S.; conforming a cross-reference; creating s. 675.1181, F.S.; specifying conditions under which an issuer or nominated person has a security interest in a document presented under a letter of credit; amending ss. 677.503, 678.1031, F.S.; conforming cross-references; amending s. 678.1061, F.S.; specifying a condition under which a purchaser has control of a security entitlement; amending s. 678.1101, F.S.; modifying rules that determine a securities intermediary's jurisdiction; amending s. 678.3011, F.S.; providing for delivery of a certificated security to a purchaser; amending s. 678.3021, F.S.; eliminating a requirement that a purchaser of a certificated or uncertificated security receive delivery prior to acquiring all rights in the security; amending s. 678.5101, F.S.; prescribing rights of a purchaser of a security entitlement from an entitlement holder; amending ss. 680.1031, 680.303, 680.307, 680.309, F.S.; conforming cross-references; repealing ss. 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, 679.116, F.S., relating to the short title, applicability, and definitions of ch. 679, F.S.; repealing ss. 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, 679.208, F.S., relating to the validity of security agreements and the rights of parties to such agreements; repealing ss. 679.301, 679.302, 679,303, 679.304, 679.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, 679.318, F.S., relating to rights of third parties, perfected and unperfected security interests, and rules of priority; repealing ss. 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, 679.408, F.S., relating to filing of security interests; repealing ss. 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, 679.507, F.S., relating to rights of the parties upon default under a security agreement; providing effective dates.

Rep. Crow moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 455—A bill to be entitled An act relating to mortgage brokering and lending; amending s. 494.001, F.S.; defining the term "principal representative"; creating s. 494.00295, F.S.; providing license renewal educational requirements for licensees and principal representatives; amending s. 494.00311, F.S.; expanding the scope of mortgage business schools to include training for certain other persons; amending s. 494.0034, F.S.; adding continuing education requirements for mortgage broker license renewal; amending s. 494.0035, F.S.; requiring brokerage experience requirements for principal brokers; amending s. 494.0061, F.S.; providing educational requirements for mortgage lenders and principal representatives; requiring the designation of a principal representative; requiring testing of such persons; amending s. 494.0062, F.S.; providing educational requirements for correspondent mortgage lenders; requiring the designation of a principal representative; requiring the testing of such persons; amending s. 494.0064, F.S.; requiring licensees to submit certification of completion of certain educational requirements by certain persons; amending s. 494.0067, F.S.; requiring licensees to require loan originators and associates to complete certain continuing education programs; requiring licensees to maintain certain records; providing effective dates.

—was read the second time by title.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 960369)

Amendment 1—On page 2, line 26,
remove from the bill: *subparagraph*

and insert in lieu thereof: *subsection*

Rep. Detert moved the adoption of the amendment, which was adopted.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 871691)

Amendment 2—On page 9, line 30, of the bill, after the word *require*

insert: *the principal representative and*

Rep. Detert moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 421—A bill to be entitled An act relating to mental health; directing the Department of Children and Family Services to develop and implement a pilot project to provide client-directed and choice-based mental health treatment and support services to certain adults; requiring an independent evaluation; providing evaluation criteria; requiring reports; providing an appropriation; providing for expiration; providing an effective date.

—was read the second time by title.

The Committee on Elder & Long-Term Care offered the following:

(Amendment Bar Code: 521651)

Amendment 1—On page 2, lines 23-27
remove from the bill: all said lines

and insert in lieu thereof:

Section 2. *The sum of $470,000 is appropriated for Fiscal Year 2001-2002 from the Alcohol, Drug Abuse and Mental Health Trust Fund in the Department of Children and Family Services for the purpose of implementing this act.*

Rep. Bean moved the adoption of the amendment, which was adopted.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 392875)

Amendment 2 (with title amendment)—On page 2, between lines 27 and 28 of the bill

insert:

Section 3. *The department may reduce the population or beds in the mental health institutions it operates when adequate community-based services to meet the needs of the population have been established through contract and operating for six months in a specific hospital's catchment area. Evaluation to determine readiness of community-based services will be conducted by the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) in cooperation with the department.*

And the title is amended as follows:

On page 1, line 10 after the semicolon

insert: allowing the department to reduce under certain conditions the population or beds in the mental health institutions it operates when adequate community-based services to meet the needs of the population have been established; requiring an evaluation by Office of Program Policy Analysis and Governmental Accountability

Rep. Harrington moved the adoption of the amendment. Subsequently, **Amendment 2** was withdrawn.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 605—A bill to be entitled An act relating to health care facilities; creating the Florida Alzheimer's Training Act; amending s. 400.4178, F.S.; revising training standards for employees of assisted living facilities that provide care for residents with Alzheimer's disease or related disorders; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S.; prescribing training standards for employees of nursing homes, home health agencies, adult day care centers, and adult family-care homes, respectively, that provide care for persons with Alzheimer's disease or related disorders; providing for training fees; prescribing duties of the Department of Elderly Affairs; directing the department to convene a working group to develop training guidelines; providing for membership; providing for compliance with guidelines within a certain time period; providing an effective date.

—was read the second time by title.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 105291)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *This act may be cited as the "Florida Alzheimer's Training Act."*

Section 2. Section 400.1755, Florida Statutes, is created to read:

400.1755 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, facilities licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or related disorders.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but not be limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency or nurse registry, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Section 3. Section 400.4786, Florida Statutes, is created to read:

400.4786 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, home health agencies and nurse registries licensed under this part must provide to each of their employees basic written information about interacting with persons with Alzheimer's disease or related disorders upon beginning employment.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with clients with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment with the home health agency or nurse registry. This training shall include, but not be limited to, managing problem behaviors, promoting the client's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different home health agency or nurse registry or to an assisted living facility, nursing home, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Section 4. Section 400.55715, Florida Statutes, is created to read:

400.55715 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, adult day care centers licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or related disorders.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with clients with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but not be limited to, managing problem behaviors, promoting the client's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult day care center or to an assisted living facility, nursing home, home health agency or nurse registry, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Section 5. Section 400.626, Florida Statutes, is created to read:

400.626 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, adult family-care homes licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or related disorders.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but not be limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult family-care home or to an assisted living facility, nursing home, home health agency or nurse registry, or adult day care center. The direct caregiver must comply with other applicable continuing education requirements.

Section 6. *The training requirements established in this act shall apply to all new employees hired on or after July 1, 2002.*

Section 7. *The Department of Elderly Affairs may contract with a state university or statewide advocacy organization that possesses expertise in the area of Alzheimer's disease and related disorders to review potential trainers and training materials. The department may accept grants, donations, and gifts to meet the costs associated with providing the review and approval and the required training.*

Section 8. *A community care service system shall contain a dementia-specific care provider network to properly address the care of a person with dementia and the family of such person.*

Section 9. *The Legislature finds that appropriate care for persons with Alzheimer's disease and related disorders is an urgent health need in this state. Therefore, each state university, college, or postsecondary school that prepares undergraduate or graduate students in the healing arts regulated under chapter 456, Florida Statutes, is encouraged to include in its curriculum basic training about Alzheimer's disease and related disorders.*

Section 10. This act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to health care facilities; creating the "Florida Alzheimer's Training Act"; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S.; prescribing information and training requirements for employees of nursing homes, home health agencies, nurse registries, adult day care centers, and adult family-care homes, respectively, that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; providing rulemaking authority; providing timeframe for compliance; authorizing the Department of Elderly Affairs to contract for review of trainers and training materials; providing for costs; providing that a community care service system shall contain a dementia-specific care provider network; encouraging inclusion of certain training in healing arts curricula; providing an effective date.

Rep. Maygarden moved the adoption of the amendment.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 053539)

Amendment 1 to Amendment 1—On page 3, between lines 11 and 12, page 5, between lines 6 and 7, page 6, after line 31, page 8, between lines 26 and 27, of the amendment

insert:

(7) The provisions of this section shall be implemented to the extent of available appropriations in the annual General Appropriations Act for such purpose.

Rep. Maygarden moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Gibson offered the following:

(Amendment Bar Code: 780303)

Amendment 2 to Amendment 1 (with title amendment)—On page 7, between lines 3 & 4,

insert:

Section 5. Section 400.6045, Florida Statutes, is amended to read:

400.6045 Patients with Alzheimer's disease or other related disorders; certain disclosures*; training*.—

(1) A hospice licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The hospice must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer's disease or other related disorders offered by the hospice and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the hospice's records as part of the license renewal procedure.

(2) A hospice licensed under this part must provide to each of its employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder.

(3) All employees who are expected to, or whose responsibilities require them to, have direct contact with patients with Alzheimer's disease or a related disorder must, in addition to being provided the information required in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(4) An individual who provides direct care to a person with Alzheimer's disease or a related disorder shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning to work with the hospice. This training shall include, but not be limited to, managing problem behaviors, promoting the patient's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward this total of 4 hours.

(5) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.

(6) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees or direct caregivers under this section. The department shall approve training

offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(7) Upon completing any training described in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different hospice or a home health agency, nurse registry, assisted living facility, nursing home, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

And the title is amended as follows: On page 9, line 29, through page 10, line 5, of the amendment
remove: all of said lines

and insert in lieu thereof: A bill to be entitled An act relating to health care facilities and programs; creating the "Florida Alzheimer's Training Act"; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S., and amending s. 400.6045, F.S.; prescribing training standards for employees of nursing homes, home health agencies, nurse registries, hospice programs, adult day care

Rep. Gibson moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Gibson offered the following:

(Amendment Bar Code: 101959)

Amendment 3 to Amendment 1—On page 9, line 21,
remove from the amendment: all of said line

and insert in lieu thereof:

Section 10. This act shall take effect October 1, 2001.

Rep. Gibson moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 411—A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.003, F.S.; defining the term "proportionate share"; amending s. 723.011, F.S.; requiring the Division of Florida Land Sales, Condominiums, and Mobile Homes to maintain specified records; requiring that copies be provided within a specified time after written request; amending s. 723.012, F.S.; revising provisions relating to statements in a prospectus; amending s. 723.037, F.S.; revising procedures for meetings that determine the status of changes in lot rentals; amending s. 723.061, F.S.; revising timeframes for giving notice of changes in lot rental amounts and use of mobile home parks; creating s. 723.0611, F.S.; creating the Florida Mobile Home Relocation Corporation; providing for a board of directors to be appointed by the Secretary of Business and Professional Regulation; providing for terms of office; specifying powers and duties of the board; authorizing the corporation to borrow from private finance sources; creating s. 723.0612, F.S.; providing for the payment of relocation expenses if a mobile home owner is required to move due to a change in use of the mobile home park; providing exceptions; specifying procedures for payments upon approval of the corporation; authorizing a mobile home owner to abandon the mobile home and collect one-fourth the amount of relocation expenses; providing a penalty; providing for recognition of existing contracts; providing an effective date.

—was read the second time by title.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 823281)

Amendment 1—On page 9, line 20, on page 14, line 18, and on page 15, lines 11 and 20,
remove from the bill: *land*

Rep. Greenstein moved the adoption of the amendment, which was adopted.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 155417)

Amendment 2—On page 9, lines 25, 26, and 29,
remove from the bill: land

and insert in lieu thereof: ~~land~~

Rep. Greenstein moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

THE SPEAKER IN THE CHAIR

HB 1415—A bill to be entitled An act relating to Medicaid environmental modification services; creating s. 409.9072, F.S.; providing for Medicaid enrollment of licensed general, building, and residential contractors as providers of environmental modification services for Medicaid recipients under any home and community-based services waiver program; providing a definition; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Littlefield, consideration of **CS/HB 305** was temporarily postponed under Rule 11.10.

HB 1577 was taken up. On motion by Rep. Harrington, the rules were waived and CS for SB 972 was substituted for HB 1577. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 972—A bill to be entitled An act relating to water management district fiscal matters; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budgets must be sent for review; specifying the contents of the tentative budgets; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; amending s. 373.501, F.S.; providing procedures for the transfer of funds for proposed water management district projects; amending s. 373.59, F.S.; authorizing the use of the Water Management Lands Trust Fund for specified purposes other than acquisition; deleting a prospective repeal; amending s. 475.628, F.S.; recognizing certain appraisal methods; providing an effective date.

—was read the second time by title.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 645527)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 373.536, Florida Statutes, is amended to read:

373.536 District budget and hearing thereon.—

(1) *FISCAL YEAR.*—The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year.

(2) BUDGET SUBMITTAL.—The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed *operations* ~~operation~~ and *funding* requirements for the ensuing fiscal year.

(3) BUDGET HEARINGS AND WORKSHOPS; NOTICE.—

(a) Unless alternative notice requirements are otherwise provided by law, notice of all budget hearings conducted by the governing board or district staff must be published in a newspaper of general *paid* circulation in each county in which the district lies not less than 5 days nor more than 15 days before the hearing.

(b) Budget workshops conducted for the public and not governed by s. 200.065 must be advertised in a newspaper of general *paid* circulation in the community or area in which the workshop will occur not less than 5 days nor more than 15 days before the workshop.

(c) The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond September 3 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(g), in a newspaper of general paid circulation in that county. ~~The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve. District administrative and operating expenses must be identified in the budget and allocated among district programs.~~

~~(2) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the requirements of the district.~~

(d)~~(3)~~ As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to ~~finally~~ adopt a *final* budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement *that sets* ~~which shall set~~ forth the tentative budget *in a format meeting the budget summary requirements of s. 129.03(3)(b)* ~~in full~~. *The district shall not include expenditures of federal special revenues and state special revenues when preparing the statement required by s. 200.065(3)(l).* The notice and advertisement shall be published in one or more newspapers having a combined general *paid* circulation in *each county* ~~the counties having land~~ in *which* the district *lies*. Districts may include explanatory phrases and examples in budget advertisements published under s. 200.065 to clarify or illustrate the effect that the district budget may have on ad valorem taxes.

(e)~~(4)~~ The hearing *for adoption of* ~~to finally adopt~~ a *final* budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board.

(4) BUDGET CONTROLS.—

(a) The final *adopted* budget for the district will thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board.

(b) The district shall control its budget, at a minimum, by funds and shall provide to the Executive Office of the Governor a description of its budget control mechanisms.

(c) Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including such funds, so long as notice of intention to amend is published *in the notice of the governing board meeting at which the amendment will be considered, pursuant to s. 120.525* ~~one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district~~. The notice shall set forth *a summary of* the proposed amendment ~~and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered~~. However, in the event of a disaster or of an emergency arising to prevent or avert the same, the governing board shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

(5) *TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND APPROVAL.—*

(a) The Executive Office of the Governor is authorized to approve or disapprove, in whole or in part, the budget of each water management district and shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility.

(b) The Executive Office of the Governor and the water management districts shall develop a process to facilitate review and communication regarding water management district budgets, as necessary. Written disapproval of any provision in the tentative budget must be received by the district at least 5 business days prior to the final district budget adoption hearing conducted under s. 200.065(2)(d). If written disapproval of any portion of the budget is not received at least 5 business days prior to the final budget adoption hearing, the governing board may proceed with final adoption. Any provision rejected by the Governor shall not be included in a district's final budget.

(c) Each water management district shall, by August 1 of each year, submit for review a tentative budget to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over water management districts, *as determined by the President of the Senate or Speaker of the House of Representatives as applicable,* the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district.

(d) The tentative budget must set forth the proposed expenditures of the district, to which may be added an amount to be held as reserve. The tentative budget must include, but is not limited to, the following information for the preceding fiscal year and the current fiscal year, and the proposed amounts for the upcoming fiscal year, in a standard format prescribed by the Executive Office of the Governor ~~which is generally consistent with the format prescribed by legislative budget instructions for state agencies and the format requirements of s. 216.031~~:

1. *The estimated amount of funds remaining at the beginning of the fiscal year which have been obligated for the payment of outstanding commitments not yet completed.*

2. The estimated amount of unobligated funds or net cash balance on hand at the beginning of the fiscal year, and the estimated amount of funds to be raised by district taxes or received from other sources to meet the requirements of the district.

3. The millage rates and the percentage increase above the rolled-back rate, together with a summary of the reasons the increase is

required, and the percentage increase in taxable value resulting from new construction *within the district.*~~;~~

4.~~2.~~ The *salaries* ~~salary~~ and benefits, expenses, operating capital outlay, number of authorized positions, and other personal services for the following program areas *of the district*~~, including a separate section for lobbying, intergovernmental relations, and advertising~~:

a. Water resource planning and monitoring;

b. Land acquisition, restoration, and public works;

c. Operation and maintenance of works and lands;

d. Regulation;

e. Outreach for which the information provided must contain a full description and accounting of expenditures for water resources education; public information and public relations, including public service announcements and advertising in any media; and lobbying activities related to local, regional, state and federal governmental affairs, whether incurred by district staff or through contractual services; and

f. Management and administration.

~~a. District management and administration;~~

~~b. Implementation through outreach activities;~~

~~c. Implementation through regulation;~~

~~d. Implementation through acquisition, restoration, and public works;~~

~~e. Implementation through operations and maintenance of lands and works;~~

~~f. Water resources planning and monitoring; and~~

~~g. A full description and accounting of expenditures for lobbying activities relating to local, regional, state, and federal governmental affairs, whether incurred by district staff or through contractual services and all expenditures for public relations, including all expenditures for public service announcements and advertising in any media.~~

In addition to the program areas reported by all water management districts, the South Florida Water Management District shall include in its budget document ~~a~~ separate *sections* ~~section~~ on all costs associated with the Everglades Construction Project *and the Comprehensive Everglades Restoration Plan*.

5.~~3.~~ The total *estimated* amount in the district budget for each area of responsibility listed in *subparagraph 4.* ~~paragraph (a)~~ and for water resource development projects identified in the district's regional water supply plans.

~~4. A 5-year capital improvements plan.~~

6.~~5.~~ A description of each new, expanded, reduced, or eliminated program.

~~6. A proposed 5-year water resource development work program, that describes the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised pursuant to s. 373.0361. The work program shall address all the elements of the water resource development component in the district's approved regional water supply plans. The office of the Governor, with the assistance of the department, shall review the proposed work program. The review shall include a written evaluation of its consistency with and furtherance of the district's approved regional water supply plans, and adequacy of proposed expenditures. As part of the review, the Executive Office of the Governor and the department shall afford to all interested parties the opportunity to provide written comments on each district's proposed work program. At least 7 days prior to the adoption of its final budget, the governing board shall state in writing to the Executive Office of the Governor which changes recommended in the evaluation it will incorporate into its work program, or specify the reasons for not incorporating the changes. The office of the Governor shall include the district's responses in the written evaluation and shall submit a copy of the evaluation to the Legislature; and~~

7. The funding sources, including, but not limited to, ad valorem taxes, Surface Water Improvement and Management Program funds, other state funds, federal funds, and user fees and permit fees for each program area.

(e)~~(d)~~ By September 5 of the year in which the budget is submitted, the House and Senate appropriations chairs may transmit to each district comments and objections to the proposed budgets. Each district governing board shall include a response to such comments and objections in the record of the governing board meeting where final adoption of the budget takes place, and the record of this meeting shall be transmitted to the Executive Office of the Governor, the department, and the chairs of the House and Senate appropriations committees.

(f)~~(e)~~ The Executive Office of the Governor shall annually, on or before December 15, file with the Legislature a report that summarizes *its review* ~~the expenditures~~ of the water management *districts' tentative budgets and displays the adopted budget allocations* ~~districts~~ by program area*. The report must identify* ~~and identifies~~ the districts that are not in compliance with the reporting requirements of this section. State funds shall be withheld from a water management district that fails to comply with these reporting requirements.

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(a) Each district must, by the date specified for each item, furnish copies of the following documents to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over the districts, as determined by the President or Speaker as applicable, the secretary of the department, and the governing board of each county in which the district has jurisdiction or derives any funds for the operations of the district;

1. The adopted budget, to be furnished within 10 days after its adoption.

2. A financial audit of its accounts and records, to be furnished within 10 days after its acceptance by the governing board. The audit must be conducted in accordance with the provisions of s. 11.45 and the rules adopted thereunder. In addition to the entities named above, the district must provide a copy of the audit to the Auditor General within 10 days after its acceptance by the governing board.

3. A 5-year capital improvements plan, to be furnished within 45 days after the adoption of the final budget. The plan must include expected sources of revenue for planned improvements and must be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043.

4. A 5-year water resource development work program to be furnished within 45 days after the adoption of the final budget. The program must describe the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised under s. 373.0361. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans. Within 45 days after its submittal, the department shall review the proposed work program and submit its findings, questions, and comments to the district. The review must include a written evaluation of the program's consistency with the furtherance of the district's approved regional water supply plans, and the adequacy of proposed expenditures. As part of the review, the department shall give interested parties the opportunity to provide written comments on each district's proposed work program. Within 60 days after receipt of the department's evaluation, the governing board shall state in writing to the department which changes recommended in the evaluation it will incorporate into its work program or specify the

reasons for not incorporating the changes. The department shall include the district's responses in a final evaluation report and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) If any entity listed in paragraph (a) provides written comments to the district regarding any document furnished under this subsection, the district must respond to the comments in writing and furnish copies of the comments and written responses to the other entities.

Section 2. Paragraph (b) of subsection (4) of section 373.079, Florida Statutes, is amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)

(b)1. The governing board of each water management district shall employ an inspector general, who shall report directly to the board. However, the governing boards of the Suwannee River Water Management District and the Northwest Florida Water Management District may jointly employ an inspector general, or provide for inspector general services by interagency agreement with a state agency or water management district inspector general.

2. An inspector general must have the qualifications prescribed and perform the applicable duties of state agency inspectors general as provided in s. 20.055.

~~3. Within 45 days of the adoption of the final budget, the governing board shall submit a 5-year capital improvement plan and fiscal report for the district to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection. The capital improvement plan must include expected sources of revenue for planned improvements and shall be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043. The fiscal report shall cover the preceding fiscal year and shall include a summary statement of the financial operations of the district.~~

Section 3. Section 373.501, Florida Statutes, is amended to read:

373.501 Appropriation of funds to water management districts.—

(1) The department may allocate to the water management districts, from funds appropriated to the department, such sums as may be deemed necessary to defray the costs of the administrative, regulatory, and other activities of the districts. The governing boards shall submit annual budget requests for such purposes to the department, and the department shall consider such budgets in preparing its budget request for the Legislature.

(2) Funds appropriated by the Legislature for the purpose of funding a specific water management district project shall be transferred to the water management district when the proposed project has been reviewed by the secretary of the pertinent state agency and upon receipt of a governing board resolution requesting such funds.

Section 4. Subsection (11) of section 373.59, Florida Statutes, is amended to read:

373.59 Water Management Lands Trust Fund.—

(11) Notwithstanding any provision of this section to the contrary, ~~and for the 2000-2001 fiscal year only,~~ the governing board of a water management district may request, and the Secretary of Environmental Protection shall release upon such request, moneys allocated to the districts pursuant to subsection (8) for ~~the purpose of carrying out the~~ purposes *consistent with the provisions* of s. 373.0361, *s. 373.0831* ~~s. 375.0831~~, s. 373.139, or ss. 373.451-373.4595 and for legislatively authorized land acquisition and water restoration initiatives. No funds may be used pursuant to this subsection until necessary debt service obligations, requirements for payments in lieu of taxes, and land management obligations that may be required by this chapter are provided for. ~~This subsection is repealed on July 1, 2001~~.

Section 5. *Sections 373.507 and 373.589, Florida Statutes, are repealed.*

Section 6. Section 153.11, Florida Statutes, is amended to read:

153.11 Water service charges and sewer service charges; revenues.—

(1)(a) The county commission shall in the resolution providing for the issuance of either water revenue bonds or sewer revenue bonds, or both, fix the initial schedule of rates, *rate structures,* fees*,* and other charges for the use of and for the services furnished or to be furnished by the facilities, to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with and use any such facility by or through any part of the water system of the county.

(b) After the system or systems shall have been in operation the county commission may revise *the* ~~such~~ schedule of rates, *rate structures,* fees*,* and charges from time to time. Such rates, *rate structures,* fees*,* and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to pay the cost of maintaining, repairing and operating the system or systems including the reserves for such purposes and for replacements and depreciation and necessary extensions, to pay the principal of and the interest on the water revenue bonds and/or sewer revenue bonds as the same shall become due and the reserves therefor, and to provide a margin of safety for making such payments. *The county commission may establish rates or rate structures in such a manner as to encourage and promote water conservation and the use of reclaimed water for nonpotable uses.* The county commission shall charge and collect the rates, fees*,* and charges so fixed or revised*,* and *the* ~~such~~ rates, *rate structures,* fees*,* and charges shall not be subject to supervision or regulation by any other commission, board, bureau*,* or agency of the county or of the state or of any sanitary district or other political subdivision of the state.

(c) Such rates, *rate structures,* fees*,* and charges shall be just and equitable and may be based or computed upon the quantity of water consumed and/or upon the number and size of sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the sewer system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors.

(d) In cases where the amount of water furnished to any building or premises is such that it imposes an unreasonable burden upon the water supply system an additional charge may be made therefor or the county commission may if it deems advisable compel the owners or occupants of such building or premises to reduce the amount of water consumed thereon in a manner to be specified by the county commission or the county commission may refuse to furnish water to such building or premises.

(e) In cases where the character of the sewage from any manufacturing or industrial plant or any building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the county commission may, if it deems it advisable, compel such manufacturing or industrial plant or such building or premises to treat such sewage in such manner as shall be specified by the county commission before discharging such sewage into any sewer lines owned or maintained by the county.

(2) The county commission may charge any owner or occupant of any building or premise receiving the services of the facilities herein provided such initial installation or connection charge or fee as the commission may determine to be just and reasonable.

(3)(a) No rates, *rate structures,* fees*,* or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of the facilities provided by this chapter and owners, tenants and occupants of property served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed rates, *rate structures,* fees*,* and charges. After the adoption by the county commission of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, *rate*

structures, fees*,* and charges, notice of such public hearing setting forth the schedule or schedules of rates, *rate structures,* fees*,* and charges shall be given by one publication in a newspaper published in the county at least 10 days before the date fixed in said notice for the hearing, which said hearing may be adjourned from time to time. After such hearing such preliminary schedule or schedules, either as originally adopted or as modified or amended, shall be adopted and put into effect and thereupon the resolution providing for the issuance of water revenue bonds and/or sewer revenue bonds may be finally adopted.

(b) A copy of the schedule or schedules of such rates, *rate structures,* fees*,* and charges finally fixed in such resolution shall be kept on file in the office of the clerk of the circuit court in the county and shall be open to inspection by all parties interested. The rates, *rate structures,* fees*,* or charges so fixed for any class of users or property served shall be extended to cover any additional property thereafter served which fall within the same class without the necessity of any hearing or notice.

(c) Any change or revision of any rates, *rate structures,* fees*,* or charges may be made in the same manner as such rates, *rate structures,* fees*,* or charges were originally established as hereinabove provided, but if such change or revision be made substantially pro rata as to all classes of service no notice or hearing shall be required.

Section 7. Subsection (13) is added to section 163.3167, Florida Statutes, to read:

163.3167 Scope of act.—

(13) Each local government shall address in its comprehensive plan the availability of water supplies necessary to meet the projected water use demands for the established planning period, compatible with any applicable plan developed pursuant to s. 373.036.

Section 8. Paragraph (a) of subsection (3), paragraph (a) of subsection (4), and paragraph (c) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

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

(3) (a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

1. A component which outlines principles for construction, extension, or increase in capacity of public facilities, *including potable water facilities compatible with the applicable regional water supply plan developed pursuant to s. 373.0361,* as well as a component which outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.

2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

3. Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

4. Standards for the management of debt.

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; *with any applicable plan developed pursuant to s. 373.036;* with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

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

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. *By October 1, 2002, the element shall also include data and analyses, based upon the appropriate plan developed pursuant to s. 373.036, that evaluate the availability of potable water compared to population growth projected by the future land use plan.*

Section 9. Paragraph (k) is added to subsection (2) of section 373.1961, Florida Statutes, to read:

373.1961 Water production.—

(2) The Legislature finds that, due to a combination of factors, vastly increased demands have been placed on natural supplies of fresh water, and that, absent increased development of alternative water supplies, such demands may increase in the future. The Legislature also finds that potential exists in the state for the production of significant quantities of alternative water supplies, including reclaimed water, and that water production includes the development of alternative water supplies, including reclaimed water, for appropriate uses. It is the intent of the Legislature that utilities develop reclaimed water systems, where reclaimed water is the most appropriate alternative water supply option, to deliver reclaimed water to as many users as possible through the most cost-effective means, and to construct reclaimed water system infrastructure to their owned or operated properties and facilities where they have reclamation capability. It is also the intent of the Legislature that the water management districts which levy ad valorem taxes for water management purposes should share a percentage of those tax revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies. The Legislature finds that public moneys or services provided to private entities for such uses constitute public purposes which are in the public interest. In order to further the development and use of alternative water supply systems, including reclaimed water systems, the Legislature provides the following:

(k) The Florida Public Service Commission shall allow entities under its jurisdiction constructing alternative water supply facilities, including but not limited to aquifer storage and recovery wells, to recover the full, prudently incurred cost of such facilities through their rate structure. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates.

Section 10. Subsection (2) of section 373.217, Florida Statutes, is amended to read:

373.217 Superseded laws and regulations.—

(2) It is the further intent of the Legislature that Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, shall provide the exclusive authority for requiring permits for the consumptive use of water and for authorizing transportation thereof pursuant to s. 373.223(2). *Nothwithstanding the provisions of Chapter 163, the issuance of a permit under this part shall be a conclusive determination of the availability of water supplies,*

including ground and surface water resources and alternative water supplies, for the use authorized by such permit.

Section 11. Section 373.621, Florida Statutes, is created to read:

373.621 Water conservation.—The Legislature recognizes the significant value of water conservation in the protection and efficient use of water resources. Accordingly, additional consideration in the administration of ss. 373.223, 373.233, and 373.236 shall be given to applicants who implement water conservation practices pursuant to s. 570.080 or other applicable water conservation measures as determined by the department or water management district.

Section 12. Section 403.064, Florida Statutes, is amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. *The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems.* The Legislature *further* finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility located within, serving a population located within, or discharging within a water resource caution area shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies shall be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of water savings if reuse is implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with reuse.

(e) Evaluation of economic, environmental, and technical constraints.

(f) A schedule for implementation of reuse. The schedule shall consider phased implementation.

(3) The permit applicant shall prepare a plan of study for the reuse feasibility study consistent with the reuse feasibility study guidelines adopted by department rule. The plan of study shall include detailed descriptions of applicable treatment and water supply alternatives to be evaluated and the methods of analysis to be used. The plan of study shall be submitted to the department for review and approval.

(4)~~(3)~~ The study required under subsection (2) shall be performed by the applicant, and the applicant *shall determine the feasibility of reuse based upon the results of the study,* ~~'s determination of feasibility is final~~ if the study complies with the requirements of subsection*s* (2) *and (3)*.

(5)~~(4)~~ A reuse feasibility study is not required if:

(a) The domestic wastewater treatment facility has an existing or proposed permitted or design capacity less than 0.1 million gallons per day; or

(b) The permitted reuse capacity equals or exceeds the total permitted capacity of the domestic wastewater treatment facility.

(6)~~(5)~~ A reuse feasibility study prepared under subsection (2) satisfies a water management district requirement to conduct a reuse feasibility study imposed on a local government or utility that has responsibility for wastewater management.

(7)~~(6)~~ Local governments may allow the use of reclaimed water for inside activities, including, but not limited to, toilet flushing, fire protection, and decorative water features, as well as for outdoor uses, provided the reclaimed water is from domestic wastewater treatment facilities which are permitted, constructed, and operated in accordance with department rules.

(8)~~(7)~~ Permits issued by the department for domestic wastewater treatment facilities shall be consistent with requirements for reuse included in applicable consumptive use permits issued by the water management district, if such requirements are consistent with department rules governing reuse of reclaimed water. This subsection applies only to domestic wastewater treatment facilities which are located within, or serve a population located within, or discharge within water resource caution areas and are owned, operated, or controlled by a local government or utility which has responsibility for water supply and wastewater management.

(9)~~(8)~~ Local governments may and are encouraged to implement programs for the reuse of reclaimed water. Nothing in this chapter shall be construed to prohibit or preempt such local reuse programs.

(10)~~(9)~~ A local government that implements a reuse program under this section shall be allowed to allocate the costs in a reasonable manner.

(11)~~(10)~~ Pursuant to chapter 367, the Florida Public Service Commission shall allow entities under its jurisdiction which conduct studies or implement reuse projects, including, but not limited to, any study required by subsection (2) or facilities used for reliability purposes for a reclaimed water reuse system, to recover the full, prudently incurred cost of such studies and facilities through their rate structure.

(12)~~(11)~~ In issuing consumptive use permits, the permitting agency shall consider the local reuse program.

(13)~~(12)~~ A local government shall require a developer, as a condition for obtaining a development order, to comply with the local reuse program.

(14)~~(13) If,~~ After conducting a feasibility study under subsection (2), ~~an applicant determines that reuse of reclaimed water is feasible,~~ domestic wastewater treatment facilities that dispose of effluent by Class I deep well injection, as defined in 40 C.F.R. part 144.6(a), must implement reuse ~~according to the schedule for implementation contained in the study conducted under subsection (2),~~ to the degree that reuse is ~~determined~~ feasible*, based upon the applicant's reuse feasibility study*. Applicable permits issued by the department shall be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection facility as backup for a reclaimed water reuse system.

(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.

(15)~~(14) If,~~ After conducting a feasibility study under subsection (2), ~~an applicant determines that reuse of reclaimed water is feasible,~~ domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse ~~according to the schedule for implementation contained in the study conducted under subsection (2),~~ to the degree that reuse is ~~determined~~ feasible*, based upon the applicant's reuse feasibility study.*. This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. Applicable permits issued by the department shall be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.

(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.

Section 13. Section 570.080, Florida Statutes, is created to read:

570.080 Agricultural water conservation program.—The department shall establish an agricultural water conservation program which includes the following:

(1) A cost share program, coordinated where appropriate with United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section, and where applicable, for water quality improvement pursuant to s. 403.067(7)(d).

(2) The development and implementation of voluntary interim measures or best management practices, adopted by rule, which provide for increased efficiencies in the utilization and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to ensure the implementation of the interim measures or best management practices, including record keeping requirements. As new information regarding efficient agricultural water use and management becomes available the department shall reevaluate, and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extend practicable, be designed to qualify for regulatory and other incentives, as determined by the agency having applicable statutory authority.

(3) Provision of assistance to the water management districts in the development and implementation of a consistent, to the extent practicable, methodology for the efficient allocation of water for agricultural irrigation.

Section 14. *The South Florida, St. Johns River, and Southwest Florida Water Management Districts shall each develop and participate in financing at least one public-private alternative water project that expands the current availability of alternative water supplies. Funding for the selected project shall commence no later than fiscal year 2001-2002. The selected project shall meet the criteria in s. 373.0831(4)(a). Projects that create new sources in order to help implement a prevention or recovery strategy for a minimum flow or level shall be given priority consideration for funding.*

Section 15. *As a result of ongoing drought conditions throughout the state and in order to aid in the development of a better understanding of Florida's unique surface and ground water sources, it is the intent of the Legislature that the water management districts undertake a coordinated effort to develop an illustrative public service program that depicts the current status of major surface and ground water sources. This program shall be designed to provide information that shows the water levels of aquifers and water bodies that are critical to water supplies within each water management district. It is the intent of the Legislature that the districts develop partnerships with the local media to assist in the dissemination of this information. Further, it is the intent of the Legislature that this program be developed and made available no later than December 31, 2001. Beginning January 1, 2002, and every six months thereafter, the information developed pursuant to this section shall be submitted to the appropriate legislative committees with substantive jurisdiction over the water management districts.*

Section 16. Subsection (7) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District. *Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of three members from Manatee County and three members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ex officio chair designated by the governing board to vote in case of a tie vote.*

Section 17. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2 through page 2 line 5
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to water resources; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budgets must be sent for review; specifying the contents of the tentative budgets; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; amending s. 373.501, F.S.; providing procedures for the transfer of funds for proposed water management district projects; amending s. 373.59, F.S.; authorizing the use of the Water Management Trust Fund for specified purposes other than acquisition; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; amending s. 153.11, F.S.; authorizing county commissions to establish water and sewer rates and rate structures to encourage and promote water conservation and the use of reclaimed water; amending s. 163.3167, F.S.; requiring that each local government provide in its growth management plan for the long-term availability of water supplies for approved land development; amending s. 163.3177, F.S.; directing local government comprehensive plans to coordinate with regional water supply plans; directing future land use plans to be based on data regarding the availability of sufficient water supplies for present and future growth; amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the costs of such facilities through rate structures; amending s. 373.217, F.S.; recognizing a permit issued under Part II of Chapter 373, F.S., as conclusive determination of water supply availability; creating s. 373.621, F.S.; recognizing the significance of water conservation; requiring consideration of the implementation of water conservation practices in water use permitting; amending s. 403.064, F.S.; requiring the reuse of reclaimed water when feasible; creating s. 570.080, F.S.; establishing an agricultural water conservation program; requiring water management districts to develop and finance public-private alternative water supply projects; requiring the dissemination of public information regarding the status of major water sources; amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes; providing an effective date.

Rep. Harrington moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1077—A bill to be entitled An act relating to health care; creating s. 456.41, F.S.; authorizing provision of and access to complementary or alternative health care treatments; requiring patients to be provided with certain information regarding such treatments; requiring the

keeping of certain records; providing effect on the practice acts; amending s. 381.026, F.S.; revising the Florida Patient's Bill of Rights and Responsibilities to include the right to access any mode of treatment the patient or the patient's health care practitioner believes is in the patient's best interests; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HM 1161—A memorial to the Federal Emergency Management Agency, urging the agency to adopt a policy towards the Florida Keys that is consistent with Florida law and its own policy.

WHEREAS, under the Florida Statute of Limitations, section 95.11(3)(c), Florida Statutes, Judge Richard Payne ruled on October 6, 2000, that Monroe County could not enforce removal of downstairs enclosures that were built over 4 years prior to enforcement action, and

WHEREAS, the Federal Emergency Management Agency (FEMA), in a letter dated July 29, 1991, threatened to suspend Monroe County from the National Flood Insurance Program (NFIP) if the county established a 4-year limitation on code violations, and

WHEREAS, FEMA, in a letter to Monroe County dated December 12, 2000, from its Associate Director for Mitigation, Michael J. Armstrong, stated that if Monroe County did not appeal Judge Payne's ruling of October 6, 2000, FEMA would consider this action as a defect in the county's floodplain management program, and

WHEREAS, Monroe County was denied a rehearing on January 19, 2001, by Judge Payne to reconsider the ruling to remove all illegal downstairs enclosures, and

WHEREAS, FEMA records show that Monroe County has a high participation and a low claim history in the NFIP, and

WHEREAS, 76,000 pre-firm structures, out of 4.3 million pre-firm structures that have had two or more losses since 1978, represent 33 percent of all losses paid by FEMA, and

WHEREAS, only 1.9 million pre-firm structures out of 4.3 million pre-firm structures have their lowest floors above base flood level, and it is punitive to mandate that Monroe County remove more than 4,000 downstairs enclosures because they are below base flood level, and

WHEREAS, 23 percent of NFIP claim dollars paid from 1978 to 1996 went to areas not identified as special hazard flood areas, and

WHEREAS, Texas and Louisiana account for 40 percent of all repeated flood claims (1.1 billion), and

WHEREAS, with the exception of Key Biscayne, the majority of repeated flood claims comes from the gulf coast on the top half of the State of Florida, and

WHEREAS, the current FEMA policy towards the Florida Keys is arbitrary, capricious, and inconsistent with its national policy, and its enforcement of a special pilot program does not align with FEMA's own stated goals, and

WHEREAS, the enforcement of FEMA's pilot program is inconsistent with Florida law and would create enormous economic hardships on the economy of the Florida Keys, and

WHEREAS, the removal of more than 4,000 downstairs enclosures would work against the stated policy of the Department of Community Affairs to provide affordable housing for the people of Monroe County, and

WHEREAS, the Florida Legislature recognizes that Monroe County must follow the laws of the State of Florida and its circuit judges, NOW, THEREFORE,

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

That the Federal Emergency Management Agency is requested to adopt a policy toward the Florida Keys that is consistent with Florida law and its own national policy.

BE IT FURTHER RESOLVED that copies of this memorial be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Florida delegation to the United States Congress, and the Director of the Federal Emergency Management Agency.

—was read the second time by title. On motion by Rep. Sorensen, the memorial was adopted. The vote was:

Session Vote Sequence: 205

Yeas—115

The Chair	Carassas	Heyman	Murman
Alexander	Clarke	Hogan	Needelman
Allen	Cusack	Holloway	Negron
Andrews	Davis	Jennings	Paul
Argenziano	Detert	Johnson	Pickens
Arza	Diaz de la Portilla	Jordan	Prieguez
Attkisson	Diaz-Balart	Joyner	Rich
Atwater	Dockery	Justice	Richardson
Ausley	Farkas	Kallinger	Romeo
Baker	Fasano	Kendrick	Ross
Ball	Fields	Kilmer	Rubio
Barreiro	Fiorentino	Kosmas	Russell
Baxley	Flanagan	Kottkamp	Ryan
Bean	Frankel	Kravitz	Seiler
Bendross-Mindingall	Gannon	Kyle	Simmons
Bennett	Garcia	Lacasa	Siplin
Bense	Gardiner	Lee	Slosberg
Benson	Gelber	Lerner	Smith
Berfield	Gibson	Littlefield	Sobel
Betancourt	Goodlette	Lynn	Sorensen
Bilirakis	Gottlieb	Mack	Spratt
Bowen	Green	Mahon	Stansel
Brown	Greenstein	Mayfield	Wallace
Brummer	Haridopolos	Maygarden	Waters
Brutus	Harper	McGriff	Weissman
Bucher	Harrell	Meadows	Wiles
Bullard	Harrington	Mealor	Wilson
Byrd	Hart	Melvin	Wishner
Cantens	Henriquez	Miller	

Nays—None

Under the Rule, the memorial was immediately certified to the Senate.

HB 1225—A bill to be entitled An act relating to economic development; amending s. 212.096, F.S.; revising a definition and defining "jobs"; increasing the enterprise zone jobs credit against the sales tax and revising the method of computing the credit; providing an increased credit for a business located in a rural enterprise zone; increasing the period during which the credit may be allowed; amending s. 212.098, F.S.; providing that a business eligible for the qualified target industry business tax refund is eligible for the rural job tax credit program; amending s. 220.03, F.S.; revising a definition and defining "jobs"; amending s. 220.181, F.S.; increasing the enterprise zone jobs credit against the corporate income tax and revising the method of computing the credit; providing an increased credit for a business located in a rural enterprise zone; increasing the period during which the credit may be allowed; amending s. 288.018, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to contract with Enterprise Florida, Inc., to administer the Regional Rural Development Grants Program; creating s. 288.0185, F.S.; directing the member agencies of the Rural Economic Development Initiative (REDI) to review and develop modifications for grant and loan application evaluation criteria and scoring procedures to ensure access for rural counties and providing requirements with respect thereto; providing for review of future rules, programs, criteria, and processes; creating s. 288.019, F.S.; directing the REDI member agencies to develop proposals to waive or reduce financial match requirements for projects in rural communities; authorizing use of certain funds or donations as matches; creating s.

288.0195, F.S.; providing for review by REDI agencies of state agency proposed rules; amending s. 288.065, F.S.; providing that an economic development organization substantially underwritten by a unit of local government is eligible for loans under the Rural Community Development Revolving Loan Fund Program; amending s. 290.004, F.S.; defining "rural enterprise zone"; deleting obsolete definitions; amending ss. 290.0055, 290.0056, and 290.0058, F.S.; correcting obsolete references; deleting a time limitation on submission of applications for enterprise zone boundary changes; amending s. 290.0065, F.S.; including Enterprise Florida, Inc., in certain duties relating to designation of enterprise zones; including rural champion communities in areas that may be designated as state rural enterprise zones; providing for the development of certain guidelines by the Office of Tourism, Trade, and Economic Development in consultation with other agencies; revising requirements relating to amendment of boundaries of enterprise zones designated by the state; creating s. 290.00676, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of a rural enterprise zone and providing requirements with respect thereto; creating s. 290.00677, F.S.; modifying the employee residency requirements for the enterprise zone job credit against the sales tax and corporate income tax, if the business is located in a rural enterprise zone; modifying the employee residency requirements for maximum exemptions or credits with respect to the sales tax credits for building materials used in the rehabilitation of real property in an enterprise zone, for business property used in an enterprise zone, and for electrical energy used in an enterprise zone, and the corporate income tax enterprise zone property tax credit, if the business is located in a rural enterprise zone; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate rural champion communities or communities within a designated rural area of critical economic concern as enterprise zones; providing requirements with respect thereto; providing an effective date.

—was read the second time by title.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 933717)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof: Paragraphs (g) and (h) of subsection (5) of section 212.08, Florida Statutes, are amended, and paragraph (q) is added to that subsection, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.—

1. Beginning July 1, 1995, building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.

c. A description of the improvements made to accomplish the rehabilitation of the real property.

d. A copy of the building permit issued for the rehabilitation of the real property.

e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed.

h. Whether the business is a small business as defined by s. 288.703(1).

i. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

2. This exemption inures to a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 1. or subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The applicant shall be responsible for

forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building code inspector *or within 90 days after the rehabilitated property is first subject to assessment*.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds $500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this paragraph:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

9. The provisions of this paragraph shall expire and be void on December 31, 2005.

(h) Business property used in an enterprise zone.—

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, an application which includes:

a. The name and address of the business claiming the refund.

b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

d. The location of the property.

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

f. Whether the business is a small business as defined by s. 288.703(1).

g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the *tax is due on the* business property *that* is purchased.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. Notwithstanding this subparagraph, business property used exclusively in:

a. Licensed commercial fishing vessels,

b. Fishing guide boats, or

c. Ecotourism guide boats

that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

8. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the

amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

9. For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b); ~~and~~

c. Building materials as defined in sub-subparagraph (g)8.a.*; and*

d. Business property having a sales price of under $500 per unit.

10. The provisions of this paragraph shall expire and be void on December 31, 2005.

(q) Community contribution tax credit for donations.—

1. Authorization.—Beginning July 1, 2001, persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

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

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

c. No person shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year;

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

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $20 million annually; and

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

2. Eligibility requirements.—

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

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

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

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means any activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. A project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income or very–low–income households on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible low-income and very–low–income housing-related activities:

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

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

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

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

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

(I) A community action program;

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

(III) A neighborhood housing services corporation;

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

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

(VI) The Florida Industrial Development Corporation;

(VII) An historic preservation district agency or organization;

(VIII) A regional workforce board;

(IX) A direct–support organization as provided in s. 240.551;

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

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

(XII) Units of local government;

(XIII) Units of state government; or

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

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

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida community pursuant to s. 14.2015(9)(b), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside

the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low–income or very–low–income households as defined in s. 420.0971(19) and (28) is exempt from the area requirement of this sub–subparagraph.

3. Application requirements.—

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

b. Any person seeking to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit. The person must submit a separate tax credit application to the office for each individual contribution that it makes to each individual project.

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

4. Administration.—

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

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

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

d. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

5. Expiration.—This paragraph expires June 30, 2005; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3–year carryover period for such credit.

Section 1. Effective January 1, 2002, section 212.096, Florida Statutes, is amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(a) "Eligible business" means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. *The business must demonstrate to the department that the total number of full-time jobs defined under paragraph (d) has increased from the average of the previous 12 months. The term "eligible business" includes a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001.* An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

(b) "Month" means either a calendar month or the time period from any day of any month to the corresponding day of the next succeeding month or, if there is no corresponding day in the next succeeding month, the last day of the succeeding month.

(c) "New employee" means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a *participant in the* welfare transition program ~~participant~~ who begins employment with an eligible business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the eligible business, or a successor eligible business, claiming the credit allowed by this section.

(d) "Jobs" means full–time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from a business operation in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1). The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468 if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(e) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided the person is performing such duties for an average of at least 20 hours per week each month throughout the year~~. The person must be performing such duties at a business site located in the enterprise zone.

(2)(a) It is the legislative intent to encourage the provision of meaningful employment opportunities which will improve the quality of life of those employed and to encourage economic expansion of enterprise zones and the state. Therefore, beginning *January* ~~July~~ 1, *2002* ~~1995~~, upon an affirmative showing by *an eligible* ~~a~~ business to the satisfaction of the department that the requirements of this section have been met, the business shall be allowed a credit against the tax remitted under this chapter.

(b) The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid.*~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a WAGES Program participant pursuant to chapter 414.~~

For purposes of this paragraph, monthly wages shall be computed as one-twelfth of the expected annual wages paid to such employee. The amount paid as wages to a new employee is the compensation paid to such employee that is subject to unemployment tax. The credit shall be allowed for up to *24* ~~12~~ consecutive months, beginning with the first tax return due pursuant to s. 212.11 after approval by the department.

(3) In order to claim this credit, an eligible business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the eligible business.

(d) The starting salary or hourly wages paid to the new employee.

(e) Demonstration to the department that the total number of full–time jobs defined under paragraph (1)(d) has increased in an enterprise zone from the average of the previous 12 months.

(f)~~(e)~~ The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

(h)~~(g)~~ Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to this subsection and meets the criteria set out in this section. The governing body or agency shall certify all applications that contain the information required pursuant to this subsection and meet the criteria set out in this section as eligible to receive a credit. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in paragraph *(i)* ~~(h)~~.

(i)~~(h)~~ All applications for a credit pursuant to this section must be submitted to the department within *6* ~~4~~ months after the new employee is hired.

(4) Within 10 working days after receipt of a completed application for a credit authorized in this section, the department shall inform the business that the application has been approved. The credit may be taken on the first return due after receipt of approval from the department.

(5)~~(4)~~ In the event the application is *incomplete or* insufficient to support the credit authorized in this section, the department shall deny the credit and notify the business of that fact. The business may reapply for this credit.

(6)~~(5)~~ The credit provided in this section does not apply:

(a) For any new employee who is an owner, partner, or stockholder of an eligible business.

(b) For any new employee who is employed for any period less than 3 ~~full~~ calendar months.

(7)~~(6)~~ The credit provided in this section shall not be allowed for any month in which the tax due for such period or the tax return required pursuant to s. 212.11 for such period is delinquent.

(8)~~(7)~~ In the event an eligible business has a credit larger than the amount owed the state on the tax return for the time period in which the credit is claimed, the amount of the credit for that time period shall be the amount owed the state on that tax return.

(9)~~(8)~~ Any business which has claimed this credit shall not be allowed any credit under the provisions of s. 220.181 for any new employee beginning employment after July 1, 1995.

(10)~~(9)~~ It shall be the responsibility of each business to affirmatively demonstrate to the satisfaction of the department that it meets the requirements of this section.

(11)~~(10)~~ Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit plus interest at the rate provided in this chapter, and such person is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12)~~(11)~~ The provisions of this section, except for subsection *(11)* ~~(10)~~, ~~shall~~ expire ~~and be void on~~ December 31, 2005.

Section 2. Effective January 1, 2002, section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

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

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01-SIC 09 (agriculture, forestry, and fishing); SIC 20-SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); ~~and~~ SIC 7996 (amusement parks)*; and a targeted industry eligible for the qualified target industry business tax refund under s. 288.106*. A call center or similar customer service operation that services a multistate market or an international market is also an eligible business. In addition, the Office of Tourism, Trade, and Economic Development may, as part of its final budget request submitted pursuant to s. 216.023, recommend additions to or deletions from the list of standard industrial classifications used to determine an eligible business, and the Legislature may implement such recommendations. Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified county and the tier ranking of that county must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified county in which the eligible business is located. *The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* An owner or partner of the eligible business is not a qualified employee.

(c) "Qualified *area* ~~county~~" means *any area that is contained within a rural area of critical economic concern designated under s. 288.0656,*

a county that has a population of fewer than 75,000 persons, or any county that has a population of 100,000 or less and is contiguous to a county that has a population of less than 75,000, selected in the following manner: every third year, the Office of Tourism, Trade, and Economic Development shall rank and tier the state's counties according to the following four factors:

1. Highest unemployment rate for the most recent 36-month period.

2. Lowest per capita income for the most recent 36-month period.

3. Highest percentage of residents whose incomes are below the poverty level, based upon the most recent data available.

4. Average weekly manufacturing wage, based upon the most recent data available.

~~Tier-one qualified counties are those ranked 1-5 and represent the state's least-developed counties according to this ranking. Tier-two qualified counties are those ranked 6-10, and tier-three counties are those ranked 11-17. Notwithstanding this definition, "qualified county" also means a county that contains an area that has been designated as a federal Enterprise Community pursuant to the 1999 Agricultural Appropriations Act. Such a designated area shall be ranked in tier three until the areas are reevaluated by the Office of Tourism, Trade, and Economic Development.~~

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the period provided for application by subsection (2) is not considered a new business.

(e) "Existing business" means any eligible business that does not meet the criteria for a new business.

(2) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a tier-one qualified *area that* ~~county which~~ has at least 10 qualified employees on the date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such employee. ~~A new eligible business in a tier-two qualified county which has at least 20 qualified employees on the date of application shall receive a $1,000 tax credit for each such employee. A new eligible business in a tier-three qualified county which has at least 30 qualified employees on the date of application shall receive a $500 tax credit for each such employee.~~

(3) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing eligible business *with fewer than 50 employees* in a ~~tier-one~~ qualified *area that* ~~county which~~ on the date of application has at least *20 percent* ~~5~~ more qualified employees than it had 1 year prior to its date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such additional employee. An existing ~~eligible~~ business *that has 50 employees or more in a qualified area that, on the date of application, has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 tax credit for each additional employee.* ~~in a tier-two qualified county which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 credit for each such additional employee. An existing business in a tier-three qualified county which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a $500 tax credit for each such additional employee. An existing business may apply for the credit under this subsection no more than once in any 12-month period.~~ Any existing eligible business that received a credit under subsection (2) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (2).

(4) For any new eligible business receiving a credit pursuant to subsection (2), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. For any existing eligible business receiving a credit pursuant to subsection (3), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section regardless of the tier-level of the county. Appropriate documentation concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(5) To be eligible for a tax credit under subsection (3), the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (2).

(6)(a) In order to claim this credit, an eligible business must file under oath with the Office of Tourism, Trade, and Economic Development a statement that includes the name and address of the eligible business, the starting salary or hourly wages paid to the new employee, and any other information that the Department of Revenue requires.

(b) Within 30 working days after receipt of an application for credit, the Office of Tourism, Trade, and Economic Development shall review the application to determine whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the provisions of paragraph (c), the Office of Tourism, Trade, and Economic Development shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is $5 million. The Department of Revenue, in conjunction with the Office of Tourism, Trade, and Economic Development, shall notify the governing bodies in areas designated as qualified counties when the $5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(d) A business may not receive more than $500,000 of tax credits during any one calendar year for its efforts in creating jobs.

(7) If the application is insufficient to support the credit authorized in this section, the Office of Tourism, Trade, and Economic Development shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(8) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(9) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(10) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(11) A corporation may take the credit under this section against its corporate income tax liability, as provided in s. 220.1895. However, a corporation that uses its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(12) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines as to the requisites for an affirmative showing of qualification for the credit under this section.

Section 3. *Reduction or waiver of financial match requirements.—Notwithstanding any other law, the member agencies and organizations of the Rural Economic Development Initiative (REDI), as defined in section 288.0656(6)(a), Florida Statutes, shall review the financial match requirements for projects in rural areas as defined in section 288.0656(2)(b), Florida Statutes.*

(1) Each agency and organization shall develop a proposal to waive or reduce the match requirement for rural areas.

(2) Agencies and organizations shall ensure that all proposals are submitted to the Office of Tourism, Trade, and Economic Development for review by the REDI agencies.

(3) These proposals shall be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. A meeting of REDI agencies and organizations must be called within 30 days after receipt of such proposals for REDI comment and recommendations on each proposal.

(4) Waivers and reductions must be requested by the county or community, and such county or community must have three or more of the factors identified in section 288.0656(2)(a), Florida Statutes.

(5) Any other funds available to the project may be used for financial match of federal programs when there is fiscal hardship and the match requirements may not be waived or reduced.

(6) When match requirements are not reduced or eliminated, donations of land, though usually not recognized as an in–kind match, may be permitted.

(7) To the fullest extent possible, agencies and organizations shall expedite the rule adoption and amendment process if necessary to incorporate the reduction in match by rural areas in fiscal distress.

(8) REDI shall include in its annual report an evaluation on the status of changes to rules, number of awards made with waivers, and recommendations for future changes.

Section 4. Subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(a) "Ad valorem taxes paid" means 96 percent of property taxes levied for operating purposes and does not include interest, penalties, or discounts foregone. In addition, the term "ad valorem taxes paid," for purposes of the credit in s. 220.182, means the ad valorem tax paid on new or additional real or personal property acquired to establish a new business or facilitate a business expansion, including pollution and waste control facilities, or any part thereof, and including one or more buildings or other structures, machinery, fixtures, and equipment. The provisions of this paragraph shall expire and be void on June 30, 2005.

(b) "Affiliated group of corporations" means two or more corporations which constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

(c) "Business" or "business firm" means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter. The provisions of this paragraph shall expire and be void on June 30, 2005.

(d) "Community contribution" means the grant by a business firm of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources as identified by the department.

The provisions of this paragraph shall expire and be void on June 30, 2005.

(e) "Corporation" includes all domestic corporations; foreign corporations qualified to do business in this state or actually doing business in this state; joint-stock companies; limited liability companies, under chapter 608; common-law declarations of trust, under chapter 609; corporations not for profit, under chapter 617; agricultural cooperative marketing associations, under chapter 618; professional service corporations, under chapter 621; foreign unincorporated associations, under chapter 622; private school corporations, under chapter 623; foreign corporations not for profit which are carrying on their activities in this state; and all other organizations, associations, legal entities, and artificial persons which are created by or pursuant to the statutes of this state, the United States, or any other state, territory, possession, or jurisdiction. The term "corporation" does not include proprietorships, even if using a fictitious name; partnerships of any type, as such; limited liability companies that are taxable as partnerships for federal income tax purposes; state or public fairs or expositions, under chapter 616; estates of decedents or incompetents; testamentary trusts; or private trusts.

(f) "Department" means the Department of Revenue of this state.

(g) "Director" means the executive director of the Department of Revenue and, when there has been an appropriate delegation of authority, the executive director's delegate.

(h) "Earned," "accrued," "paid," or "incurred" shall be construed according to the method of accounting upon the basis of which a taxpayer's income is computed under this code.

(i) "Emergency," as used in s. 220.02 and in paragraph (u) of this subsection, means occurrence of widespread or severe damage, injury, or loss of life or property proclaimed pursuant to s. 14.022 or declared pursuant to s. 252.36. The provisions of this paragraph shall expire and be void on June 30, 2005.

(j) "Enterprise zone" means an area in the state designated pursuant to s. 290.0065. The provisions of this paragraph shall expire and be void on June 30, 2005.

(k) "Expansion of an existing business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in an enterprise zone, which expands by or through additions to real and personal property and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(l) "Fiscal year" means an accounting period of 12 months or less ending on the last day of any month other than December or, in the case of a taxpayer with an annual accounting period of 52-53 weeks under s. 441(f) of the Internal Revenue Code, the period determined under that subsection.

(m) "Includes" or "including," when used in a definition contained in this code, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2000, except as provided in subsection (3).

(o) "Local government" means any county or incorporated municipality in the state. The provisions of this paragraph shall expire and be void on June 30, 2005.

(p) "New business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), or any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the

provisions of this chapter, first beginning operations on a site located in an enterprise zone and clearly separate from any other commercial or industrial operations owned by the same entity, bank, or savings and loan association and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(q) "New employee," for the purposes of the enterprise zone jobs credit, means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a ~~WAGES Program~~ participant *in the welfare transition program who is* employed at a business located in an enterprise zone who begins employment in the operations of the business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the business or a successor business claiming the credit pursuant to s. 220.181. A person shall be deemed to be employed by such a business if the person performs duties in connection with the operations of the business on a full-time basis, provided she or he is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided she or he is performing such duties for an average of at least 20 hours per week each month throughout the year~~. *The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* The person must be performing such duties at a business site located in an enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(r) "Nonbusiness income" means rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent that they do not arise from transactions and activities in the regular course of the taxpayer's trade or business. The term "nonbusiness income" does not include income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, or any amounts which could be included in apportionable income without violating the due process clause of the United States Constitution. For purposes of this definition, "income" means gross receipts less all expenses directly or indirectly attributable thereto. Functionally related dividends are presumed to be business income.

(s) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, including a limited partnership; and the term "partner" includes a member having a capital or a profits interest in a partnership.

(t) *"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low–income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. The term also includes the provision of educational programs and materials by an eligible sponsor. A project may be the investment necessary to increase access to high–speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. This paragraph does not preclude projects that propose to construct or rehabilitate low-income or very–low–income housing on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits under s. 220.181 for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible project–related activities:*

1. Project development, impact, and management fees for low–income or very–low–income housing projects;

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

3. Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low–income or very–low–income projects; and

4. Removal of liens recorded against residential property by municipal, county, or special-district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party. ~~"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job-development opportunities for low-income persons.~~

The provisions of this paragraph shall expire and be void on June 30, 2005.

(u) "Rebuilding of an existing business" means replacement or restoration of real or tangible property destroyed or damaged in an emergency, as defined in paragraph (i), after July 1, 1995, in an enterprise zone, by a business entity authorized to do business in this state as defined in paragraph (e), or a bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in the enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(v) "Regulations" includes rules promulgated, and forms prescribed, by the department.

(w) "Returns" includes declarations of estimated tax required under this code.

(x) "Secretary" means the secretary of the Department of Commerce. The provisions of this paragraph shall expire and be void on June 30, 2005.

(y) "State," when applied to a jurisdiction other than Florida, means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or any political subdivision of any of the foregoing.

(z) "Taxable year" means the calendar or fiscal year upon the basis of which net income is computed under this code, including, in the case of a return made for a fractional part of a year, the period for which such return is made.

(aa) "Taxpayer" means any corporation subject to the tax imposed by this code, and includes all corporations for which a consolidated return is filed under s. 220.131. However, "taxpayer" does not include a corporation having no individuals (including individuals employed by an affiliate) receiving compensation in this state as defined in s. 220.15 when the only property owned or leased by said corporation (including an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or property from which the printed product is produced.

(bb) "Functionally related dividends" include the following types of dividends:

1. Those received from a subsidiary of which the voting stock is more than 50 percent owned or controlled by the taxpayer or members of its affiliated group and which is engaged in the same general line of business.

2. Those received from any corporation which is either a significant source of supply for the taxpayer or its affiliated group or a significant purchaser of the output of the taxpayer or its affiliated group, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the taxpayer or its affiliated group. "Significant" means an amount of 15 percent or more.

3. Those resulting from the investment of working capital or some other purpose in furtherance of the taxpayer or its affiliated group.

However, dividends not otherwise subject to tax under this chapter are excluded.

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

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

(ee) "Citrus processing company" means a corporation which, during the 60-month period ending on December 31, 1997, had derived more than 50 percent of its total gross receipts from the processing of citrus products and the manufacture of juices.

(ff) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

(gg) "Jobs" means full-time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from business operations in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1).

Section 5. Effective January 1, 2002, subsections (1) and (2) of section 220.181, Florida Statutes, are amended to read:

220.181 Enterprise zone jobs credit.—

(1)(a) Beginning *January* ~~July~~ 1, *2002* ~~1995~~, there shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which *demonstrates to the department that the total number of full-time jobs defined under s. 212.096(1)(d) has increased from the average of the previous 12 months. This credit is also available for a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001* ~~employs one or more new employees~~. The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, as defined under s. 220.03(1)(ff), unless the business is located in a rural enterprise zone, pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid*, for a period of up to *24* ~~12~~ consecutive months.~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a welfare transition program participant.~~

(b) This credit applies only with respect to wages subject to unemployment tax and does not apply for any new employee who is employed for any period less than 3 full months.

(c) If this credit is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(2) When filing for an enterprise zone jobs credit, a business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence during the taxable year, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the new employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the business.

(d) The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the eligible business is located.

(e) The salary or hourly wages paid to each new employee claimed.

(f) Demonstration to the department that the total number of full-time jobs has increased from the average of the previous 12 months.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

Section 6. Subsections (1), (2), (3), and (4) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.—

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

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section*, s. 212.08(5)(q),* and s. 624.5105 is *$20* ~~$10~~ million annually.

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

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

(f) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis.

(g) A taxpayer who is eligible to receive the credit provided for in s. 624.5105 is not eligible to receive the credit provided by this section.

(2) ELIGIBILITY REQUIREMENTS.—

(a) All community contributions by a business firm shall be in the form specified in s. 220.03(1)(d).

(b) All community contributions must be reserved exclusively for use in projects as defined in s. 220.03(1)(t). *The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very-low-income households pursuant to s. 420.9071(28), for the first 6 months of the fiscal year.*

(c) The project must be undertaken by an "eligible sponsor," defined here as:

1. A community action program;

2. A *nonprofit community-based* ~~community~~ development *organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons* ~~corporation~~;

3. A neighborhood housing services corporation;

4. A local housing authority, created pursuant to chapter 421;

5. A community redevelopment agency, created pursuant to s. 163.356;

6. The Florida Industrial Development Corporation;

7. An historic preservation district agency or organization;

8. A *regional workforce board* ~~private industry council~~;

9. A direct-support organization as provided in s. 240.551;

10. An enterprise zone development agency created pursuant to *s. 290.0056* ~~s. 290.0057~~; ~~or~~

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

12. Units of local government;

13. Units of state government; or

14.~~11.~~ Such other agency as the Office of Tourism, Trade, and Economic Development may, from time to time, designate by rule.

In no event shall a contributing business firm have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Florida Community pursuant to s. 14.2015(9)(b)* ~~pursuant to s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low-income or very-low-income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph. *This section does not preclude projects that propose to construct or rehabilitate housing for low–income or very–low–income households on scattered sites. Any project designed to provide increased access to high–speed broadband capabilities which includes coverage of a rural enterprise zone may locate the project's infrastructure in any area of a rural county.*

(3) APPLICATION REQUIREMENTS.—

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

(b) Any business wishing to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development, which application sets forth the sponsor; the project; and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its *receipt of* ~~willingness to receive~~ the contribution, ~~which verification indicate its willingness to receive the contribution,~~ which verification *must* ~~shall~~ be in writing and ~~shall~~ accompany the application for tax credit.

(c) The business firm must submit a separate application for tax credit for each individual contribution *that* ~~which~~ it *makes* ~~proposes to contribute~~ to each individual project.

(4) ADMINISTRATION.—

(a) The Office of Tourism, Trade, and Economic Development has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section, including rules for the approval or disapproval of proposals by business firms.

(b) The decision of the Office of Tourism, Trade, and Economic Development shall be in writing, and, if approved, the *notification must* ~~proposal shall~~ state the maximum credit allowable to the business firm. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the business firm.

(c) The Office of Tourism, Trade, and Economic Development shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less often than once every 2 years.

(d) The Department of Revenue has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(e) The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

Section 7. Section 288.018, Florida Statutes, is amended to read:

288.018 Regional Rural Development Grants Program.—

(1) The Office of Tourism, Trade, and Economic Development shall establish a matching grant program to provide funding to regionally based economic development organizations representing rural counties and communities for the purpose of building the professional capacity of their organizations. The Office of Tourism, Trade, and Economic Development is authorized to approve, on an annual basis, grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year will be $35,000, or $100,000 in a rural area of critical economic concern recommended by the Rural Economic Development Initiative and designated by the Governor, and must be matched each year by an equivalent amount of nonstate resources.

(2) In approving the participants, the Office of Tourism, Trade, and Economic Development shall consider the demonstrated need of the applicant for assistance and require the following:

(a) Documentation of official commitments of support from each of the units of local government represented by the regional organization.

(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.

(c) Demonstration that the private sector has made financial or in-kind commitments to the regional organization.

(d) Demonstration that the organization is in existence and actively involved in economic development activities serving the region.

(e) Demonstration of the manner in which the organization is or will coordinate its efforts with those of other local and state organizations.

(3) The Office of Tourism, Trade, and Economic Development may also contract for the development of an enterprise zone web portal or web

sites for each enterprise zone which will be used to market the program for job creation in disadvantaged urban and rural enterprise zones. Each enterprise zone web page should include downloadable links to state forms and information, as well as local message boards that help businesses and residents receive information concerning zone boundaries, job openings, zone programs, and neighborhood improvement activities.

(4)~~(3)~~ The Office of Tourism, Trade, and Economic Development may expend up to *$750,000* ~~$600,000~~ each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund for the purposes outlined in this section. *The Office of Tourism, Trade, and Economic Development may contract with Enterprise Florida, Inc., for the administration of the purposes specified in this section. Funds released to Enterprise Florida, Inc., for this purpose shall be released quarterly and shall be calculated based on the applications in process.*

Section 8. Section 288.019, Florida Statutes, is created to read:

288.019 Rural considerations in grant review and evaluation processes.—Notwithstanding any other law, and to the fullest extent possible, the member agencies and organizations of the Rural Economic Development Initiative (REDI) as defined in s. 288.0656(6)(a) shall review all grant and loan application evaluation criteria to ensure the fullest access for rural counties as defined in s. 288.0656(2)(b) to resources available throughout the state.

(1) Each REDI agency and organization shall review all evaluation and scoring procedures and develop modifications to those procedures which minimize the impact of a project within a rural area.

(2) Evaluation criteria and scoring procedures must provide for an appropriate ranking based on the proportionate impact that projects have on a rural area when compared with similar project impacts on an urban area.

(3) Evaluation criteria and scoring procedures must recognize the disparity of available fiscal resources for an equal level of financial support from an urban county and a rural county.

(a) The evaluation criteria should weight contribution in proportion to the amount of funding available at the local level.

(b) In–kind match should be allowed and applied as financial match when a county is experiencing financial distress through elevated unemployment at a rate in excess of the state's average by 5 percentage points or because of the loss of its ad valorem base.

(4) For existing programs, the modified evaluation criteria and scoring procedure must be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. The REDI agencies and organizations shall review and make comments. Future rules, programs, evaluation criteria, and scoring processes must be brought before a REDI meeting for review, discussion, and recommendation to allow rural counties fuller access to the state's resources.

Section 9. Subsection (2) of section 288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2) The program shall provide for long-term loans, loan guarantees, and loan loss reserves to units of local governments*, or economic development organizations substantially underwritten by a unit of local government,* within counties with populations of 75,000 or less, or any county that has a population of 100,000 or less and is contiguous to a county with a population of 75,000 or less, as determined by the most recent official estimate pursuant to s. 186.901, residing in incorporated and unincorporated areas of the county*, or to units of local government, or economic development organizations substantially underwritten by a unit of local government, within a rural area of critical economic concern*. Requests for loans shall be made by application to the Office of Tourism, Trade, and Economic Development. Loans shall be made pursuant to agreements specifying the terms and conditions agreed to between the *applicant* ~~local government~~ and the Office of Tourism, Trade, and Economic Development. The loans shall be the legal obligations of the *applicant* ~~local government~~. All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. However, in a rural area of critical economic concern designated by the Governor, and upon approval by the Office of Tourism, Trade, and Economic Development, repayments of principal and interest may be retained by *the applicant* ~~a unit of local government~~ if such repayments are dedicated and matched to fund regionally based economic development organizations representing the rural area of critical economic concern.

Section 10. Subsection (6) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(6)(a) *By* ~~No later than~~ August 1 *of each year*~~, 1999~~, the head of each of the following agencies and organizations shall designate a high-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Community Affairs.

2. The Department of Transportation.

3. The Department of Environmental Protection.

4. The Department of Agriculture and Consumer Services.

5. The Department of State.

6. The Department of Health.

7. The Department of Children and Family Services.

8. The Department of Corrections.

9. The *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~.

10. The Department of Education.

11. The Department of Juvenile Justice.

12.~~11.~~ The Fish and Wildlife Conservation Commission.

13.~~12.~~ Each water management district.

14.~~13.~~ Enterprise Florida, Inc.

15. Workforce Florida, Inc.

16.~~14.~~ The Florida Commission on Tourism or VISIT Florida.

17.~~15.~~ The Florida Regional Planning Council Association.

18.~~16.~~ The Florida State Rural Development Council.

19.~~17.~~ The Institute of Food and Agricultural Sciences (IFAS).

An alternate for each designee shall also be chosen, and the names of the designees and alternates shall be sent to the director of the Office of Tourism, Trade, and Economic Development.

(b) Each REDI representative must have comprehensive knowledge of his or her agency's functions, both regulatory and service in nature, and of the state's economic goals, policies, and programs. This person shall be the primary point of contact for his or her agency with REDI on issues and projects relating to economically distressed rural communities and with regard to expediting project review, shall ensure a prompt effective response to problems arising with regard to rural issues, and shall work closely with the other REDI representatives in the identification of opportunities for preferential awards of program funds and allowances and waiver of program requirements when necessary to encourage and facilitate long-term private capital investment and job creation.

(c) The REDI representatives shall work with REDI in the review and evaluation of statutes and rules for adverse impact on rural

communities and the development of alternative proposals to mitigate that impact.

(d) Each REDI representative shall be responsible for ensuring that each district office or facility of his or her agency is informed about the Rural Economic Development Initiative and for providing assistance throughout the agency in the implementation of REDI activities.

Section 11. Section 288.1088, Florida Statutes, is amended to read:

288.1088 Quick Action Closing Fund.—

(1)(a) The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of certain high-impact business facilities*, privately developed critical rural infrastructure, or key facilities in economically distressed urban or rural communities which provide* ~~provides~~ widespread economic benefits to the public through high-quality employment opportunities in such facilities *or* ~~and~~ in related facilities attracted to the state, through the increased tax base provided by the high-impact facility and *related* businesses ~~in related sectors~~, through an enhanced entrepreneurial climate in the state and the resulting business and employment opportunities, and through the stimulation and enhancement of the state's universities and community colleges. In the global economy, there exists serious and fierce international competition for these facilities, and in most instances, when all available resources for economic development have been used, the state continues to encounter severe competitive disadvantages in vying for these ~~high-impact~~ business facilities. *Florida's rural areas must provide a competitive environment for business in the information age. This often requires an incentive to make it feasible for private investors to provide infrastructure in those areas.*

(b) The Legislature therefore declares that sufficient resources shall be available to respond to extraordinary economic opportunities and to compete effectively for these high-impact business facilities*, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities*.

(2) There is created within the Office of Tourism, Trade, and Economic Development the Quick Action Closing Fund.

(3)(a) Enterprise Florida, Inc., shall evaluate individual proposals for high-impact business facilities and forward recommendations regarding the use of moneys in the fund for such facilities to the director of the Office of Tourism, Trade, and Economic Development. Such evaluation and recommendation must include, but need not be limited to:

1. A description of the type of facility *or infrastructure*, its *operations* ~~business operation~~, and the *associated* product or service associated with the facility.

2. The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs *or, in the case of privately developed rural infrastructure, the types of business activities and jobs stimulated by the investment*.

3. The cumulative amount of investment to be dedicated to the facility within a specified period.

4. A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

5. A statement of the role the incentive is expected to play in the decision of the applicant business to locate or expand in this state *or for the private investor to provide critical rural infrastructure*.

(b) Upon receipt of the evaluation and recommendation from Enterprise Florida, Inc., the director shall recommend approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund to the Governor. In recommending a *project* ~~high-impact business facility~~, the director shall include proposed performance conditions that the *project* ~~facility~~ must meet to obtain incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. The Executive Office of the Governor shall recommend approval of a project and release of funds pursuant to the legislative consultation and review requirements set forth in s. 216.177. The recommendation must include proposed performance conditions the project must meet to obtain funds.

(c) Upon the approval of the Governor, the director of the Office of Tourism, Trade, and Economic Development and the ~~high-impact~~ business shall enter into a contract that sets forth the conditions for payment of moneys from the fund. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment; *demonstrate a baseline of current service and a measure of enhanced capability;* the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions.

(d) Enterprise Florida, Inc., shall validate contractor performance. Such validation shall be reported within 6 months after completion of the contract to the Governor, President of the Senate, and the Speaker of the House of Representatives.

Section 12. Subsection (2) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.—

(2) It shall be the responsibility of Enterprise Florida, Inc., to aggressively market Florida's rural communities*,* ~~and~~ distressed urban communities*, and enterprise zones* as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation*, fully using state incentive programs such as the Qualified Target Industry Tax Refund Program under s. 288.106 and the Quick Action Closing Fund under s. 288.1088 in economically distressed areas*.

Section 13. Section 290.004, Florida Statutes, is amended to read:

290.004 Definitions relating to Florida Enterprise Zone Act.—As used in ss. 290.001-290.016:

(1) "Community investment corporation" means a black business investment corporation, a certified development corporation, a small business investment corporation, or other similar entity incorporated under Florida law that has limited its investment policy to making investments solely in minority business enterprises.

(2) "Department" means the Department of Commerce.

(3) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(4) "Governing body" means the council or other legislative body charged with governing the county or municipality.

(5) "Interagency coordinating council" means the Enterprise Zone Interagency Coordinating Council created pursuant to s. 290.009.

(6) "Minority business enterprise" has the same meaning as in s. 288.703.

(7) "Office" means the Office of Tourism, Trade, and Economic Development.

(8) "Rural enterprise zone" means an enterprise zone that is nominated by a county having a population of 75,000 or fewer, or a county having a population of 100,000 or fewer which is contiguous to a county having a population of 75,000 or fewer, or by a municipality in such a county, or by such a county and one or more municipalities. An enterprise zone designated in accordance with s. 370.28 or s. 290.0065(5)(b), is considered to be a rural enterprise zone.

(9)~~(8)~~ "Secretary" means the Secretary of Commerce.

(10)~~(9)~~ "Small business" has the same meaning as in s. 288.703.

Section 14. *Enterprise zone designation for Sarasota County or Sarasota County and Sarasota.—Sarasota County, or Sarasota County and the City of Sarasota jointly, may apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone within the county, or within both the county and the municipality, which zone encompasses an area that is south of the north county line, west of Tuttle Avenue, north of 10th Street, and east of U.S. Highway 41. The application must be submitted by December 31, 2001, and must comply with the requirements of section 290.0055, Florida Statutes. Notwithstanding the provisions of section 290.0065, Florida Statutes, limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated under this section.*

Section 15. Section 290.00555, Florida Statutes, is amended to read:

290.00555 Satellite enterprise zones.~~—Before December 31, 1999,~~ Any municipality an area of which has previously received designation as an enterprise zone in the population category described in s. 290.0065(3)(a)3. may create a satellite enterprise zone not exceeding 1.5 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4), or any other law, in addition to the previously designated enterprise zone boundaries. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such municipality as enterprise zones upon receipt of a resolution adopted by the municipality describing the satellite enterprise zone areas, as long as the additional areas are consistent with the categories, criteria, and limitations imposed by s. 290.0055. However, the requirements imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone areas.

Section 16. *Satellite enterprise zones may be created pursuant to section 290.00555, Florida Statutes, effective retroactively to December 31, 1999. Resolutions adopted to create satellite enterprise zones under this section must be submitted to the Office of Tourism, Trade, and Economic Development no later than August 1, 2001. The Office of Tourism, Trade, and Economic Development must amend the boundaries of previously designated enterprise zones to create eligible satellite enterprise zones no later than September 1, 2001. Notwithstanding the time limitations contained in chapter 212, Florida Statutes, a business in a satellite enterprise zone designated under this section which was eligible to receive tax incentives pursuant to section 212.08(5)(g) and (h) and section 212.096, Florida Statutes, during the period beginning December 31, 1999, and ending on the date of the creation of the satellite enterprise zone, must submit an application for the tax incentives by December 1, 2001. All other requirements of the enterprise zone program apply to such a business.*

Section 17. Section 290.0065, Florida Statutes, is amended to read:

290.0065 State designation of enterprise zones.—

(1) Upon application of the governing body of a county or municipality or of a county and one or more municipalities jointly pursuant to s. 290.0055, *Enterprise Florida, Inc., and* the *office* ~~department~~, in consultation with the interagency coordinating council, shall determine which areas nominated by such governing bodies meet the criteria outlined in s. 290.0055 and are the most appropriate for designation as state enterprise zones. The *office* ~~department~~ is authorized to designate up to 5 areas within each of the categories established in subparagraphs (3)(a)1., 2., 3., 4., and 5., except that the *office* ~~department~~ may only designate a total of 20 areas as enterprise zones. The *office* ~~department~~ shall not designate more than three enterprise zones in any one county. All designations, including any provision for redesignations, of state enterprise zones pursuant to this section shall be effective July 1, 1995.

(2) Each application made pursuant to s. 290.0055 shall be ranked competitively within the appropriate category established pursuant to subsection (3) based on the pervasive poverty, unemployment, and general distress of the area; the strategic plan, including local fiscal and regulatory incentives, prepared pursuant to s. 290.0057; and the prospects for new investment and economic development in the area. Pervasive poverty, unemployment, and general distress shall be weighted 35 percent; strategic plan and local fiscal and regulatory incentives shall be weighted 40 percent; and prospects for new investment and economic development in the area shall be weighted 25 percent.

(3)(a) Each area designated as an enterprise zone pursuant to this section shall be placed in one of the following categories based on the 1990 census:

1. Communities consisting of census tracts in areas having a total population of 150,000 persons or more.

2. Communities consisting of census tracts in areas having a total population of 50,000 persons or more but less than 150,000 persons.

3. Communities having a population of 20,000 persons or more but less than 50,000 persons.

4. Communities having a population of 7,500 persons or more but less than 20,000 persons.

5. Communities having a population of less than 7,500 persons.

(b) Any area authorized to be an enterprise zone by both a county and a municipality shall be placed in the appropriate category established under paragraph (a) in which an application by the municipality would have been considered if the municipality had acted alone, if at least 60 percent of the population of the area authorized to be an enterprise zone resides within the municipality. An area authorized to be an enterprise zone by a county and one or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized the area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) shall be placed in the category in which an application by the municipality in which the area is located would have been considered if the municipality had authorized such area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) which area is located in two or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized such area to be an enterprise zone.

(4)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of the effective date of this section and originally approved through a joint application from a county and municipality, or through an application from a county as defined in s. 125.011(1), shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057. Any area redesignated pursuant to this subsection, other than an area located in a county defined in s. 125.011(1), may be relocated or modified by the appropriate governmental bodies. Such relocation or modification shall be identified in the strategic plan and shall meet the requirements for designation as established by s. 290.005. Any relocation or modification shall be submitted on or before June 1, 1996.

(b) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined by s. 125.011(1), may not apply for designation of another area.

(5) Notwithstanding s. 290.0055, an area designated as a federal empowerment zone or enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993, the Taxpayer Relief Act

of 1997, or the 1999 Agricultural Appropriations Act shall be designated a state enterprise zone as follows:

(a) An area designated as an urban empowerment zone or urban enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the Taxpayer Relief Act of 1997 shall be designated a state enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d), except in the case of a county as defined in s. 125.011(1) which, notwithstanding s. 290.0055, may incorporate and include such designated urban empowerment zone or urban enterprise community areas within the boundaries of its state enterprise zones without any limitation as to size.

(b) An area designated as a rural empowerment zone or rural enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the 1999 Agricultural Appropriations Act shall be designated a state *rural* enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d) *and may incorporate and include such designated rural empowerment zone or rural enterprise community within the boundaries of its state enterprise zones without any limitation as to size*.

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined in s. 125.011(1), may not apply for designation of another area.

(d) Prior to designating such areas as state enterprise zones, the *office* ~~department~~ shall ensure that the governing body having jurisdiction over the zone submits the strategic plan required pursuant to 7 C.F.R. part 25 or 24 C.F.R. part 597 to the *office* ~~department~~, and creates an enterprise zone development agency pursuant to s. 290.0056.

(e) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(6)(a) The *office* ~~department~~, in consultation with *Enterprise Florida, Inc., and* the interagency coordinating council, *may develop guidelines* ~~shall promulgate any rules~~ necessary for the approval of areas under this section by the *director* ~~secretary~~.

(b) Such *guidelines* ~~rules~~ shall provide for the measurement of pervasive poverty, unemployment, and general distress using the criteria outlined by s. 290.0058.

(c) Such *guidelines* ~~rules~~ shall provide for the evaluation of the strategic plan and local fiscal and regulatory incentives for effectiveness, including how the following key principles will be implemented by the governing body or bodies:

1. Economic opportunity, including job creation within the community and throughout the region, as well as entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility.

2. Sustainable community development that advances the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, community, and human development.

3. Community-based partnerships involving the participation of all segments of the community.

4. Strategic vision for change that identifies how the community will be revitalized. This vision should include methods for building on community assets and coordinate a response to community needs in a comprehensive fashion. This vision should provide goals and performance benchmarks for measuring progress and establish a framework for evaluating and adjusting the strategic plan.

5. Local fiscal and regulatory incentives enacted pursuant to s. 290.0057(1)(e). These incentives should induce economic revitalization, including job creation and small business expansion.

(d) Such *guidelines may* ~~rules shall~~ provide methods for evaluating the prospects for new investment and economic development in the area, including a review and evaluation of any previous state enterprise zones located in the area.

(7) Upon approval by the *director* ~~secretary~~ of a resolution authorizing an area to be an enterprise zone pursuant to this section, the *office* ~~department~~ shall assign a unique identifying number to that resolution. The *office* ~~department~~ shall provide the Department of Revenue *and Enterprise Florida, Inc.,* with a copy of each resolution approved, together with its identifying number.

(8)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of December 30, 1994, which has received at least $1 million in state community development funds and at least $500,000 in federal community development funds, which has less than 300 businesses located within the boundaries of the enterprise zone, and which has been designated by the United States Department of Agriculture as a "Champion Community" shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057.

(b) Such designation shall be in addition to the limitations of state enterprise zone designation set out in subsection (1).

~~(9) The Office of Tourism, Trade, and Economic Development may amend the boundaries of any enterprise zone designated by the state pursuant to this section, consistent with the categories, criteria, and limitations imposed in this section upon the establishment of such enterprise zone and only if consistent with the determinations made in s. 290.0058(2).~~

(9)~~(10)~~ Before December 31, 1998, the governing body of a county in which an enterprise zone designated pursuant to paragraph (5)(b) is located may apply to the Office of Tourism, Trade, and Economic Development to amend the boundaries of the enterprise zone for the purpose of replacing areas not suitable for development. The Office of Tourism, Trade, and Economic Development shall approve the application if it does not increase the overall size of the enterprise zone. Except that upon the request of the governing body of a home rule charter county, or any county the government of which has been consolidated with the government of one or more municipalities in accordance with s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution as revised in 1968 and subsequently amended, the Office of Tourism, Trade, and Economic Development may amend the boundaries of an area designated as an enterprise zone upon the receipt of a resolution adopted by such governing body describing the amended boundaries, so long as the added area does not increase the overall size of the expanded zone more than its original size or 20 square miles, whichever is larger, and is consistent with the categories, criteria, and limitations imposed by s. 290.0055.

(10)~~(11)~~ Before December 31, 1999, any county as defined in s. 125.011(1) may create a satellite enterprise zone not exceeding 3 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4) or elsewhere, in addition to the previously designated 20 square miles of enterprise zones. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such county as enterprise zones upon the receipt of a resolution adopted by such governing body describing the satellite enterprise zone, as long as the additional area is consistent with the categories, criteria, and limitations imposed by s. 290.0055, provided that the 20-square-mile limitation and the requirements imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone.

Section 18. Section 290.00676, Florida Statutes, is created to read:

290.00676 Amendment of rural enterprise zone boundaries.—Notwithstanding any other law, upon recommendation by Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development may approve requests to amend the boundaries of rural enterprise zones

as defined in s. 290.004(8). Boundary amendments authorized by this section are subject to the following requirements:

(1) The amendment may increase the size of the rural enterprise zone up to a maximum zone size of 20 square miles.

(2) The amendment may increase the zone's number of noncontiguous areas by one, if the additional noncontiguous area has zero population. For purposes of this subsection, the pervasive poverty criteria may be set aside for the addition of a noncontiguous area.

(3) The local enterprise zone development agency must request the amendment from Enterprise Florida, Inc., prior to December 30, 2001. The request must contain maps and sufficient information to allow the office to determine the number of noncontiguous areas and the total size of the rural enterprise zone.

Section 19. Section 290.00677, Florida Statutes, is created to read:

290.00677 Rural enterprise zones; special qualifications.—

(1) Notwithstanding the enterprise zone residency requirements set out in s. 212.096(1)(c), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined by s. 290.004, may receive the basic minimum credit provided under s. 212.096 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 212.096, including, but not limited to, those relating to the award of enhanced credits, apply to such businesses.

(2) Notwithstanding the enterprise zone residency requirements set out in s. 220.03(1)(q), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined in s. 290.004, may receive the basic minimum credit provided under s. 220.181 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 220.181, including, but not limited to, those relating to the award of enhanced credits apply to such businesses.

Section 20. Section 290.00694, Florida Statutes, is created to read:

290.00694 Enterprise zone designation for rural communities.—An area designated as a rural champion community under the Taxpayer Relief Act of 1997 or a community within a designated rural area of critical economic concern under s. 288.0656 may submit an application to Enterprise Florida, Inc., for review and recommendation to the office for designation as an enterprise zone. The application must be submitted by December 31, 2001. Notwithstanding the provisions of s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate enterprise zones under this section. Upon completion of the requirements set out in s. 290.0065(5)(d), the Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zones designated pursuant to this section. Only one community in each county in a rural area of critical economic concern may be designated as an enterprise zone.

Section 21. Subsection (3) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(3) The community contribution tax credits provided in ss. *212.08,* 220.183*,* and 624.5105.

Section 22. Subsection (7) is added to section 290.048, Florida Statutes, to read:

290.048 General powers of Department of Community Affairs under ss. 290.0401-290.049.—The department has all the powers necessary or appropriate to carry out the purposes and provisions of the program, including the power to:

(7) Establish advisory committees and solicit participation in designing, administering, and evaluating the program and in linking the program with other housing and community development resources.

Section 23. *Section 290.049, Florida Statutes, is repealed.*

Section 24. *Subsection (4) of section 370.28, Florida Statutes, is repealed.*

Section 25. Subsection (39) is added to section 420.507, Florida Statutes, to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(39) To create recognition programs to honor individuals, community–based development organizations, units of local government, or others who have demonstrated the ideals of community stewardship and increased access to housing for low–income households, including economically distressed areas. Such programs may incorporate certificates of recognition by the Governor and may include presentation by the Governor or his representative.

Section 26. Subsections (1), (2), (4), and (5) of section 624.5105, Florida Statutes, are amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

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

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a calendar year under s. 624.509 or s. 624.510.

(b) No insurer shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section*, s. 212.08(5)(q),* and s. 220.183 is *$20* ~~$10~~ million annually.

(d) Each proposal for the granting of such tax credit requires the prior approval of the director.

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

(2) ELIGIBILITY REQUIREMENTS.—

(a) Each community contribution by an insurer must be in a form specified in subsection (5).

(b) Each community contribution must be reserved exclusively for use in a project *as defined in s. 220.03(1)(t).*

(c) The project must be undertaken by an "eligible sponsor," *as* ~~which term is~~ defined *in s. 220.183(2)(c).* ~~as:~~

~~1. A community action program;~~

~~2. A community development corporation;~~

~~3. A neighborhood housing services corporation;~~

~~4. A local housing authority created pursuant to chapter 421;~~

~~5. A community redevelopment agency created pursuant to s. 163.356;~~

~~6. The Florida Industrial Development Corporation;~~

~~7. A historic preservation district agency or organization;~~

~~8. A private industry council;~~

~~9. An enterprise zone development agency created pursuant to s. 290.0057; or~~

~~10. Such other agency as the director may, from time to time, designate by rule.~~

In no event shall a contributing insurer have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Community* pursuant to *s. 14.2015(9)(b)* ~~s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low–income or very–low–income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph.

(4) ADMINISTRATION.—

(a)1. The Office of Tourism, Trade, and Economic Development is authorized to adopt all rules necessary to administer this section, including rules for the approval or disapproval of proposals by insurers.

2. The decision of the director shall be in writing, and, if approved, the proposal shall state the maximum credit allowable to the insurer. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the insurer.

3. The office shall monitor all projects periodically, in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less frequently than once every 2 years.

4. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

(b) The Department of Revenue shall adopt any rules necessary to ensure the orderly implementation and administration of this section.

(5) DEFINITIONS.—For the purpose of this section:

(a) "Community contribution" means the grant by an insurer of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources which are identified by the department.

(b) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(c) "Local government" means any county or incorporated municipality in the state.

(d) "Office" means the Office of Tourism, Trade, and Economic Development.

(e) "Project" means *an activity as defined in s. 220.03(1)(t) or the provision of educational programs and materials by an eligible sponsor.* ~~any activity undertaken by an eligible sponsor, as defined in subsection (2), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job-development opportunities for low-income persons.~~

Section 27. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 1 through page 3, line 29
remove from the title of the bill: all of said lines

and insert in lieu thereof: A bill to be entitled An act relating to economic development; amending s. 212.08, F.S.; revising certain procedures and conditions relating to the sales tax exemption for enterprise-zone building materials and business property; extending the community contribution tax credit provisions of the enterprise zone program to the state sales tax; amending s. 212.096, F.S.; redefining the terms "eligible business" and "new employee"; defining the terms "jobs" and "new job has been created"; revising the computation procedures of the enterprise-zone jobs credit against sales tax; amending s. 212.098, F.S.; redefining the term "eligible business"; defining the term "qualified area"; deleting provisions ranking qualified counties; limiting the amount of tax credits available during any one calendar year; providing for reduction or waiver of certain financial match requirements in rural areas by Rural Economic Development Initiative agencies and organizations; amending s. 220.03, F.S.; redefining the terms "new employee" and "project"; defining the terms "new job has been created" and "jobs"; amending s. 220.181, F.S.; revising the computation procedures of the enterprise-zone job credit against the corporate income tax; amending s. 220.183, F.S.; revising the eligibility, application, and administrative requirements of the community contribution corporate income tax credit program; increasing the limitation on annual credits; amending s. 288.018, F.S.; revising administration and uses of the Regional Rural Development Grants Program; creating s. 288.019, F.S.; providing for a review and evaluation process of rural grants by Rural Economic Development Initiative agencies; amending s. 288.065, F.S.; expanding the scope of the Rural Community Revolving Loan Fund Program; amending s. 288.0656, F.S.; revising the membership of the Rural Economic Development Initiative; requiring an annual designation of staff representatives; amending s. 288.1088, F.S.; expanding eligible uses of the Quick Action Closing Fund; amending s. 288.9015, F.S.; revising the duties of Enterprise Florida, Inc.; amending s. 290.004, F.S.; defining the term "rural enterprise zone"; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Sarasota County; providing requirements with respect thereto; amending s. 290.00555, F.S.; removing the December 31, 1999, deadline for creation of satellite enterprise zones by certain municipalities and authorizing creation of such zones effective retroactively to that date; providing duties of the Office of Tourism, Trade, and Economic Development; providing an application deadline for businesses in such zones eligible for certain sales and use tax incentives; amending s. 290.0065, F.S.; providing for certain rural enterprise zones; conforming agency references to changes in program administration; authorizing the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc., to develop guidelines relating to the designation of enterprise zones; creating s. 290.00676, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of a rural enterprise zone and providing requirements with respect thereto; creating s. 290.00677, F.S.; modifying the employee residency requirements for the enterprise-zone job credit against the sales tax and corporate income tax if the business is located in a rural enterprise zone; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate rural champion communities as enterprise zones; providing requirements with respect thereto; amending s. 290.007, F.S.; revising the list of enterprise zone incentives to reflect the creation of a community contribution sales tax credit program; amending s. 290.048, F.S.; authorizing the Department of Community Affairs to establish advisory committees and solicit participation with respect to administering the Florida Small Cities Community Development Block Grant Program; repealing s. 290.049, F.S., relating to the Community Development Block Grant Advisory Council; repealing s. 370.28(4), F.S., which provides conditions for tax incentives in enterprise zone net–ban communities; amending s. 420.507, F.S.; authorizing the Florida Housing Finance Corporation to create a recognition program to support affordable housing; amending s. 624.5105, F.S.; increasing the annual limitation on community contribution tax credits; conforming

definitions; revising eligibility and administrative requirements; providing effective dates.

Rep. Pickens moved the adoption of the amendment.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 955107)

Amendment 1 to Amendment 1—On page 12, line 3 and page 35 line 15 of the amendment after the "."

insert: *A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone as referenced in s. 290.00675, F.S.*

Rep. Pickens moved the adoption of the amendment to the amendment, which failed of adoption.

The question recurred on the adoption of **Amendment 1** which failed of adoption.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 335759)

Amendment 2 (with title amendment)—On page 4, line 4, through

Page 25, line 14
remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraphs (g) and (h) of subsection (5) of section 212.08, Florida Statutes, are amended, and paragraph (q) is added to that subsection, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.—

1. Beginning July 1, 1995, building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.

c. A description of the improvements made to accomplish the rehabilitation of the real property.

d. A copy of the building permit issued for the rehabilitation of the real property.

e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed.

h. Whether the business is a small business as defined by s. 288.703(1).

i. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

2. This exemption inures to a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 1. or subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The applicant shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building code inspector *or within 90 days after the rehabilitated property is first subject to assessment*.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall

be granted pursuant to this paragraph unless the amount to be refunded exceeds $500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this paragraph:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

9. The provisions of this paragraph shall expire and be void on December 31, 2005.

(h) Business property used in an enterprise zone.—

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, an application which includes:

a. The name and address of the business claiming the refund.

b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

d. The location of the property.

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

f. Whether the business is a small business as defined by s. 288.703(1).

g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the *tax is due on the* business property *that* is purchased.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. Notwithstanding this subparagraph, business property used exclusively in:

a. Licensed commercial fishing vessels,

b. Fishing guide boats, or

c. Ecotourism guide boats

that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

8. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

9. For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b); ~~and~~

c. Building materials as defined in sub-subparagraph (g)8.a.*; and*

d. Business property having a sales price of under $5,000 per unit.

10. The provisions of this paragraph shall expire and be void on December 31, 2005.

(q) Community contribution tax credit for donations.—

1. Authorization.—Beginning July 1, 2001, persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

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

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

c. No person shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year;

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

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $10 million annually; and

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

2. Eligibility requirements.—

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

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

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

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means any activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. A project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone as referenced in s. 290.00675. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income or very–low–income households on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible low-income and very–low–income housing-related activities:

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

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

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

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

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

(I) A community action program;

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

(III) A neighborhood housing services corporation;

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

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

(VI) The Florida Industrial Development Corporation;

(VII) An historic preservation district agency or organization;

(VIII) A regional workforce board;

(IX) A direct–support organization as provided in s. 240.551;

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

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

(XII) Units of local government;

(XIII) Units of state government; or

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

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

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida community pursuant to s. 14.2015(9)(b), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low–income or very–low–income households as defined in s. 420.0971(19) and (28) is exempt from the area requirement of this sub–subparagraph.

3. Application requirements.—

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

b. Any person seeking to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit. The person must submit a separate tax credit application to the office for each individual contribution that it makes to each individual project.

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

4. Administration.—

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

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

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

d. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

5. Expiration.—This paragraph expires June 30, 2005; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3–year carryover period for such credit.

Section 2. Effective January 1, 2002, section 212.096, Florida Statutes, is amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(a) "Eligible business" means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. *The business must demonstrate to the department that the total number of full-time jobs defined under paragraph (d) has increased from the average of the previous 12 months. The term "eligible business" includes a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001.* An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

(b) "Month" means either a calendar month or the time period from any day of any month to the corresponding day of the next succeeding month or, if there is no corresponding day in the next succeeding month, the last day of the succeeding month.

(c) "New employee" means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a *participant in the* welfare transition program ~~participant~~ who begins employment with an eligible business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the eligible business, or a successor eligible business, claiming the credit allowed by this section.

(d) "Jobs" means full–time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from a business operation in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1). The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468 if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(e) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided the person is performing such duties for an average of at least 20 hours per week each month throughout the year~~. The person must be performing such duties at a business site located in the enterprise zone.

(2)(a) It is the legislative intent to encourage the provision of meaningful employment opportunities which will improve the quality of life of those employed and to encourage economic expansion of enterprise zones and the state. Therefore, beginning *January* ~~July~~ 1, *2002* ~~1995~~, upon an affirmative showing by *an eligible* ~~a~~ business to the satisfaction of the department that the requirements of this section have been met, the business shall be allowed a credit against the tax remitted under this chapter.

(b) The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid. If the new employee hired when a new job is created is a participant in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for $4 above the hourly federal minimum wage rate; 41 percent for $5 above the hourly federal minimum wage rate; 42 percent for $6 above the hourly federal minimum wage rate; 43 percent for $7 above the hourly federal minimum wage rate; and 44 percent for $8 above the hourly federal minimum wage rate.* ~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a WAGES Program participant pursuant to chapter 414.~~

For purposes of this paragraph, monthly wages shall be computed as one-twelfth of the expected annual wages paid to such employee. The amount paid as wages to a new employee is the compensation paid to such employee that is subject to unemployment tax. The credit shall be allowed for up to *24* ~~12~~ consecutive months, beginning with the first tax return due pursuant to s. 212.11 after approval by the department.

(3) In order to claim this credit, an eligible business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the eligible business.

(d) The starting salary or hourly wages paid to the new employee.

(e) Demonstration to the department that the total number of full–time jobs defined under paragraph (1)(d) has increased in an enterprise zone from the average of the previous 12 months.

(f)~~(e)~~ The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

(h)~~(g)~~ Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to this subsection and meets the criteria set out in this section. The governing body or agency shall certify all applications that contain the information required pursuant to this subsection and meet the criteria set out in this section as eligible to receive a credit. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in paragraph *(i)* ~~(h)~~.

(i)~~(h)~~ All applications for a credit pursuant to this section must be submitted to the department within *6* ~~4~~ months after the new employee is hired.

(4) Within 10 working days after receipt of a completed application for a credit authorized in this section, the department shall inform the business that the application has been approved. The credit may be taken on the first return due after receipt of approval from the department.

(5)~~(4)~~ In the event the application is *incomplete or* insufficient to support the credit authorized in this section, the department shall deny the credit and notify the business of that fact. The business may reapply for this credit.

(6)~~(5)~~ The credit provided in this section does not apply:

(a) For any new employee who is an owner, partner, or stockholder of an eligible business.

(b) For any new employee who is employed for any period less than 3 ~~full~~ calendar months.

(7)~~(6)~~ The credit provided in this section shall not be allowed for any month in which the tax due for such period or the tax return required pursuant to s. 212.11 for such period is delinquent.

(8)~~(7)~~ In the event an eligible business has a credit larger than the amount owed the state on the tax return for the time period in which the credit is claimed, the amount of the credit for that time period shall be the amount owed the state on that tax return.

(9)~~(8)~~ Any business which has claimed this credit shall not be allowed any credit under the provisions of s. 220.181 for any new employee beginning employment after July 1, 1995.

(10)~~(9)~~ It shall be the responsibility of each business to affirmatively demonstrate to the satisfaction of the department that it meets the requirements of this section.

(11)~~(10)~~ Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit plus interest at the rate provided in this chapter, and such person is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12)~~(11)~~ The provisions of this section, except for subsection *(11)* ~~(10)~~, ~~shall~~ expire ~~and be void on~~ December 31, 2005.

Section 3. Effective January 1, 2002, section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

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

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01-SIC 09 (agriculture, forestry, and fishing); SIC 20-SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); ~~and~~ SIC 7996 (amusement parks)*; and a targeted industry eligible for the qualified target industry business tax refund under s. 288.106*. A call center or similar customer service operation that services a multistate market or an international market is also an eligible business. In addition, the Office of Tourism, Trade, and Economic Development may, as part of its final budget request submitted pursuant to s. 216.023, recommend additions to or deletions from the list of standard industrial classifications used to determine an eligible business, and the Legislature may implement such recommendations. Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified county and the tier ranking of that county must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified county in which the eligible business is located. *The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* An owner or partner of the eligible business is not a qualified employee.

(c) "Qualified *area* ~~county~~" means *any area that is contained within a rural area of critical economic concern designated under s. 288.0656,*

a county that has a population of fewer than 75,000 persons, or any county that has a population of 100,000 or less and is contiguous to a county that has a population of less than 75,000, selected in the following manner: every third year, the Office of Tourism, Trade, and Economic Development shall rank and tier the state's counties according to the following four factors:

1. Highest unemployment rate for the most recent 36-month period.

2. Lowest per capita income for the most recent 36-month period.

3. Highest percentage of residents whose incomes are below the poverty level, based upon the most recent data available.

4. Average weekly manufacturing wage, based upon the most recent data available.

~~Tier-one qualified counties are those ranked 1-5 and represent the state's least-developed counties according to this ranking. Tier-two qualified counties are those ranked 6-10, and tier-three counties are those ranked 11-17. Notwithstanding this definition, "qualified county" also means a county that contains an area that has been designated as a federal Enterprise Community pursuant to the 1999 Agricultural Appropriations Act. Such a designated area shall be ranked in tier three until the areas are reevaluated by the Office of Tourism, Trade, and Economic Development.~~

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the period provided for application by subsection (2) is not considered a new business.

(e) "Existing business" means any eligible business that does not meet the criteria for a new business.

(2) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a tier-one qualified *area that* ~~county which~~ has at least 10 qualified employees on the date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such employee. ~~A new eligible business in a tier-two qualified county which has at least 20 qualified employees on the date of application shall receive a $1,000 tax credit for each such employee. A new eligible business in a tier-three qualified county which has at least 30 qualified employees on the date of application shall receive a $500 tax credit for each such employee.~~

(3) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing eligible business *with fewer than 50 employees* in a ~~tier-one~~ qualified *area that* ~~county which~~ on the date of application has at least *20 percent* ~~5~~ more qualified employees than it had 1 year prior to its date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such additional employee. An existing ~~eligible~~ business *that has 50 employees or more in a qualified area that, on the date of application, has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 tax credit for each additional employee.* ~~in a tier-two qualified county which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 credit for each such additional employee. An existing business in a tier-three qualified county which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a $500 tax credit for each such additional employee. An existing business may apply for the credit under this subsection no more than once in any 12-month period.~~ Any existing eligible business that received a credit under subsection (2) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (2).

(4) For any new eligible business receiving a credit pursuant to subsection (2), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. For any existing eligible business receiving a credit pursuant to subsection (3), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section regardless of the tier-level of the county. Appropriate documentation concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(5) To be eligible for a tax credit under subsection (3), the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (2).

(6)(a) In order to claim this credit, an eligible business must file under oath with the Office of Tourism, Trade, and Economic Development a statement that includes the name and address of the eligible business, the starting salary or hourly wages paid to the new employee, and any other information that the Department of Revenue requires.

(b) Within 30 working days after receipt of an application for credit, the Office of Tourism, Trade, and Economic Development shall review the application to determine whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the provisions of paragraph (c), the Office of Tourism, Trade, and Economic Development shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is $5 million. The Department of Revenue, in conjunction with the Office of Tourism, Trade, and Economic Development, shall notify the governing bodies in areas designated as qualified counties when the $5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(d) A business may not receive more than $500,000 of tax credits during any one calendar year for its efforts in creating jobs.

(7) If the application is insufficient to support the credit authorized in this section, the Office of Tourism, Trade, and Economic Development shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(8) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(9) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(10) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(11) A corporation may take the credit under this section against its corporate income tax liability, as provided in s. 220.1895. However, a corporation that uses its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(12) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines as to the requisites for an affirmative showing of qualification for the credit under this section.

Section 4. *Reduction or waiver of financial match requirements.—Notwithstanding any other law, the member agencies and organizations of the Rural Economic Development Initiative (REDI), as defined in section 288.0656(6)(a), Florida Statutes, shall review the financial match requirements for projects in rural areas as defined in section 288.0656(2)(b), Florida Statutes.*

(1) Each agency and organization shall develop a proposal to waive or reduce the match requirement for rural areas.

(2) Agencies and organizations shall ensure that all proposals are submitted to the Office of Tourism, Trade, and Economic Development for review by the REDI agencies.

(3) These proposals shall be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. A meeting of REDI agencies and organizations must be called within 30 days after receipt of such proposals for REDI comment and recommendations on each proposal.

(4) Waivers and reductions must be requested by the county or community, and such county or community must have three or more of the factors identified in section 288.0656(2)(a), Florida Statutes.

(5) Any other funds available to the project may be used for financial match of federal programs when there is fiscal hardship and the match requirements may not be waived or reduced.

(6) When match requirements are not reduced or eliminated, donations of land, though usually not recognized as an in–kind match, may be permitted.

(7) To the fullest extent possible, agencies and organizations shall expedite the rule adoption and amendment process if necessary to incorporate the reduction in match by rural areas in fiscal distress.

(8) REDI shall include in its annual report an evaluation on the status of changes to rules, number of awards made with waivers, and recommendations for future changes.

Section 5. Subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(a) "Ad valorem taxes paid" means 96 percent of property taxes levied for operating purposes and does not include interest, penalties, or discounts foregone. In addition, the term "ad valorem taxes paid," for purposes of the credit in s. 220.182, means the ad valorem tax paid on new or additional real or personal property acquired to establish a new business or facilitate a business expansion, including pollution and waste control facilities, or any part thereof, and including one or more buildings or other structures, machinery, fixtures, and equipment. The provisions of this paragraph shall expire and be void on June 30, 2005.

(b) "Affiliated group of corporations" means two or more corporations which constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

(c) "Business" or "business firm" means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter. The provisions of this paragraph shall expire and be void on June 30, 2005.

(d) "Community contribution" means the grant by a business firm of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources as identified by the department.

The provisions of this paragraph shall expire and be void on June 30, 2005.

(e) "Corporation" includes all domestic corporations; foreign corporations qualified to do business in this state or actually doing business in this state; joint-stock companies; limited liability companies, under chapter 608; common-law declarations of trust, under chapter 609; corporations not for profit, under chapter 617; agricultural cooperative marketing associations, under chapter 618; professional service corporations, under chapter 621; foreign unincorporated associations, under chapter 622; private school corporations, under chapter 623; foreign corporations not for profit which are carrying on their activities in this state; and all other organizations, associations, legal entities, and artificial persons which are created by or pursuant to the statutes of this state, the United States, or any other state, territory, possession, or jurisdiction. The term "corporation" does not include proprietorships, even if using a fictitious name; partnerships of any type, as such; limited liability companies that are taxable as partnerships for federal income tax purposes; state or public fairs or expositions, under chapter 616; estates of decedents or incompetents; testamentary trusts; or private trusts.

(f) "Department" means the Department of Revenue of this state.

(g) "Director" means the executive director of the Department of Revenue and, when there has been an appropriate delegation of authority, the executive director's delegate.

(h) "Earned," "accrued," "paid," or "incurred" shall be construed according to the method of accounting upon the basis of which a taxpayer's income is computed under this code.

(i) "Emergency," as used in s. 220.02 and in paragraph (u) of this subsection, means occurrence of widespread or severe damage, injury, or loss of life or property proclaimed pursuant to s. 14.022 or declared pursuant to s. 252.36. The provisions of this paragraph shall expire and be void on June 30, 2005.

(j) "Enterprise zone" means an area in the state designated pursuant to s. 290.0065. The provisions of this paragraph shall expire and be void on June 30, 2005.

(k) "Expansion of an existing business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in an enterprise zone, which expands by or through additions to real and personal property and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(l) "Fiscal year" means an accounting period of 12 months or less ending on the last day of any month other than December or, in the case of a taxpayer with an annual accounting period of 52-53 weeks under s. 441(f) of the Internal Revenue Code, the period determined under that subsection.

(m) "Includes" or "including," when used in a definition contained in this code, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2000, except as provided in subsection (3).

(o) "Local government" means any county or incorporated municipality in the state. The provisions of this paragraph shall expire and be void on June 30, 2005.

(p) "New business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), or any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the

provisions of this chapter, first beginning operations on a site located in an enterprise zone and clearly separate from any other commercial or industrial operations owned by the same entity, bank, or savings and loan association and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(q) "New employee," for the purposes of the enterprise zone jobs credit, means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a ~~WAGES Program~~ participant *in the welfare transition program who is* employed at a business located in an enterprise zone who begins employment in the operations of the business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the business or a successor business claiming the credit pursuant to s. 220.181. A person shall be deemed to be employed by such a business if the person performs duties in connection with the operations of the business on a full-time basis, provided she or he is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided she or he is performing such duties for an average of at least 20 hours per week each month throughout the year~~. *The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* The person must be performing such duties at a business site located in an enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(r) "Nonbusiness income" means rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent that they do not arise from transactions and activities in the regular course of the taxpayer's trade or business. The term "nonbusiness income" does not include income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, or any amounts which could be included in apportionable income without violating the due process clause of the United States Constitution. For purposes of this definition, "income" means gross receipts less all expenses directly or indirectly attributable thereto. Functionally related dividends are presumed to be business income.

(s) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, including a limited partnership; and the term "partner" includes a member having a capital or a profits interest in a partnership.

(t) *"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low–income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. A project may be the investment necessary to increase access to high–speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone as referenced in s. 290.00675. This paragraph does not preclude projects that propose to construct or rehabilitate low-income or very–low–income housing on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits under s. 220.181 for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible project–related activities:*

1. Project development, impact, and management fees for low–income or very–low–income housing projects;

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

3. Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low–income or very–low–income projects; and

4. Removal of liens recorded against residential property by municipal, county, or special-district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party. ~~"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job-development opportunities for low-income persons.~~

The provisions of this paragraph shall expire and be void on June 30, 2005.

(u) "Rebuilding of an existing business" means replacement or restoration of real or tangible property destroyed or damaged in an emergency, as defined in paragraph (i), after July 1, 1995, in an enterprise zone, by a business entity authorized to do business in this state as defined in paragraph (e), or a bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in the enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(v) "Regulations" includes rules promulgated, and forms prescribed, by the department.

(w) "Returns" includes declarations of estimated tax required under this code.

(x) "Secretary" means the secretary of the Department of Commerce. The provisions of this paragraph shall expire and be void on June 30, 2005.

(y) "State," when applied to a jurisdiction other than Florida, means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or any political subdivision of any of the foregoing.

(z) "Taxable year" means the calendar or fiscal year upon the basis of which net income is computed under this code, including, in the case of a return made for a fractional part of a year, the period for which such return is made.

(aa) "Taxpayer" means any corporation subject to the tax imposed by this code, and includes all corporations for which a consolidated return is filed under s. 220.131. However, "taxpayer" does not include a corporation having no individuals (including individuals employed by an affiliate) receiving compensation in this state as defined in s. 220.15 when the only property owned or leased by said corporation (including an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or property from which the printed product is produced.

(bb) "Functionally related dividends" include the following types of dividends:

1. Those received from a subsidiary of which the voting stock is more than 50 percent owned or controlled by the taxpayer or members of its affiliated group and which is engaged in the same general line of business.

2. Those received from any corporation which is either a significant source of supply for the taxpayer or its affiliated group or a significant purchaser of the output of the taxpayer or its affiliated group, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the taxpayer or its affiliated group. "Significant" means an amount of 15 percent or more.

3. Those resulting from the investment of working capital or some other purpose in furtherance of the taxpayer or its affiliated group.

However, dividends not otherwise subject to tax under this chapter are excluded.

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

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

(ee) "Citrus processing company" means a corporation which, during the 60-month period ending on December 31, 1997, had derived more than 50 percent of its total gross receipts from the processing of citrus products and the manufacture of juices.

(ff) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

(gg) "Jobs" means full-time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from business operations in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1).

Section 6. Effective January 1, 2002, subsections (1) and (2) of section 220.181, Florida Statutes, are amended to read:

220.181 Enterprise zone jobs credit.—

(1)(a) Beginning *January* ~~July~~ 1, *2002* ~~1995~~, there shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which *demonstrates to the department that the total number of full-time jobs has increased from the average of the previous 12 months. This credit is also available for a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001* ~~employs one or more new employees~~. The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, as defined under s. 220.03(1)(ff), unless the business is located in a rural enterprise zone, pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid*, for a period of up to *24* ~~12~~ consecutive months*. If the new employee hired when a new job is created is a participant in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for $4 above the hourly federal minimum wage rate; 41 percent for $5 above the hourly federal minimum wage rate; 42 percent for $6 above the hourly federal minimum wage rate; 43 percent for $7 above the hourly federal minimum wage rate; and 44 percent for $8 above the hourly federal minimum wage rate.*~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a welfare transition program participant.~~

(b) This credit applies only with respect to wages subject to unemployment tax and does not apply for any new employee who is employed for any period less than 3 full months.

(c) If this credit is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(2) When filing for an enterprise zone jobs credit, a business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence during the taxable year, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the new employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the business.

(d) The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the eligible business is located.

(e) The salary or hourly wages paid to each new employee claimed.

(f) Demonstration to the department that the total number of full-time jobs has increased from the average of the previous 12 months.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

Section 7. Subsections (1), (2), (3), and (4) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.—

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

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section*, s. 212.08(5)(q),* and s. 624.5105 is $10 million annually.

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

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

(f) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis.

(g) A taxpayer who is eligible to receive the credit provided for in s. 624.5105 is not eligible to receive the credit provided by this section.

(2) ELIGIBILITY REQUIREMENTS.—

(a) All community contributions by a business firm shall be in the form specified in s. 220.03(1)(d).

(b) All community contributions must be reserved exclusively for use in projects as defined in s. 220.03(1)(t). *The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very-low-income households pursuant to s. 420.9071(28), for the first 6 months of the fiscal year.*

(c) The project must be undertaken by an "eligible sponsor," defined here as:

1. A community action program;

2. A *nonprofit community-based* ~~community~~ development *organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons* ~~corporation~~;

3. A neighborhood housing services corporation;

4. A local housing authority, created pursuant to chapter 421;

5. A community redevelopment agency, created pursuant to s. 163.356;

6. The Florida Industrial Development Corporation;

7. An historic preservation district agency or organization;

8. A *regional workforce board* ~~private industry council~~;

9. A direct-support organization as provided in s. 240.551;

10. An enterprise zone development agency created pursuant to *s. 290.0056* ~~s. 290.0057~~; ~~or~~

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

12. Units of local government;

13. Units of state government; or

14.~~11.~~ Such other agency as the Office of Tourism, Trade, and Economic Development may, from time to time, designate by rule.

In no event shall a contributing business firm have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Florida Community pursuant to s. 14.2015(9)(b)* ~~pursuant to s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low-income or very-low-income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph. *This section does not preclude projects that propose to construct or rehabilitate housing for low–income or very–low–income households on scattered sites. Any project designed to provide increased access to high–speed broadband capabilities which includes coverage of a rural enterprise zone may locate the project's infrastructure in any area of a rural county.*

(3) APPLICATION REQUIREMENTS.—

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

(b) Any business wishing to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development, which application sets forth the sponsor; the project; and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its *receipt of* ~~willingness to receive~~ the contribution, ~~which verification indicate its willingness to receive the contribution,~~ which verification *must* ~~shall~~ be in writing and ~~shall~~ accompany the application for tax credit.

(c) The business firm must submit a separate application for tax credit for each individual contribution *that* ~~which~~ it *makes* ~~proposes to contribute~~ to each individual project.

(4) ADMINISTRATION.—

(a) The Office of Tourism, Trade, and Economic Development has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section, including rules for the approval or disapproval of proposals by business firms.

(b) The decision of the Office of Tourism, Trade, and Economic Development shall be in writing, and, if approved, the *notification must* ~~proposal shall~~ state the maximum credit allowable to the business firm. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the business firm.

(c) The Office of Tourism, Trade, and Economic Development shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less often than once every 2 years.

(d) The Department of Revenue has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(e) The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

Section 8. Section 288.018, Florida Statutes, is amended to read:

288.018 Regional Rural Development Grants Program.—

(1) The Office of Tourism, Trade, and Economic Development shall establish a matching grant program to provide funding to regionally based economic development organizations representing rural counties and communities for the purpose of building the professional capacity of their organizations. The Office of Tourism, Trade, and Economic Development is authorized to approve, on an annual basis, grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year will be $35,000, or $100,000 in a rural area of critical economic concern recommended by the Rural Economic Development Initiative and designated by the Governor, and must be matched each year by an equivalent amount of nonstate resources.

(2) In approving the participants, the Office of Tourism, Trade, and Economic Development shall consider the demonstrated need of the applicant for assistance and require the following:

(a) Documentation of official commitments of support from each of the units of local government represented by the regional organization.

(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.

(c) Demonstration that the private sector has made financial or in-kind commitments to the regional organization.

(d) Demonstration that the organization is in existence and actively involved in economic development activities serving the region.

(e) Demonstration of the manner in which the organization is or will coordinate its efforts with those of other local and state organizations.

(3) The Office of Tourism, Trade, and Economic Development may also contract for the development of an enterprise zone web portal or web sites for each enterprise zone which will be used to market the program for job creation in disadvantaged urban and rural enterprise zones. Each enterprise zone web page should include downloadable links to state forms and information, as well as local message boards that help businesses and residents receive information concerning zone boundaries, job openings, zone programs, and neighborhood improvement activities.

(4)~~(3)~~ The Office of Tourism, Trade, and Economic Development may expend up to *$750,000* ~~$600,000~~ each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund for the purposes outlined in this section. *The Office of Tourism, Trade, and Economic Development may contract with Enterprise Florida, Inc., for the administration of the purposes specified in this section. Funds released to Enterprise Florida, Inc., for this purpose shall be released quarterly and shall be calculated based on the applications in process.*

Section 9. Section 288.019, Florida Statutes, is created to read:

288.019 Rural considerations in grant review and evaluation processes.—Notwithstanding any other law, and to the fullest extent possible, the member agencies and organizations of the Rural Economic Development Initiative (REDI) as defined in s. 288.0656(6)(a) shall review all grant and loan application evaluation criteria to ensure the fullest access for rural counties as defined in s. 288.0656(2)(b) to resources available throughout the state.

(1) Each REDI agency and organization shall review all evaluation and scoring procedures and develop modifications to those procedures which minimize the impact of a project within a rural area.

(2) Evaluation criteria and scoring procedures must provide for an appropriate ranking based on the proportionate impact that projects have on a rural area when compared with similar project impacts on an urban area.

(3) Evaluation criteria and scoring procedures must recognize the disparity of available fiscal resources for an equal level of financial support from an urban county and a rural county.

(a) The evaluation criteria should weight contribution in proportion to the amount of funding available at the local level.

(b) In–kind match should be allowed and applied as financial match when a county is experiencing financial distress through elevated unemployment at a rate in excess of the state's average by 5 percentage points or because of the loss of its ad valorem base.

(4) For existing programs, the modified evaluation criteria and scoring procedure must be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. The REDI agencies and organizations shall review and make comments. Future rules, programs, evaluation criteria, and scoring processes must be brought before a REDI meeting for review, discussion, and recommendation to allow rural counties fuller access to the state's resources.

Section 10. Subsection (2) of section 288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2) The program shall provide for long-term loans, loan guarantees, and loan loss reserves to units of local governments*, or economic development organizations substantially underwritten by a unit of local government,* within counties with populations of 75,000 or less, or any county that has a population of 100,000 or less and is contiguous to a county with a population of 75,000 or less, as determined by the most recent official estimate pursuant to s. 186.901, residing in incorporated and unincorporated areas of the county*, or to units of local government, or economic development organizations substantially underwritten by a unit of local government, within a rural area of critical economic concern*. Requests for loans shall be made by application to the Office of Tourism, Trade, and Economic Development. Loans shall be made pursuant to agreements specifying the terms and conditions agreed to between the *applicant* ~~local government~~ and the Office of Tourism, Trade, and Economic Development. The loans shall be the legal obligations of the *applicant* ~~local government~~. All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. However, in a rural area of critical economic concern designated by the Governor, and upon approval by the Office of Tourism, Trade, and Economic Development, repayments of principal and interest may be retained by *the applicant* ~~a unit of local government~~ if such repayments are dedicated and matched to fund regionally based economic development organizations representing the rural area of critical economic concern.

Section 11. Subsection (6) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(6)(a) *By* ~~No later than~~ August 1 *of each year*~~, 1999~~, the head of each of the following agencies and organizations shall designate a high-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Community Affairs.

2. The Department of Transportation.

3. The Department of Environmental Protection.

4. The Department of Agriculture and Consumer Services.

5. The Department of State.

6. The Department of Health.

7. The Department of Children and Family Services.

8. The Department of Corrections.

9. The *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~.

10. The Department of Education.

11. The Department of Juvenile Justice.

12.~~11.~~ The Fish and Wildlife Conservation Commission.

13.~~12.~~ Each water management district.

14.~~13.~~ Enterprise Florida, Inc.

15. Workforce Florida, Inc.

16.~~14.~~ The Florida Commission on Tourism or VISIT Florida.

17.~~15.~~ The Florida Regional Planning Council Association.

18.~~16.~~ The Florida State Rural Development Council.

19.~~17.~~ The Institute of Food and Agricultural Sciences (IFAS).

An alternate for each designee shall also be chosen, and the names of the designees and alternates shall be sent to the director of the Office of Tourism, Trade, and Economic Development.

(b) Each REDI representative must have comprehensive knowledge of his or her agency's functions, both regulatory and service in nature, and of the state's economic goals, policies, and programs. This person shall be the primary point of contact for his or her agency with REDI on issues and projects relating to economically distressed rural

communities and with regard to expediting project review, shall ensure a prompt effective response to problems arising with regard to rural issues, and shall work closely with the other REDI representatives in the identification of opportunities for preferential awards of program funds and allowances and waiver of program requirements when necessary to encourage and facilitate long-term private capital investment and job creation.

(c) The REDI representatives shall work with REDI in the review and evaluation of statutes and rules for adverse impact on rural communities and the development of alternative proposals to mitigate that impact.

(d) Each REDI representative shall be responsible for ensuring that each district office or facility of his or her agency is informed about the Rural Economic Development Initiative and for providing assistance throughout the agency in the implementation of REDI activities.

Section 12. Section 288.1088, Florida Statutes, is amended to read:

288.1088 Quick Action Closing Fund.—

(1)(a) The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of certain high-impact business facilities*, privately developed critical rural infrastructure, or key facilities in economically distressed urban or rural communities which provide* ~~provides~~ widespread economic benefits to the public through high-quality employment opportunities in such facilities *or* ~~and~~ in related facilities attracted to the state, through the increased tax base provided by the high-impact facility and *related* businesses ~~in related sectors~~, through an enhanced entrepreneurial climate in the state and the resulting business and employment opportunities, and through the stimulation and enhancement of the state's universities and community colleges. In the global economy, there exists serious and fierce international competition for these facilities, and in most instances, when all available resources for economic development have been used, the state continues to encounter severe competitive disadvantages in vying for these ~~high-impact~~ business facilities. *Florida's rural areas must provide a competitive environment for business in the information age. This often requires an incentive to make it feasible for private investors to provide infrastructure in those areas.*

(b) The Legislature therefore declares that sufficient resources shall be available to respond to extraordinary economic opportunities and to compete effectively for these high-impact business facilities*, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities*.

(2) There is created within the Office of Tourism, Trade, and Economic Development the Quick Action Closing Fund.

(3)(a) Enterprise Florida, Inc., shall evaluate individual proposals for high-impact business facilities and forward recommendations regarding the use of moneys in the fund for such facilities to the director of the Office of Tourism, Trade, and Economic Development. Such evaluation and recommendation must include, but need not be limited to:

1. A description of the type of facility *or infrastructure*, its *operations* ~~business operation~~, and the *associated* product or service associated with the facility.

2. The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs *or, in the case of privately developed rural infrastructure, the types of business activities and jobs stimulated by the investment*.

3. The cumulative amount of investment to be dedicated to the facility within a specified period.

4. A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

5. A statement of the role the incentive is expected to play in the decision of the applicant business to locate or expand in this state *or for the private investor to provide critical rural infrastructure*.

(b) Upon receipt of the evaluation and recommendation from Enterprise Florida, Inc., the director shall recommend approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund to the Governor. In recommending a *project* ~~high-impact business facility~~, the director shall include proposed performance conditions that the *project* ~~facility~~ must meet to obtain incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. The Executive Office of the Governor shall recommend approval of a project and release of funds pursuant to the legislative consultation and review requirements set forth in s. 216.177. The recommendation must include proposed performance conditions the project must meet to obtain funds.

(c) Upon the approval of the Governor, the director of the Office of Tourism, Trade, and Economic Development and the ~~high-impact~~ business shall enter into a contract that sets forth the conditions for payment of moneys from the fund. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment; *demonstrate a baseline of current service and a measure of enhanced capability;* the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions.

(d) Enterprise Florida, Inc., shall validate contractor performance. Such validation shall be reported within 6 months after completion of the contract to the Governor, President of the Senate, and the Speaker of the House of Representatives.

Section 13. Subsection (2) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.—

(2) It shall be the responsibility of Enterprise Florida, Inc., to aggressively market Florida's rural communities*,* ~~and~~ distressed urban communities*, and enterprise zones* as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation*, fully using state incentive programs such as the Qualified Target Industry Tax Refund Program under s. 288.106 and the Quick Action Closing Fund under s. 288.1088 in economically distressed areas*.

Section 14. Section 290.004, Florida Statutes, is amended to read:

290.004 Definitions relating to Florida Enterprise Zone Act.—As used in ss. 290.001-290.016:

(1) "Community investment corporation" means a black business investment corporation, a certified development corporation, a small business investment corporation, or other similar entity incorporated under Florida law that has limited its investment policy to making investments solely in minority business enterprises.

(2) "Department" means the Department of Commerce.

(3) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(4) "Governing body" means the council or other legislative body charged with governing the county or municipality.

(5) "Interagency coordinating council" means the Enterprise Zone Interagency Coordinating Council created pursuant to s. 290.009.

(6) "Minority business enterprise" has the same meaning as in s. 288.703.

(7) "Office" means the Office of Tourism, Trade, and Economic Development.

(8) "Rural enterprise zone" means an enterprise zone that is nominated by a county having a population of 75,000 or fewer, or a county having a population of 100,000 or fewer which is contiguous to a

county having a population of 75,000 or fewer, or by a municipality in such a county, or by such a county and one or more municipalities. An enterprise zone designated in accordance with s. 370.28 or s. 290.0065(5)(b), is considered to be a rural enterprise zone.

(9)~~(8)~~ "Secretary" means the Secretary of Commerce.

(10)~~(9)~~ "Small business" has the same meaning as in s. 288.703.

Section 15. *Enterprise zone designation for Sarasota County or Sarasota County and Sarasota.—Sarasota County, or Sarasota County and the City of Sarasota jointly, may apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone within the county, or within both the county and the municipality, which zone encompasses an area that is south of the north county line, west of Tuttle Avenue, north of 10th Street, and east of U.S. Highway 41. The application must be submitted by December 31, 2001, and must comply with the requirements of section 290.0055, Florida Statutes. Notwithstanding the provisions of section 290.0065, Florida Statutes, limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated under this section.*

Section 16. Section 290.00555, Florida Statutes, is amended to read:

290.00555 Satellite enterprise zones.—~~Before December 31, 1999,~~ Any municipality an area of which has previously received designation as an enterprise zone in the population category described in s. 290.0065(3)(a)3. may create a satellite enterprise zone not exceeding 1.5 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4), or any other law, in addition to the previously designated enterprise zone boundaries. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such municipality as enterprise zones upon receipt of a resolution adopted by the municipality describing the satellite enterprise zone areas, as long as the additional areas are consistent with the categories, criteria, and limitations imposed by s. 290.0055. However, the requirements imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone areas.

Section 17. *Satellite enterprise zones may be created pursuant to section 290.00555, Florida Statutes, effective retroactively to December 31, 1999. Resolutions adopted to create satellite enterprise zones under this section must be submitted to the Office of Tourism, Trade, and Economic Development no later than August 1, 2001. The Office of Tourism, Trade, and Economic Development must amend the boundaries of previously designated enterprise zones to create eligible satellite enterprise zones no later than September 1, 2001. Notwithstanding the time limitations contained in chapter 212, Florida Statutes, a business in a satellite enterprise zone designated under this section which was eligible to receive tax incentives pursuant to section 212.08(5)(g) and (h) and section 212.096, Florida Statutes, during the period beginning December 31, 1999, and ending on the date of the creation of the satellite enterprise zone, must submit an application for the tax incentives by December 1, 2001. All other requirements of the enterprise zone program apply to such a business.*

Section 18. Section 290.0065, Florida Statutes, is amended to read:

290.0065 State designation of enterprise zones.—

(1) Upon application of the governing body of a county or municipality or of a county and one or more municipalities jointly pursuant to s. 290.0055, *Enterprise Florida, Inc., and* the *office* ~~department~~, in consultation with the interagency coordinating council, shall determine which areas nominated by such governing bodies meet the criteria outlined in s. 290.0055 and are the most appropriate for designation as state enterprise zones. The *office* ~~department~~ is authorized to designate up to 5 areas within each of the categories established in subparagraphs (3)(a)1., 2., 3., 4., and 5., except that the *office* ~~department~~ may only designate a total of 20 areas as enterprise zones. The *office* ~~department~~ shall not designate more than three enterprise zones in any one county. All designations, including any provision for redesignations, of state enterprise zones pursuant to this section shall be effective July 1, 1995.

(2) Each application made pursuant to s. 290.0055 shall be ranked competitively within the appropriate category established pursuant to subsection (3) based on the pervasive poverty, unemployment, and general distress of the area; the strategic plan, including local fiscal and regulatory incentives, prepared pursuant to s. 290.0057; and the prospects for new investment and economic development in the area. Pervasive poverty, unemployment, and general distress shall be weighted 35 percent; strategic plan and local fiscal and regulatory incentives shall be weighted 40 percent; and prospects for new investment and economic development in the area shall be weighted 25 percent.

(3)(a) Each area designated as an enterprise zone pursuant to this section shall be placed in one of the following categories based on the 1990 census:

1. Communities consisting of census tracts in areas having a total population of 150,000 persons or more.

2. Communities consisting of census tracts in areas having a total population of 50,000 persons or more but less than 150,000 persons.

3. Communities having a population of 20,000 persons or more but less than 50,000 persons.

4. Communities having a population of 7,500 persons or more but less than 20,000 persons.

5. Communities having a population of less than 7,500 persons.

(b) Any area authorized to be an enterprise zone by both a county and a municipality shall be placed in the appropriate category established under paragraph (a) in which an application by the municipality would have been considered if the municipality had acted alone, if at least 60 percent of the population of the area authorized to be an enterprise zone resides within the municipality. An area authorized to be an enterprise zone by a county and one or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized the area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) shall be placed in the category in which an application by the municipality in which the area is located would have been considered if the municipality had authorized such area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) which area is located in two or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized such area to be an enterprise zone.

(4)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of the effective date of this section and originally approved through a joint application from a county and municipality, or through an application from a county as defined in s. 125.011(1), shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057. Any area redesignated pursuant to this subsection, other than an area located in a county defined in s. 125.011(1), may be relocated or modified by the appropriate governmental bodies. Such relocation or modification shall be identified in the strategic plan and shall meet the requirements for designation as established by s. 290.005. Any relocation or modification shall be submitted on or before June 1, 1996.

(b) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined by s. 125.011(1), may not apply for designation of another area.

(5) Notwithstanding s. 290.0055, an area designated as a federal empowerment zone or enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993, the Taxpayer Relief Act of 1997, or the 1999 Agricultural Appropriations Act shall be designated a state enterprise zone as follows:

(a) An area designated as an urban empowerment zone or urban enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the Taxpayer Relief Act of 1997 shall be designated a state enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d), except in the case of a county as defined in s. 125.011(1) which, notwithstanding s. 290.0055, may incorporate and include such designated urban empowerment zone or urban enterprise community areas within the boundaries of its state enterprise zones without any limitation as to size.

(b) An area designated as a rural empowerment zone or rural enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the 1999 Agricultural Appropriations Act shall be designated a state *rural* enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d) *and may incorporate and include such designated rural empowerment zone or rural enterprise community within the boundaries of its state enterprise zones without any limitation as to size*.

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined in s. 125.011(1), may not apply for designation of another area.

(d) Prior to designating such areas as state enterprise zones, the *office* ~~department~~ shall ensure that the governing body having jurisdiction over the zone submits the strategic plan required pursuant to 7 C.F.R. part 25 or 24 C.F.R. part 597 to the *office* ~~department~~, and creates an enterprise zone development agency pursuant to s. 290.0056.

(e) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(6)(a) The *office* ~~department~~, in consultation with *Enterprise Florida, Inc., and* the interagency coordinating council, *may develop guidelines* ~~shall promulgate any rules~~ necessary for the approval of areas under this section by the *director* ~~secretary~~.

(b) Such *guidelines* ~~rules~~ shall provide for the measurement of pervasive poverty, unemployment, and general distress using the criteria outlined by s. 290.0058.

(c) Such *guidelines* ~~rules~~ shall provide for the evaluation of the strategic plan and local fiscal and regulatory incentives for effectiveness, including how the following key principles will be implemented by the governing body or bodies:

1. Economic opportunity, including job creation within the community and throughout the region, as well as entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility.

2. Sustainable community development that advances the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, community, and human development.

3. Community-based partnerships involving the participation of all segments of the community.

4. Strategic vision for change that identifies how the community will be revitalized. This vision should include methods for building on community assets and coordinate a response to community needs in a comprehensive fashion. This vision should provide goals and performance benchmarks for measuring progress and establish a framework for evaluating and adjusting the strategic plan.

5. Local fiscal and regulatory incentives enacted pursuant to s. 290.0057(1)(e). These incentives should induce economic revitalization, including job creation and small business expansion.

(d) Such *guidelines may* ~~rules shall~~ provide methods for evaluating the prospects for new investment and economic development in the area, including a review and evaluation of any previous state enterprise zones located in the area.

(7) Upon approval by the *director* ~~secretary~~ of a resolution authorizing an area to be an enterprise zone pursuant to this section, the *office* ~~department~~ shall assign a unique identifying number to that resolution. The *office* ~~department~~ shall provide the Department of Revenue *and Enterprise Florida, Inc.,* with a copy of each resolution approved, together with its identifying number.

(8)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of December 30, 1994, which has received at least $1 million in state community development funds and at least $500,000 in federal community development funds, which has less than 300 businesses located within the boundaries of the enterprise zone, and which has been designated by the United States Department of Agriculture as a "Champion Community" shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057.

(b) Such designation shall be in addition to the limitations of state enterprise zone designation set out in subsection (1).

~~(9) The Office of Tourism, Trade, and Economic Development may amend the boundaries of any enterprise zone designated by the state pursuant to this section, consistent with the categories, criteria, and limitations imposed in this section upon the establishment of such enterprise zone and only if consistent with the determinations made in s. 290.0058(2).~~

(9)~~(10)~~ Before December 31, 1998, the governing body of a county in which an enterprise zone designated pursuant to paragraph (5)(b) is located may apply to the Office of Tourism, Trade, and Economic Development to amend the boundaries of the enterprise zone for the purpose of replacing areas not suitable for development. The Office of Tourism, Trade, and Economic Development shall approve the application if it does not increase the overall size of the enterprise zone. Except that upon the request of the governing body of a home rule charter county, or any county the government of which has been consolidated with the government of one or more municipalities in accordance with s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution as revised in 1968 and subsequently amended, the Office of Tourism, Trade, and Economic Development may amend the boundaries of an area designated as an enterprise zone upon the receipt of a resolution adopted by such governing body describing the amended boundaries, so long as the added area does not increase the overall size of the expanded zone more than its original size or 20 square miles, whichever is larger, and is consistent with the categories, criteria, and limitations imposed by s. 290.0055.

(10)~~(11)~~ Before December 31, 1999, any county as defined in s. 125.011(1) may create a satellite enterprise zone not exceeding 3 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4) or elsewhere, in addition to the previously designated 20 square miles of enterprise zones. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such county as enterprise zones upon the receipt of a resolution adopted by such governing body describing the satellite enterprise zone, as long as the additional area is consistent with the categories, criteria, and limitations imposed by s. 290.0055, provided that the 20-square-mile limitation and the requirements

imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone.

Section 19. Section 290.00676, Florida Statutes, is created to read:

290.00676 Amendment of rural enterprise zone boundaries.—Notwithstanding any other law, upon recommendation by Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development may approve requests to amend the boundaries of rural enterprise zones as defined in s. 290.004(8). Boundary amendments authorized by this section are subject to the following requirements:

(1) The amendment may increase the size of the rural enterprise zone up to a maximum zone size of 20 square miles.

(2) The amendment may increase the zone's number of noncontiguous areas by one, if the additional noncontiguous area has zero population. For purposes of this subsection, the pervasive poverty criteria may be set aside for the addition of a noncontiguous area.

(3) The local enterprise zone development agency must request the amendment from Enterprise Florida, Inc., prior to December 30, 2001. The request must contain maps and sufficient information to allow the office to determine the number of noncontiguous areas and the total size of the rural enterprise zone.

Section 20. Section 290.00677, Florida Statutes, is created to read:

290.00677 Rural enterprise zones; special qualifications.—

(1) Notwithstanding the enterprise zone residency requirements set out in s. 212.096(1)(c), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined by s. 290.004, may receive the basic minimum credit provided under s. 212.096 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 212.096, including, but not limited to, those relating to the award of enhanced credits, apply to such businesses.

(2) Notwithstanding the enterprise zone residency requirements set out in s. 220.03(1)(q), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined in s. 290.004, may receive the basic minimum credit provided under s. 220.181 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 220.181, including, but not limited to, those relating to the award of enhanced credits apply to such businesses.

Section 21. Section 290.00694, Florida Statutes, is created to read:

290.00694 Enterprise zone designation for rural communities.—An area designated as a rural champion community under the Taxpayer Relief Act of 1997 or a community within a designated rural area of critical economic concern under s. 288.0656 may submit an application to Enterprise Florida, Inc., for review and recommendation to the office for designation as an enterprise zone. The application must be submitted by December 31, 2001. Notwithstanding the provisions of s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate enterprise zones under this section. Upon completion of the requirements set out in s. 290.0065(5)(d), the Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zones designated pursuant to this section. Only one community in each county in a rural area of critical economic concern may be designated as an enterprise zone.

Section 22. Subsection (3) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(3) The community contribution tax credits provided in ss. *212.08,* 220.183*,* and 624.5105.

Section 23. Subsection (7) is added to section 290.048, Florida Statutes, to read:

290.048 General powers of Department of Community Affairs under ss. 290.0401-290.049.—The department has all the powers necessary or appropriate to carry out the purposes and provisions of the program, including the power to:

(7) Establish advisory committees and solicit participation in designing, administering, and evaluating the program and in linking the program with other housing and community development resources.

Section 24. *Section 290.049, Florida Statutes, is repealed.*

Section 25. *Subsection (4) of section 370.28, Florida Statutes, is repealed.*

Section 26. Paragraph (e) of subsection (2) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(2) STATEWIDE GUIDELINES AND STANDARDS.—

(e) With respect to residential, hotel, motel, office, and retail developments, the applicable guidelines and standards shall be increased by 50 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163. With respect to multiuse developments, the applicable guidelines and standards shall be increased by 100 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163, if one land use of the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. With respect to resort or convention hotel developments, the applicable guidelines and standards shall be increased by 150 percent in urban central business districts and regional activity centers of jurisdictions whose local comprehensive plans are in compliance with part II of chapter 163 and where the increase is specifically for a proposed resort or convention hotel located in a county with a population greater than 500,000 and the local government specifically designates that the proposed resort or convention hotel development will serve an existing convention center of more than 250,000 gross square feet built prior to July 1, 1992. *The applicable guidelines and standards shall be increased by 200 percent for development in any area designated by the Governor as a rural area of critical economic concern pursuant to s. 288.0656 during the effectiveness of the designation.* ~~The Administration Commission, upon the recommendation of the state land planning agency, shall implement this paragraph by rule no later than December 1, 1993. The increased guidelines and standards authorized by this paragraph shall not be implemented until the effectiveness of the rule which, among other things, shall set forth the pertinent characteristics of urban central business districts and regional activity centers.~~

Section 27. Subsections (15) and (19) of section 420.503, Florida Statutes, are amended to read:

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

(15) "Elderly" means persons 62 years of age or older*; however, this definition does not prohibit housing from being deemed housing for the elderly as defined in subsection (19) if such housing otherwise meets the requirements of subsection (19)*.

(19) "Housing for the elderly" means, for purposes of s. 420.5087(3)(c)2., any nonprofit housing community that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that is subject to income limitations established by the United States Department of Housing and Urban Development, or any program funded by the Rural Development Agency of the United States Department of Agriculture and subject to income limitations established by the United States Department of Agriculture. A project which qualifies for an exemption under the Fair Housing Act as housing for

older persons as defined by s. 760.29(4) shall qualify as housing for the elderly for purposes of s. 420.5087(3)(c)2. *and for purposes of any loans made under s. 420.508.* In addition, if the corporation adopts a qualified allocation plan pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any other rules that prioritize projects targeting the elderly for purposes of allocating tax credits pursuant to s. 420.5099 or for purposes of the HOME program under s. 420.5089, a project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as a project targeted for the elderly, if the project satisfies the other requirements set forth in this part.

Section 28. Subsection (39) is added to section 420.507, Florida Statutes, to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(39) To create recognition programs to honor individuals, community–based development organizations, units of local government, or others who have demonstrated the ideals of community stewardship and increased access to housing for low–income households, including their stewardship in economically distressed areas. Such programs may incorporate certificates of recognition by the Governor and may include presentation by the Governor or his representative.

Section 29. Paragraph (a) of subsection (1) of section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program.—There is created the Florida Homeownership Assistance Program for the purpose of assisting low-income persons in purchasing a home by reducing the cost of the home with below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the purchaser. Loans shall be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold or transferred.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families ~~who are eligible to participate in the corporation's single-family mortgage revenue bond programs and~~ who have incomes that do not exceed 80 percent of the state or local median income, whichever is greater, adjusted for family size. ~~If the corporation determines that there is insufficient demand for such loans by persons or families who are eligible to participate in the corporation's single-family mortgage revenue bond programs, the corporation may make such mortgage loans to other persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater.~~

Section 30. Subsection (11) of section 420.5092, Florida Statutes, is amended to read:

420.5092 Florida Affordable Housing Guarantee Program.—

(11) The maximum total amount of revenue bonds that may be issued by the corporation pursuant to subsection (5) is *$400* ~~$200~~ million.

Section 31. Subsections (2), (4), and (5) of section 624.5105, Florida Statutes, are amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

(2) ELIGIBILITY REQUIREMENTS.—

(a) Each community contribution by an insurer must be in a form specified in subsection (5).

(b) Each community contribution must be reserved exclusively for use in a project *as defined in s. 220.03(1)(t)*.

(c) The project must be undertaken by an "eligible sponsor," *as* ~~which term is~~ defined *in s. 220.183(2)(c).* ~~as:~~

~~1. A community action program;~~

~~2. A community development corporation;~~

~~3. A neighborhood housing services corporation;~~

~~4. A local housing authority created pursuant to chapter 421;~~

~~5. A community redevelopment agency created pursuant to s. 163.356;~~

~~6. The Florida Industrial Development Corporation;~~

~~7. A historic preservation district agency or organization;~~

~~8. A private industry council;~~

~~9. An enterprise zone development agency created pursuant to s. 290.0057; or~~

~~10. Such other agency as the director may, from time to time, designate by rule.~~

In no event shall a contributing insurer have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Community* pursuant to *s. 14.2015(9)(b)* ~~s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low–income or very–low–income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph.

(4) ADMINISTRATION.—

(a)1. The Office of Tourism, Trade, and Economic Development is authorized to adopt all rules necessary to administer this section, including rules for the approval or disapproval of proposals by insurers.

2. The decision of the director shall be in writing, and, if approved, the proposal shall state the maximum credit allowable to the insurer. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the insurer.

3. The office shall monitor all projects periodically, in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less frequently than once every 2 years.

4. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

(b) The Department of Revenue shall adopt any rules necessary to ensure the orderly implementation and administration of this section.

(5) DEFINITIONS.—For the purpose of this section:

(a) "Community contribution" means the grant by an insurer of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources which are identified by the department.

(b) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(c) "Local government" means any county or incorporated municipality in the state.

(d) "Office" means the Office of Tourism, Trade, and Economic Development.

(e) "Project" means *an activity as defined in s. 220.03(1)(t).* ~~any activity undertaken by an eligible sponsor, as defined in subsection (2), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job development opportunities for low-income persons.~~

Section 32. Subsection (7) is added to section 125.0103, Florida Statutes, to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(7) Notwithstanding any other provisions of this section, municipalities, counties, or other entity of local government may adopt and maintain in effect any law, ordinance, rule, or other measure which is adopted for the purposes of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Section 33. Subsection (7) is added to section 166.043, Florida Statutes, to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)(a) Except as hereinafter provided, no county, municipality, or other entity of local government shall adopt or maintain in effect an ordinance or a rule which has the effect of imposing price controls upon a lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency, unless specifically provided by general law.

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles from or immobilization of vehicles on private property, or rates for removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle.

(c) Counties must establish maximum rates which may be charged on the towing of vehicles from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle. However, if a municipality chooses to enact an ordinance establishing the maximum fees for the towing or immobilization of vehicles as described in paragraph (b), the county's ordinance established under s. 125.0103 shall not apply within such municipality.

(2) No law, ordinance, rule, or other measure which would have the effect of imposing controls on rents shall be adopted or maintained in effect except as provided herein and unless it is found and determined, as hereinafter provided, that such controls are necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.

(3) Any law, ordinance, rule, or other measure which has the effect of imposing controls on rents shall terminate and expire within 1 year and shall not be extended or renewed except by the adoption of a new measure meeting all the requirements of this section.

(4) Notwithstanding any other provisions of this section, no controls shall be imposed on rents for any accommodation used or offered for residential purposes as a seasonal or tourist unit, as a second housing unit, or on rents for dwelling units located in luxury apartment buildings. For the purposes of this section, a luxury apartment building is one wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds $250.

(5) No municipality, county, or other entity of local government shall adopt or maintain in effect any law, ordinance, rule, or other measure which would have the effect of imposing controls on rents unless:

(a) Such measure is duly adopted by the governing body of such entity of local government, after notice and public hearing, in accordance with all applicable provisions of the Florida and United States Constitutions, the charter or charters governing such entity of local government, this section, and any other applicable laws.

(b) Such governing body makes and recites in such measure its findings establishing the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency.

(c) Such measure is approved by the voters in such municipality, county, or other entity of local government.

(6) In any court action brought to challenge the validity of rent control imposed pursuant to the provisions of this section, the evidentiary effect of any findings or recitations required by subsection (5) shall be limited to imposing upon any party challenging the validity of such measure the burden of going forward with the evidence, and the burden of proof (that is, the risk of nonpersuasion) shall rest upon any party seeking to have the measure upheld.

(7) Notwithstanding any other provisions of this section, municipalities, counties, or other entity of local government may adopt and maintain in effect any law, ordinance, rule, or other measure which is adopted for the purposes of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Section 34. Paragraph (b) of subsection (1) of section 336.025, F.S., is amended to read:

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(1)

(b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

1. The tax shall be levied before July 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 1996, and which expire on August 31 of any year may be reimposed effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this paragraph, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution

outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads ~~when undertaken in part to relieve or mitigate existing or potential adverse environmental impacts,~~ shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

Section 35. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through

Page 3, line 29
remove from the title of the bill: all of said lines

and insert in lieu thereof:
An act relating to economic development; amending s. 212.08, F.S.; revising certain procedures and conditions relating to the sales tax exemption for enterprise-zone building materials and business property; extending the community contribution tax credit provisions of the enterprise zone program to the state sales tax; amending s. 212.096, F.S.; redefining the terms "eligible business" and "new employee"; defining the terms "jobs" and "new job has been created"; revising the computation procedures of the enterprise-zone jobs credit against sales tax; amending s. 212.098, F.S.; redefining the term "eligible business"; defining the term "qualified area"; deleting provisions ranking qualified counties; limiting the amount of tax credits available during any one calendar year; providing for reduction or waiver of certain financial match requirements in rural areas by Rural Economic Development Initiative agencies and organizations; amending s. 220.03, F.S.; redefining the terms "new employee" and "project"; defining the terms "new job has been created" and "jobs"; amending s. 220.181, F.S.; revising the computation procedures of the enterprise-zone job credit against the corporate income tax; amending s. 220.183, F.S.; revising the eligibility, application, and administrative requirements of the community contribution corporate income tax credit program; amending s. 288.018, F.S.; revising administration and uses of the Regional Rural Development Grants Program; creating s. 288.019, F.S.; providing for a review and evaluation process of rural grants by Rural Economic Development Initiative agencies; amending s. 288.065, F.S.; expanding the scope of the Rural Community Revolving Loan Fund Program; amending s. 288.0656, F.S.; revising the membership of the Rural Economic Development Initiative; requiring an annual designation of staff representatives; amending s. 288.1088, F.S.; expanding eligible uses of the Quick Action Closing Fund; amending s. 288.9015, F.S.; revising the duties of Enterprise Florida, Inc.; amending s. 290.004, F.S.; defining the term "rural enterprise zone"; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Sarasota County; providing requirements with respect thereto; amending s. 290.00555, F.S.; removing the December 31, 1999, deadline for creation of satellite enterprise zones by certain municipalities and authorizing creation of such zones effective retroactively to that date; providing duties of the Office of Tourism, Trade, and Economic Development; providing an application deadline for businesses in such zones eligible for certain sales and use tax incentives; amending s. 290.0065, F.S.; providing for certain rural enterprise zones; conforming agency references to changes in program administration; authorizing the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc., to develop guidelines relating to the designation of enterprise zones; creating s. 290.00676, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of a rural enterprise zone and providing requirements with respect thereto; creating s. 290.00677, F.S.; modifying the employee residency requirements for the enterprise-zone job credit against the sales tax and corporate income tax if the business is located in a rural enterprise zone; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate rural champion communities as enterprise zones; providing requirements with respect thereto; amending s. 290.007, F.S.; revising the list of enterprise zone incentives to reflect the creation of a community contribution sales tax credit program; amending s. 290.048, F.S.; authorizing the Department of Community Affairs to establish advisory committees and solicit participation with respect to administering the Florida Small Cities Community Development Block Grant Program; repealing s. 290.049, F.S., relating to the Community Development Block Grant Advisory Council; repealing s. 370.28(4), F.S., which provides conditions for tax incentives in enterprise zone net–ban communities; amending s. 380.06, F.S.; providing for guidelines and standards for an area designated by the Governor as a rural area of critical economic concern; deleting a requirement that the Administration Commission adopt certain guidelines and standards by rule; amending s. 420.503, F.S.; redefining the terms "elderly" and "housing for the elderly" under the Florida Housing Finance Act; amending s. 420.507, F.S.; authorizing the Florida Housing Finance Corporation to create a recognition program to support affordable housing; amending s. 420.5088, F.S.; revising authority and eligibility criteria for certain loans made by the corporation under the Florida Homeownership Assistance Program; amending s. 420.5092, F.S.; increasing the amount of revenue bonds that may be issued under the Florida Affordable Housing Guarantee Program; amending s. 624.5105, F.S.; conforming definitions; revising eligibility and administrative requirements; amending s. 125.0103, F.S.; providing that a local government may enact an ordinance for the purpose of increasing the supply of affordable housing using land use mechanisms; amending s. 166.043, F.S.; providing that a local government may enact an ordinance for the purpose of increasing the supply of affordable housing using land use mechanisms; amending s. 336.025, F.S.; allowing an additional use for local option fuel tax proceeds; providing effective dates.

Rep. Pickens moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 163—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing that publicly owned facilities within certain municipalities at which a collegiate football team is based may use the proceeds of sales taxes generated by the facility for the purpose of renovating the facility; providing for reporting and remitting of such taxes; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 531099)

Amendment 1 (with title amendment)—On page 1, line 14

insert a new Section 1:

Section 1. Subparagraph 4. of paragraph (a) of subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any ~~semifinal game or~~ championship game of a national collegiate tournament~~, or~~ on admissions to a Major League Baseball all-star game~~.~~*, on admissions to tournament games that are played for the purposes of qualifying for the championship game of a national collegiate tournament, or on admissions to tournament games that are played in any collegiate athletic end-of-season tournament that determines a collegiate athletic conference champion.*

And the title is amended as follows:

On page 1, line 3

insert after the semi-colon:
amending s. 212.04, F.S.; providing that admissions to games played for the purpose of qualifying for championship games of national or conference athletic championships are exempt from such tax;

Rep. Prieguez moved the adoption of the amendment.

The Fiscal Responsibility Council offered the following:

(Amendment Bar Code: 540809)

Substitute Amendment 1 (with title amendment)—On page 1, line 13,

insert:

Section 1. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)

(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and used by each institution to support women's athletics as provided in s. 240.533(3)(c).

2.a. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.

b. No tax shall be levied on admission charges to an event sponsored by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility and when 100 percent of the risk of success or failure lies with the sponsor of the event and 100 percent of the funds at risk for the event belong to the sponsor, and student or faculty talent is not exclusively used. As used in this sub-subparagraph, the terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts.

3. No tax shall be levied on an admission paid by a student, or on the student's behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his or her attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any ~~semifinal game or~~ championship game of a national collegiate tournament, ~~or~~ on admissions to a Major League Baseball all-star game*, on admissions to tournament games that are played for the purposes of qualifying for the championship game of a national collegiate tournament, or on admissions to tournament games that are played in any collegiate athletic end-of-season tournament that determines a collegiate athletic conference champion*.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Section 2. Effective July 1, 2003, paragraph (a) of subsection (2) of section 212.04, Florida Statutes, as amended by chapter 2000-345, Laws of Florida, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)

(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and used by each institution to support women's athletics as provided in s. 240.533(3)(c).

2. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive

this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.

3. No tax shall be levied on an admission paid by a student, or on the student's behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his or her attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any ~~semifinal game or~~ championship game of a national collegiate tournament, ~~or~~ on admissions to a Major League Baseball all-star game*, on admissions to tournament games that are played for the purposes of qualifying for the championship game of a national collegiate tournament, or on admissions to tournament games that are played in any collegiate athletic end-of-season tournament that determines a collegiate athletic conference champion*.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

And the title is amended as follows:

On page 1, line 3, after "transactions;"

insert: amending s. 212.04, F.S.; providing an exemption for admissions to tournament games played for the purpose of qualifying for a national collegiate championship game or played in a collegiate athletic conference championship tournament;

Rep. Prieguez moved the adoption of the substitute amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 675433)

Amendment 2—On page 2, between lines 13-14 of the bill

insert:

3. This paragraph shall expire on January 1, 2032.

Rep. Prieguez moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 160679)

Amendment 3—On page 2, lines 2-3
remove from the bill: all of said lines

and insert in lieu thereof:
facility and shall use these tax proceeds for the purpose of renovating, expanding, and modernizing the facility. For purposes of this

Rep. Prieguez moved the adoption of the amendment, which was adopted.

The Fiscal Responsibility Council offered the following:

(Amendment Bar Code: 560407)

Amendment 4 (with title amendment)—On page 2, line 14,
remove from the bill: This

and insert in lieu thereof: Except as otherwise provided herein, this

And the title is amended as follows:

On page 1, line 10,
remove from the title of the bill: all of said line

and insert in lieu thereof: providing effective dates.

Rep. Prieguez moved the adoption of the amendment, which was adopted.

Representative(s) Prieguez and Maygarden offered the following:

(Amendment Bar Code: 114107)

Amendment 5—On page 2, between lines 13-14 of the bill

insert:

3. In the event that a property or facility retaining sales taxes pursuant to this act is transferred, or title is otherwise conveyed to another party, the amount of sales taxes retained shall be reimbursed in full to the state.

Rep. Maygarden moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 613 was taken up. On motion by Rep. Ross, the rules were waived and SB 428 was substituted for HB 613. Under Rule 5.15, the House bill was laid on the table and—

SB 428—A bill to be entitled An act relating to building construction; amending s. 95.11, F.S.; providing alternative applications to a statute of limitations for certain legal or equitable actions for actions to enforce claims against payment bonds; revising a statute of limitations for actions to enforce claims against certain payment bonds; amending s. 255.05, F.S.; clarifying criteria for performance of bonds; revising a provision relating to notice of nonpayment for certain labor, materials, or supplies; amending s. 713.01, F.S.; revising certain definitions; amending s. 713.02, F.S.; clarifying a criterion for a proscription against certain liens; amending s. 713.13, F.S.; deleting authorization for certain fax numbers in notices of commencement; amending s. 713.18, F.S.; revising provisions relating to manner of serving notices and certain instruments; amending s. 713.23, F.S.; including certain unpaid finance charges under a written notice of nonpayment of a payment bond; amending s. 713.245, F.S.; providing additional bond criteria for coextension of a surety's duty to pay lienors with a contractor's duty to pay; amending ss. 725.06, 725.08, F.S.; revising indemnification and hold harmless requirements for construction contracts and design professional contracts; repealing s. 713.18(3), F.S., relating to service of certain notices by facsimile transmission; providing effective dates. amending s. 489.13, F.S.; providing for issuance of a notice of noncompliance, imposition of an administrative fine, and assessment of reasonable investigative and legal costs of prosecution for unlicensed contracting; specifying that such remedies are not exclusive; providing for uses of fine proceeds; requiring the Department of Business and Professional Regulation to create a web page on its Internet website dedicated to listing known information concerning unlicensed contractors; providing an effective date.

—was read the second time by title.

Representative(s) Mahon offered the following:

(Amendment Bar Code: 785035)

Amendment 1 (with title amendment)—On page 17, lines 1-28, remove from the bill: all of said lines,

and insert in lieu thereof:

Section 10. Section 725.06, Florida Statutes, is amended to read:

725.06 Construction contracts; limitation on indemnification.—

(1) Any portion of any agreement or contract for or in connection with, or any guarantee of or in connection with, any construction, alteration, repair, or demolition of a building, structure, appurtenance, or appliance, including moving and excavating associated therewith, between an owner of real property and an architect, engineer, general contractor, subcontractor, sub-subcontractor, or materialman or any combination thereof wherein any party referred to herein promises to indemnify or hold harmless the other party to the agreement, contract, or guarantee for liability for damages to persons or property caused in whole or in part by any act, omission, or default of the indemnitee arising from the contract or its performance, shall be void and unenforceable unless the contract contains a monetary limitation on the extent of the indemnification that bears a reasonable commercial relationship to the contract and is part of the project specifications or bid documents, if any. Notwithstanding the foregoing, the monetary limitation on the extent of the indemnification provided to the owner of real property by any party in privity of contract with such owner shall not be less than $1 million per occurrence, unless otherwise agreed by the parties. Indemnification provisions in any such agreements, contracts, or guarantees may not require that the indemnitor indemnify the indemnitee for damages to persons or property caused in whole or in part by any act, omission, or default of a party other than:

(a) The indemnitor;

(b) Any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees; or

(c) The indemnitee or its officers, directors, agents, or employees. However, such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the indemnitee or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the indemnitor or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees.

(2)~~(1)~~ A construction contract *for a public agency or in connection with a public agency's project* may require a party to that contract to indemnify and hold harmless the other party to the contract, their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the indemnifying party and persons employed or utilized by the indemnifying party in the performance of the construction contract.

(3)~~(2)~~ Except as specifically provided in subsection *(2)* ~~(1)~~, a construction contract *for a public agency or in connection with a public agency's project* may not require one party to indemnify*, defend, or hold harmless* the other party, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding, and any such contract provision is void as against public policy of this state.

(4) This section does not affect any contracts, agreements, or guarantees entered into before the effective date of this section or any renewals thereof.

Section 11. Subsection (2) of section 725.08, Florida Statutes, is amended to read:

725.08 Design professional contracts; limitation in indemnification.—

(2) Except as specifically provided in subsection (1), a professional services contract *entered into with a public agency* may not require that the design professional defend, indemnify, or hold harmless the agency, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding, and any such contract provision *shall* ~~will~~ be void as against the public policy of this state.

And the title is amended as follows:

On page 1, lines 27-30,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: amending s. 725.06, F.S.; revising indemnification and hold harmless restrictions for certain construction agreements, contracts, or guarantees; providing application; amending s. 725.08, F.S.; revising indemnification and hold harmless restrictions for certain professional services contracts; repealing s. 713.18(3),

Rep. Mahon moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1607—A bill to be entitled An act relating to rulemaking authority of the Department of Insurance; codifying department rules and granting the department additional rulemaking authority; amending s. 112.215, F.S.; providing for self-funding of administrative costs of deferred compensation; amending ss. 624.3161 and 626.171, F.S.; authorizing the department to adopt certain rules; amending s. 626.748, F.S.; specifying additional recordkeeping requirements for agents; amending s. 626.9541, F.S.; providing additional criteria for an unfair discrimination prohibition; creating s. 626.9552, F.S.; specifying requirements for single interest insurance; amending s. 627.062, F.S.; clarifying certain information reporting requirements; amending s. 627.0625, F.S.; providing an additional requirement for commercial motor vehicle insurance policies; authorizing the department to adopt rules; creating s. 627.385, F.S.; specifying conduct prohibitions for residual market board members; creating s. 627.4065, F.S.; requiring certain notice provisions in health insurance policies; providing for an insured's right to return a policy; amending s. 627.7276, F.S.; revising a limited coverage notice requirement; creating s. 627.795, F.S.;

providing title insurance requirements for real estate closings; amending s. 627.918, F.S.; requiring the department to adopt certain reporting format standards; amending s. 627.9408, F.S.; authorizing the department to adopt long-term care insurance regulation rules; amending s. 641.2342, F.S.; providing for financial examination of contract providers by the department; amending s. 641.31, F.S.; revising a reimbursement for covered services and supplies provision; amending s. 641.3108, F.S.; prohibiting health maintenance organization cancellation of certain contracts during a contract period; providing exceptions; providing requirements for nonrenewal of subscriber group contracts; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 823559)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (6) is added to section 624.3161, Florida Statutes, to read:

624.3161 Market conduct examinations.—

(6) The department shall adopt rules as necessary to effectuate the market conduct examination process, to assure compliance by the person examined with the applicable provisions of the Insurance Code. Such rules shall not exceed the authority of the statutes involved in the market conduct examination.

Section 2. Subsection (8) is added to section 626.171, Florida Statutes, to read:

626.171 Application for license.—

(8) The department shall adopt rules to effectuate the license application process, including photo identification, background checks and credit reports, prelicensing courses, the impact of criminal and law enforcement history, and other relevant information in an effort to determine an applicant's fitness and trustworthiness to engage in the business of insurance.

Section 3. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(o) Illegal dealings in premiums; excess or reduced charges for insurance.—

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, in accordance with the applicable classifications and rates as filed with and approved by the department, and as specified in the policy; or, in cases when classifications, premiums, or rates are not required by this code to be so filed and approved, premiums and charges in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines agents licensed under part VIII of this chapter, of the amount of applicable state and federal taxes, or fees as authorized by s. 626.916(4), in addition to the premium required by the insurer or the charging and collection, by licensed agents, of the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card, as authorized by subparagraph (q)3., in addition to the premium required by the insurer. This subparagraph shall not be construed to prohibit collection of a premium for a universal life or a variable or indeterminate value insurance policy made in accordance with the terms of the contract.

3.a. Imposing or requesting an additional premium for a policy of motor vehicle liability, personal injury protection, medical payment, or collision insurance or any combination thereof or refusing to renew the policy solely because the insured was involved in a motor vehicle accident unless the insurer's file contains information from which the insurer in good faith determines that the insured was substantially at fault in the accident.

b. An insurer which imposes and collects such a surcharge or which refuses to renew such policy shall, in conjunction with the notice of premium due or notice of nonrenewal, notify the named insured that he or she is entitled to reimbursement of such amount or renewal of the policy under the conditions listed below and will subsequently reimburse him or her or renew the policy, if the named insured demonstrates that the operator involved in the accident was:

(I) Lawfully parked;

(II) Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person;

(III) Struck in the rear by another vehicle headed in the same direction and was not convicted of a moving traffic violation in connection with the accident;

(IV) Hit by a "hit-and-run" driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident;

(V) Not convicted of a moving traffic violation in connection with the accident, but the operator of the other automobile involved in such accident was convicted of a moving traffic violation;

(VI) Finally adjudicated not to be liable by a court of competent jurisdiction;

(VII) In receipt of a traffic citation which was dismissed or nolle prossed; or

(VIII) Not at fault as evidenced by a written statement from the insured establishing facts demonstrating lack of fault which are not rebutted by information in the insurer's file from which the insurer in good faith determines that the insured was substantially at fault.

c. In addition to the other provisions of this subparagraph, an insurer may not fail to renew a policy if the insured has had only one accident in which he or she was at fault within the current 3-year period. However, an insurer may nonrenew a policy for reasons other than accidents in accordance with s. 627.728. This subparagraph does not prohibit nonrenewal of a policy under which the insured has had three or more accidents, regardless of fault, during the most recent 3-year period.

4. Imposing or requesting an additional premium for, or refusing to renew, a policy for motor vehicle insurance solely because the insured committed a noncriminal traffic infraction as described in s. 318.14 unless the infraction is:

a. A second infraction committed within an 18-month period, or a third or subsequent infraction committed within a 36-month period.

b. A violation of s. 316.183, when such violation is a result of exceeding the lawful speed limit by more than 15 miles per hour.

5. Upon the request of the insured, the insurer and licensed agent shall supply to the insured the complete proof of fault or other criteria which justifies the additional charge or cancellation.

6. No insurer shall impose or request an additional premium for motor vehicle insurance, cancel or refuse to issue a policy, or refuse to renew a policy because the insured or the applicant is a handicapped or physically disabled person, so long as such handicap or physical

disability does not substantially impair such person's mechanically assisted driving ability.

7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured with the same exposure at a higher premium rate or continuing an existing contract or coverage with the same exposure at an increased premium.

8. No insurer may issue a nonrenewal notice on any insurance contract or coverage, or require execution of a consent to rate endorsement, for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium without meeting any applicable notice requirements.

9. No insurer shall, with respect to premiums charged for motor vehicle insurance, unfairly discriminate solely on the basis of age, sex, marital status, *location of the risk, accidents more than 3 years old,* or scholastic achievement.

10. Imposing or requesting an additional premium for motor vehicle comprehensive or uninsured motorist coverage solely because the insured was involved in a motor vehicle accident or was convicted of a moving traffic violation.

11. No insurer shall cancel or issue a nonrenewal notice on any insurance policy or contract without complying with any applicable cancellation or nonrenewal provision required under the Florida Insurance Code.

12. No insurer shall impose or request an additional premium, cancel a policy, or issue a nonrenewal notice on any insurance policy or contract because of any traffic infraction when adjudication has been withheld and no points have been assessed pursuant to s. 318.14(9) and (10). However, this subparagraph does not apply to traffic infractions involving accidents in which the insurer has incurred a loss due to the fault of the insured.

Section 4. Paragraph (a) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. *Copies* ~~A copy~~ of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the department under one of the following procedures:

1. If the filing is made at least 90 days before the proposed effective date and the filing is not implemented during the department's review of the filing and any proceeding and judicial review, then such filing shall be considered a "file and use" filing. In such case, the department shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the department of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the department does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the department to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).

Section 5. Subsection (4) is added to Section 627.0625, Florida Statutes, to read:

627.0625 Commercial property and casualty risk management plans.—

(4) Commercial motor vehicle policies that are issued to satisfy mandatory financial responsibility requirements of a state or local government must provide first dollar coverage to third-party claimants without a deductible. With respect to such policies, the department may adopt rules necessary to assure that claims are administered fairly as required by law.

Section 6. Subsection (8) of section 627.0651, Florida Statutes, is amended to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(8) Rates are not unfairly discriminatory if averaged broadly among members of a group; nor are rates unfairly discriminatory even though they are lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to assure that nonmembers of the group are not unfairly discriminated against. Use of a single United States Postal Service zip code as a rating territory shall be deemed unfairly discriminatory. *An insurer may not impose a surcharge or discount for liability coverages based on the type of vehicle without providing acceptable actuarial justification.*

Section 7. Section 627.385, Florida Statutes, is created to read:

627.385 Conduct of residual market board members.—

(1)(a) For various insurance coverages, a residual market has been created by legislation to provide a market of last resort for individuals unable to secure coverage in the voluntary market.

(b) Each residual market's enabling legislation calls for the establishment of a board of governors or directors that operates subject to a plan of operation. The board, in carrying out its obligations, must engage in business transactions in order to provide and administer the required coverage and maintain adequate funds to support the plan. In order for the board to fully execute its responsibilities required by law, conflict of interest or inappropriate activity by board members, or the appearance thereof, with regard to member insurers or policyholders of the residual market mechanism must be avoided. The Legislature has determined that the provisions set forth in subsection (2) are necessary to protect the public interest by ensuring fair, reasonable, and beneficial board practice and activity.

(c) This section applies to the Florida Medical Malpractice Joint Underwriting Association, the Florida Automobile Joint Underwriting Association, the Florida Workers' Compensation Joint Underwriting Association, the Florida Comprehensive Health Association, the Florida Windstorm Underwriting Association, the Florida Property and Casualty Joint Underwriting Association, the Florida Residential Property and Casualty Joint Underwriting Association, and the board members thereof.

(2) To ensure that the board is free from potential conflict or inappropriate behavior the following are adopted in the plan of operation of the subject residual market in this state.

(a) A board member may not act as a servicing carrier or administering entity for the subject plan, other than a claim adjustment contract open to all members of the plan.

(b) A board member or board member representative may not use his or her position to foster or facilitate any special pecuniary gain for himself or herself, his or her member company, or any other entity in which the board member or board member representative or the member company has a substantial financial interest, except as otherwise provided in paragraph (a).

(c) A board member or board member representative may not use his or her position on the board to secure or promote any business relationship from which he or she may derive a financial gain.

(d) A board member or designee may not receive any gift or gratuity, except as provided in s. 112.3248, other than meals, while acting in his or her capacity as a board member.

(3) Board members and board member representatives shall maintain reasonable board expenses based on state travel policy as set forth in s. 112.061. The board shall develop a detailed policy regarding board member travel, which policy must be based on s. 112.061 and is subject to the approval of the department.

Section 8. Section 627.4065, Florida Statutes, is created to read:

627.4065 Insured's right to return policy; notice.—A health insurance policy issued or issued for delivery in this state must have printed or stamped thereon or attached thereto a notice in a prominent place stating in substance that the policyholder may return the policy to the insurer within 10 days after its delivery and may have the premium paid refunded if, after examination of the policy or contract, the policyholder is not satisfied with it for any reason. The notice must provide that if the policyholder, pursuant to such notice, returns the policy or contract to the insurer at its home office or branch office or to the agent through whom it was purchased, it is considered void from the beginning and the parties are in the same position as if no policy or contract had been issued. This section does not apply to group policies, single premium nonrenewable policies, or travel accident policies.

Section 9. *Section 627.41345 Certificate of insurance.—An insurer or agent may not issue or sign a certificate of insurance that contains terms or conditions that differ from those in the policy under which the certificate of insurance is issued. In the event of a conflict, the terms of the policy under which the certificate of insurance is issued shall control.*

Section 10. Subsection (9) is added to section 627.7015, Florida Statutes, to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(9) For purposes of this section, the term "claim" refers to any dispute between an insurer and an insured relating to a material issue of fact other than a dispute:

(a) With respect to which the insurer has a reasonable basis to suspect fraud;

(b) Where, based on agreed-upon facts as to the cause of loss, there is no coverage under the policy;

(c) With respect to which the insurer has a reasonable basis to believe that the claimant has intentionally made a material misrepresentation of fact which is relevant to the claim, and the entire request for payment of a loss has been denied on the basis of the material misrepresentation; or

(d) Where the amount in controversy is less than $500, unless the parties agree to mediate a dispute involving a lesser amount.

Section 11. Section 627.7276, Florida Statutes, is amended to read:

627.7276 Notice of limited coverage.—

(1) *The following notice of limited coverage shall* ~~An automobile policy that does not contain coverage for bodily injury and property damage must~~ be clearly stamped or printed *on any motor vehicle insurance policy that provides coverage only for first-party damage to the insured vehicle, but does not provide coverage for bodily injury liability, property damage liability, or personal injury protection* ~~to the effect that such coverage is not included in the policy in the following manner~~:

"THIS POLICY DOES NOT PROVIDE BODILY INJURY *LIABILITY,* ~~AND~~ PROPERTY DAMAGE LIABILITY, *OR PERSONAL INJURY PROTECTION* INSURANCE OR ANY OTHER COVERAGE FOR WHICH A SPECIFIC PREMIUM CHARGE IS NOT MADE, AND DOES NOT COMPLY WITH ANY FINANCIAL RESPONSIBILITY LAW *OR WITH THE FLORIDA MOTOR VEHICLE NO-FAULT LAW*."

(2) This legend must appear on the policy declaration page ~~and on the filing back of the policy~~ and be printed in a contrasting color from that used on the policy and in type larger than the largest type used in the text thereof, as an overprint or by a rubber stamp impression.

Section 12. Section 627.795, Florida Statutes, is created to read:

627.795 Policy exceptions.—

(1) A title insurance commitment must be issued on all real estate closing transactions when a title insurance policy is to be issued, except for multiple conveyances on the same property such as timesharing.

(2) A gap exception may not be deleted on a commitment until the time of closing.

Section 13. Section 626.9552, Florida Statutes, is created to read:

626.9552 Single interest insurance.—

(1) When single interest insurance is written at the expense of the purchaser or borrower in connection with a finance or loan transaction, a clear and concise statement must be furnished the purchaser or borrower advising the purchaser or borrower that the insurance effected is solely for the interest of the financing entity, and that no protection thereunder exists for the benefit of the purchaser or borrower. When single interest insurance is written, no effort may be made by the insurer to recover the amount of any payment from the borrower. Single interest insurance policies must be clearly stamped or printed on the declarations page, "Single Interest Only——No Subrogation." Single interest insurance is to be placed only after it has been determined that no other kind of insurance can be placed on the risk, except with the consent of the purchaser or borrower. Single interest may be written in cases of inland marine installment sales floater policies. If insurance cannot be obtained for the dual protection of the purchaser or borrower, and the seller or lender or financing entity for all the coverages contemplated, or if obtained, is canceled by the insurer before expiration, the seller or lender or financing entity may obtain insurance to protect his or her interest in the motor vehicle or other personal property, and the purchaser or borrower may be required to pay the cost thereof. In such event the seller or lender or financing entity shall promptly notify the purchaser or borrower that such insurance cannot be obtained, or has been canceled, and credit to the purchaser or borrower the difference between the amount charged for dual protection insurance and the actual cost of such single interest insurance, less, in the event of cancellation, the earned premium on the dual interest insurance for the period it was in force. If the purchaser or borrower procures acceptable dual interest insurance within 30 days after the date of such notice and provides the seller or lender, or finance entity with evidence that the premium therefore has been paid, there is no charge to him or her for the single interest coverage. As used in this section, the term "financing entity" means a finance company, bank, or other lending institution. However, those lenders licensed under the Consumer Finance Act, chapter 516, must provide coverage issued in the name of the borrower containing the customary mortgagee or loss payee clause.

(2) If a certificate is issued under a master policy, the same coverage as provided in an individual policy will apply.

(3) The provisions of this section do not apply to title insurance as defined in s. 624.608.

Section 14. Subsection (1) of section 627.918, Florida Statutes, is amended to read:

627.918 Reporting formats.—

(1) The department shall require that the reporting provided for in this part be made on forms *adopted* ~~established~~ by the department or in a format compatible with *the department's* ~~its~~ electronic data processing equipment. *The department shall adopt by rule standards for such approval.*

Section 15. Subsection (12) of section 641.31, Florida Statutes, is amended to read:

641.31 Health maintenance contracts.—

(12) Each health maintenance contract, certificate, or member handbook shall state that emergency services and care shall be provided to subscribers in emergency situations not permitting treatment through the health maintenance organization's providers, without prior notification to and approval of the organization. *Reimbursement for covered services and supplies under this section shall be governed by the provisions of s. 641.513(5), up to the subscriber contract benefit limits.* ~~Not less than 75 percent of the reasonable charges for covered services and supplies shall be paid by the organization, up to the subscriber contract benefit limits.~~ Payment also may be subject to additional applicable copayment provisions, not to exceed $100 per claim. The health maintenance contract, certificate, or member handbook shall contain the definitions of "emergency services and care" and "emergency medical condition" as specified in s. 641.19(7) and (8), shall describe procedures for determination by the health maintenance organization of whether the services qualify for reimbursement as emergency services and care, and shall contain specific examples of what does constitute an emergency. In providing for emergency services and care as a covered service, a health maintenance organization shall be governed by s. 641.513.

Section 16. Subsection (3) of section 641.3108, Florida Statutes, is amended to read:

641.3108 Notice of cancellation of contract.—

(3) In the case of a health maintenance contract issued to an employer or person holding the contract on behalf of the subscriber group, the health maintenance organization may make the notification through the employer or group contract holder, and, if the health maintenance organization elects to take this action through the employer or group contract holder, the organization shall be deemed to have complied with the provisions of this section upon notifying the employer or group contract holder of the requirements of this section and requesting the employer or group contract holder to forward to all subscribers the notice required herein. *If a subscriber group contract is not renewed due to claim experience, the subscriber group is entitled to receive information concerning its loss ratio. If requested by a subscriber group, a detailed claim experience record may be provided at a reasonable expense. The record shall maintain subscriber confidentiality.*

Section 17. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1,
remove the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Department of Insurance; amending ss. 624.3161, 626.171, F.S.; directing the department to adopt rules relating to market conduct examinations and license applications; amending s. 626.9541, F.S.; revising provisions relating to unfair competition and deceptive practices; amending s. 627.062, F.S.; providing for filing forms for rate standards; amending s. 627.0625, F.S.; authorizing the department to adopt rules relating to third-party claimants; amending s. 627.0651, F.S.; prohibiting motor vehicle insurers from imposing a surcharge or a discount due to certain factors; creating s. 627.385, F.S.; providing rules of conduct for residual market board members; creating s. 627.4065, F.S.; providing for notice of right to return health insurance policies; creating s. 627.41345, F.S.; prohibiting an insurer or agent from issuing or signing certain certificates of insurance; providing that the terms of the policy control in case of conflict; amending s. 627.7015, F.S.; defining "claim" for purposes of alternative procedures for resolution of disputed property insurance claims; amending s. 627.7276, F.S.; providing for notice of coverage of automobile policies; creating s. 627.795, F.S.; providing guidelines for title insurance policies; creating 626.9552, F.S.; providing standards for single interest insurance; amending s. 627.918, F.S.; directing the department to adopt rules relating to reporting formats; amending s. 641.31, F.S.; specifying reimbursement for emergency services under health maintenance organization contracts; amending s. 641.3108, F.S.; requiring health maintenance organizations to provide certain information to subscriber groups whose contract is not renewed for certain reasons; providing an effective date.

Rep. Bennett moved the adoption of the amendment.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 690407)

Amendment 1 to Amendment 1 (with title amendment)—On page 6, between lines 20 and 21, of the amendment

insert:

Section 4. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules shall be based on, consistent with, and not more restrictive than the National Association of Insurance Commissioners' Privacy of Consumer Financial and Health Information Regulation adopted September 26, 2000, by the National Association of Insurance Commissioners, provided, however, the rules shall permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research in accordance with federal law. In addition, these rules shall be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999 (public law 106-102). Any health insurer or health maintenance organization determined by the department to be in compliance with, or to be actively undertaking compliance with, the consumer privacy protection rules promulgated by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, shall be deemed in compliance with this section. This section shall become effective July 1, 2001.

And the title is amended as follows:

On page 17, line 3, of the amendment
remove:

after the semicolon insert: creating s. 626.9651, F.S.; directing the department to adopt rules to govern the use of a consumer's nonpublic personal financial and health information by health insurers and health maintenance organizations; providing standards governing the rules;

Rep. Bennett moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Alexander, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Alexander and Waters offered the following:

(Amendment Bar Code: 063893)

Amendment 2 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17 of the amendment

insert:

Section 1. Subsection (7) is added to section 631.57, Florida Statutes, to read:

631.57 Powers and duties of the association.—

(7) Notwithstanding any other provision of law, the net direct written premiums of medical malpractice insurance are not subject to assessment under this section to cover claims and administrative costs for the type of insurance defined in s. 624.604.

And the title is amended as follows:

On page 16, line 28 of the amendment

insert: amending s. 631.57, F.S.; specifying assessment liability;

Rep. Alexander moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 315749)

Amendment 3 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17 of the amendment

insert: Section 1. Section 324.031, Florida Statues, is amended to read:

324.031 Manner of proving financial responsibility.—The owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) or s. 324.151, which policy is issued by an insurance carrier which is a member of the Florida Insurance Guaranty Association. The operator or owner of any other vehicle may prove his or her financial responsibility by:

(1) Furnishing satisfactory evidence of holding a motor vehicle liability policy*, providing single limits of $100,000/300,000/50,000 or $500,000 combined limits,* as defined in ss. 324.021(8) and 324.151;

(2) Posting with the department a satisfactory bond of a surety company authorized to do business in this state, conditioned for payment of the amount specified in s. 324.021(7);

(3) Furnishing a certificate of the department showing a deposit of cash or securities in accordance with s. 324.161; or

(4) Furnishing a certificate of self-insurance issued by the department in accordance with s. 324.171.

Any person, including any firm, partnership, association, corporation, or other person, other than a natural person, electing to use the method of proof specified in subsection (2) or subsection (3) shall post a bond or deposit equal to the number of vehicles owned times $30,000, to a maximum of $120,000; in addition, any such person, other than a natural person, shall maintain insurance providing coverage in excess of limits of $10,000/20,000/10,000 or $30,000 combined single limits, and such excess insurance shall provide minimum limits of *$100,000/300,000/50,000*~~$50,000/100,000/50,000~~ or *$500,000* ~~$150,000~~ combined single limits. *The operator of any vehicle with limits of coverage in the amount of $100,000/300,000/50,000 or $500,000 combined limits shall be deemed both the common carrier operating such vehicle and the owner of such vehicle, and no other person or entity shall be responsible in damages for the operator's negligence. For purposes of this section, "operator" shall mean the driver.*

And the title is amended as follows:

On page 16, line 28 of the amendment
remove: all of said line

and insert in lieu thereof: An act relating to insurance; amending s. 324.031, F.S.; providing for establishing financial responsibility with respect to damages arising out of the operation of certain vehicles; providing definitions

Rep. Alexander moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Ryan, Alexander, and Waters offered the following:

(Amendment Bar Code: 852361)

Amendment 4 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17 of the amendment

insert:

Section 1. Effective July 1, 2001, paragraph (b) of subsection (2) and paragraph (c) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (f) is added to subsection (2) of said section, to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(b) The department shall require all insurers holding a certificate of authority to transact property insurance on a direct basis in this state, other than joint underwriting associations and other entities formed pursuant to this section, to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage, which may include formation of an association for this purpose. As used in this subsection, the term "property insurance" means insurance on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners' multiperil, commercial multiperil, and mobile homes, and including liability coverages on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1)(a) other than insurance on mobile homes used as permanent dwellings. The department shall adopt rules that provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties. An applicant or policyholder is eligible for coverage only if an offer of coverage cannot be obtained by or for the applicant or policyholder from an admitted insurer at approved rates.

2.a.(I) All insurers required to be members of such association shall participate in its writings, expenses, and losses. Surplus of the association shall be retained for the payment of claims and shall not be distributed to the member insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written premiums for property insurance, reduced by premium for liability coverage and for the following if included in allied lines: rain and hail on growing crops; livestock; association direct premiums booked; National Flood Insurance Program direct premiums; and similar deductions specifically authorized by the plan of operation and approved by the department. A member's participation shall begin on the first day of the calendar year following the year in which it is issued a certificate of authority to transact property insurance in the state and shall terminate 1 year after the end of the calendar year during which it no longer holds a certificate of authority to transact property insurance in the state. The commissioner, after review of annual statements, other reports, and any other statistics that the commissioner deems necessary, shall certify to the association the aggregate direct premiums written for property insurance in this state by all member insurers.

(II) The plan of operation shall provide for a board of directors *consisting of the members of the State Board of Administration, which shall oversee the operations of the association and shall carry out any other duties provided by law. The board shall appoint an advisory council consisting of an actuary, a meterorologist, an engineer, a representative of insurers, a representative of insurance agents, and three consumers who shall also be representatives of other professions and industries, to provide the board with information and advice in connection with its duties under this section. Members of the advisory council shall be eligible for per diem and travel expeses under s. 112.061. The association shall not be considered a state agency and its obligations shall not be considered obligations of the state* ~~consisting of the Insurance Consumer Advocate appointed under s. 627.0613, 1consumer~~

~~representative appointed by the Insurance Commissioner, 1 consumer representative appointed by the Governor, and 12 additional members appointed as specified in the plan of operation. One of the 12 additional members shall be elected by the domestic companies of this state on the basis of cumulative weighted voting based on the net direct premiums of domestic companies in this state. Nothing in the 1997 amendments to this paragraph terminates the existing board or the terms of any members of the board~~.

(III) The plan of operation shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment of a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

(IV) A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

(V) There shall be no credits or relief from apportionment to a company for emergency assessments collected from its policyholders under sub-sub-subparagraph d.(III).

(VI) The plan of operation may also provide for the award of credits, for a period not to exceed 3 years, from a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II) as an incentive for taking policies out of the Residential Property and Casualty Joint Underwriting Association. In order to qualify for the exemption under this sub-sub-subparagraph, the take-out plan must provide that at least 40 percent of the policies removed from the Residential Property and Casualty Joint Underwriting Association cover risks located in Dade, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Dade, Broward, and Palm Beach Counties and an additional 50 percent of the policies so removed cover risks located in other coastal counties, and must also provide that no more than 15 percent of the policies so removed may exclude windstorm coverage. With the approval of the department, the association may waive these geographic criteria for a take-out plan that removes at least the lesser of 100,000 Residential Property and Casualty Joint Underwriting Association policies or 15 percent of the total number of Residential Property and Casualty Joint Underwriting Association policies, provided the governing board of the Residential Property and Casualty Joint Underwriting Association certifies that the take-out plan will materially reduce the Residential Property and Casualty Joint Underwriting Association's 100-year probable maximum loss from hurricanes. With the approval of the department, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association.

b. Assessments to pay deficits in the association under this subparagraph shall be included as an appropriate factor in the making of rates as provided in s. 627.3512.

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for paying regular assessments and collecting emergency assessments for any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d.(I) When the deficit incurred in a particular calendar year is 10 percent or less of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the deficit.

(II) When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for member insurers. Any remaining deficit shall be recovered through emergency assessments under sub-sub-subparagraph (III).

(III) Upon a determination by the board of directors that a deficit exceeds the amount that will be recovered through regular assessments on member insurers, pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the board shall levy, after verification by the department, emergency assessments to be collected by member insurers and by underwriting associations created pursuant to this section which write property insurance, upon issuance or renewal of property insurance policies other than National Flood Insurance policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for property insurance for all member insurers and underwriting associations, excluding National Flood Insurance policy premiums, as annually determined by the board and verified by the department. The department shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, each member insurer and each underwriting association created pursuant to this section shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. The emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this sub-sub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency assessments under this sub-sub-subparagraph shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

(IV) Each member insurer's share of the total regular assessments under sub-sub-subparagraph (I) or sub-sub-subparagraph (II) shall be in the proportion that the insurer's net direct premium for property insurance in this state, for the year preceding the assessment bears to the aggregate statewide net direct premium for property insurance of all member insurers, as reduced by any credits for voluntary writings for that year.

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by the Residential Property and Casualty Joint Underwriting Association under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b., the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written

premium for property insurance for member insurers for the prior calendar year. Market equalization surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the association, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the association and insurers responsible for apportionment of plan losses. Any such unit of local government may enter into such contracts with the association and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer. The authority granted by this sub-subparagraph is additional to any bonding authority granted by subparagraph 6.

3. The plan shall also provide that any member with a surplus as to policyholders of *$25* ~~$20~~ million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the department, within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a member company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds $50 million after payment of available plan funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-sub-subparagraph 2.d.(III). The plan shall provide that, if the department determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-sub-subparagraph 2.d.(III).

4. The plan shall provide for the deferment, in whole or in part, of a regular assessment of a member insurer under sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not for an emergency assessment collected from policyholders under sub-sub-subparagraph 2.d.(III), if, in the opinion of the commissioner, payment of such regular assessment would endanger or impair the solvency of the member insurer. In the event a regular assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5.a. The plan of operation may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

b.*(I) Subject to the provisions of sub-sub-subparagraph (II), all rate filings under this subsection relating to coverage for windstorm losses must reflect historical insurance data. When using a computer model in making a rate filing under this subsection, the association may use only a computer model which is based upon standards and guidelines developed or established by the Florida Commission on Hurricane Loss Projection Methodology under s. 627.0628. Consideration of historical insurance data and the use of computer models shall be consistent with applicable Standards of Practice of the American Academy of Actuaries.* The association may require arbitration of a rate filing under s. 627.062(6).

(II) ~~It is the intent of the Legislature that the~~ Rates for coverage provided by the association *must* be actuarially sound and not competitive with approved rates charged in the admitted voluntary market such that the association functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. The plan of operation shall provide a mechanism to assure that *the average base rates for each line of business charged by the association for hurricane coverage for each unmitigated risk in a particular county shall be no lower than the highest department-approved rate within the association's eligible area for hurricane coverage in the voluntary market for each line of business in such county, among the 20 largest insurers actually writing such coverage in such county* ~~, beginning no later than January 1, 1999, the rates charged by the association for each line of business are reflective of approved rates in the voluntary market for hurricane coverage for each line of business in the various areas eligible for association coverage~~.

(III) Notwithstanding any other provision of law, windstorm rates under this subsection previously adjudicated for use and in effect as of the effective date of this act, and the related mitigation credit program, shall apply to rates of the association and shall continue in effect until such rates are fully phased in. The rate for a particular group or class of policies may be increased only after the full phase-in of the current rate plan as to that group or class of policies.

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

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

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

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

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

e. The policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this sub-subparagraph.

f. Association policies and applications must include a notice that the association policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the association. The notice shall also specify that acceptance of association coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

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

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

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

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

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

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

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

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

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

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, and other assets as security for such bonds, notes, or debt instruments; enter into any contracts or agreements necessary or proper to accomplish such borrowings; and take other actions necessary to carry out the purposes of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the association subject to approval by the department that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. Any such entity may accumulate reserves and retain surpluses as of the end of any association year to provide for the payment of losses incurred by the association during that year or any future year. The association shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein.

c. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness issued or incurred by the association or any other entity created under this subsection.

7. On such coverage, an agent's remuneration shall be that amount of money payable to the agent by the terms of his or her contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

8. Subject to approval by the department, the association may establish different eligibility requirements and operational procedures for any line or type of coverage for any specified eligible area or portion of an eligible area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

9. Notwithstanding any other provision of law:

a. The pledge or sale of, the lien upon, and the security interest in any rights, revenues, or other assets of the association created or purported to be created pursuant to any financing documents to secure any bonds or other indebtedness of the association shall be and remain valid and enforceable, notwithstanding the commencement of and during the continuation of, and after, any rehabilitation, insolvency, liquidation, bankruptcy, receivership, conservatorship, reorganization, or similar proceeding against the association under the laws of this state or any other applicable laws.

b. No such proceeding shall relieve the association of its obligation, or otherwise affect its ability to perform its obligation, to continue to collect, or levy and collect, assessments, market equalization or other surcharges, projected recoveries from the Florida Hurricane

Catastrophe Fund, reinsurance recoverables, or any other rights, revenues, or other assets of the association pledged.

c. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, emergency assessments, market equalization or renewal surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of or after any such proceeding shall continue unaffected by such proceeding.

d. As used in this subsection, the term "financing documents" means any agreement, instrument, or other document now existing or hereafter created evidencing any bonds or other indebtedness of the association or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the association are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other obligation of the association related to such bonds or indebtedness.

e. Any such pledge or sale of assessments, revenues, contract rights or other rights or assets of the association shall constitute a lien and security interest, or sale, as the case may be, that is immediately effective and attaches to such assessments, revenues, contract, or other rights or assets, whether or not imposed or collected at the time the pledge or sale is made. Any such pledge or sale is effective, valid, binding, and enforceable against the association or other entity making such pledge or sale, and valid and binding against and superior to any competing claims or obligations owed to any other person or entity, including policyholders in this state, asserting rights in any such assessments, revenues, contract, or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

f. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, agents or employees of the association, members of the board of directors of the association, or the department or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any willful tort.

10. It is the intent of the Legislature that the association vigorously pursue an exemption from federal income taxation and tax-free status for bonds issued by or on behalf of the association. In furtherance of this intent:

a. The association shall retain such expert tax counsel and bond counsel as necessary and expend such funds as necessary to pursue such negotiations or litigation as may lead to favorable tax rulings.

b. The association shall, no later than January 1, 2002, provide a report to the Governor, the Insurance Commissioner, the President of the Senate, and the Speaker of the House of Representatives detailing the status of the negotiations or litigation and recommending statutory changes, if any, needed to secure favorable tax rulings.

(f)1. In recognition of the fact that the association created under this subsection furthers an essentially governmental purpose, the association is exempt from premium taxes effective July 1, 2002.

2. Begining with the 2002-2003 fiscal year, and except for years in which the association is collecting regular or emergency assessments under this subsection, the association shall annually transfer the sum of $5 million to the General Revenue Fund, which moneys shall be appropriated for hurricane loss mitigation purposes as specified in s. 215.555(7)(c). Such appropriations are in addition to any appropriations required or authorized by s. 215.555(7)(c).

(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT UNDERWRITING ASSOCIATION.—

(c) The plan of operation of the association:

1. May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of the association to provide such service. Each licensed agent shall be entitled to indicate the order of preference regarding who will service the business placed by the agent. The association shall adhere to each agent's preferences unless after consideration of other factors in assigning agents, including, but not limited to, servicing capacity and fee arrangements, the association has reason to believe it is in the best interest of the association to make a different assignment.

2. Must provide for adoption of residential property and casualty insurance policy forms, which forms must be approved by the department prior to use. The association shall adopt the following policy forms:

a. Standard personal lines policy forms including wind coverage, which are multiperil policies providing what is generally considered to be full coverage of a residential property similar to the coverage provided under an HO-2, HO-3, HO-4, or HO-6 policy.

b. Standard personal lines policy forms without wind coverage, which are the same as the policies described in sub-subparagraph a. except that they do not include wind coverage.

c. Basic personal lines policy forms including wind coverage, which are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

d. Basic personal lines policy forms without wind coverage, which are the same as the policies described in sub-subparagraph c. except that they do not include wind coverage.

e. Commercial lines residential policy forms including wind coverage that are generally similar to the basic perils of full coverage obtainable for commercial residential structures in the admitted voluntary market.

f. Commercial lines residential policy forms without wind coverage, which are the same as the policies described in sub-subparagraph e. except that they do not include wind coverage.

3. May provide that the association may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The association shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the association, subject to approval by the department, that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. The association is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The association shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the association as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4. Must require that the association operate subject to the supervision and approval of a board of governors *consisting of the members of the State Board of Administration.* ~~consisting of 13 individuals, including 1 who is elected as chair. The board shall consist of:~~

~~a. The insurance consumer advocate appointed under s. 627.0613.~~

~~b. Five members designated by the insurance industry.~~

~~c. Five consumer representatives appointed by the Insurance Commissioner. Two of the consumer representatives must, at the time of appointment, be holders of policies issued by the association, who are selected with consideration given to reflecting the geographic balance of association policyholders. Two of the consumer members must be individuals who are minority persons as defined in s. 288.703(3). One of the consumer members shall have expertise in the field of mortgage lending.~~

~~d. Two representatives of the insurance industry appointed by the Insurance Commissioner. Of the two insurance industry representatives appointed by the Insurance Commissioner, at least one must be an individual who is a minority person as defined in s. 288.703(3).~~

~~Any board member may be disapproved or removed and replaced by the commissioner at any time for cause. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan.~~

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. With respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is not eligible for any policy issued by the association.

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

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

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

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

(II) When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the isnurer shall either:

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

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

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A). ~~If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the association before a policy is issued to the risk by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the plan or to the association is not currently appointed by the insurer, the insurer shall either appoint the agent to service the risk or, if the insurer places the coverage through a new agent, require the new agent who then writes the policy to pay not less than 50 percent of the first year's commission to the producing agent who submitted the application to the plan or the association, except that if the new agent is an employee or exclusive agent of the insurer, the new agent shall pay a policy fee of $50 to the producing agent in lieu of splitting the commission.~~ If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the association; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The association shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the association.

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

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

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

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

(II) When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the isnurer shall either:

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

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

If the new or producing gent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A). ~~If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the association before a policy is issued to the risk by the association, and the producing agent who submitted the application to the plan or the association is not currently appointed by the insurer, the insurer shall either appoint the agent to service the risk or, if the insurer places the coverage through a new agent, require the new agent who then writes the policy to pay not less than 50 percent of the first year's commission to the producing agent who submitted the application to the plan, except that if the new agent is an employee or exclusive agent of the insurer, the new agent shall pay a policy fee of $50 to the producing agent in lieu of splitting the commission.~~ If the risk is

not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the association.

c. This subparagraph does not require the association to provide wind coverage or hurricane coverage in any area in which such coverage is available through the Florida Windstorm Underwriting Association.

6. Must include rules for classifications of risks and rates therefor.

7. Must provide that if premium and investment income attributable to a particular plan year are in excess of projected losses and expenses of the plan attributable to that year, such excess shall be held in surplus. Such surplus shall be available to defray deficits as to future years and shall be used for that purpose prior to assessing member insurers as to any plan year.

8. Must provide objective criteria and procedures to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

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

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

The acceptance or rejection of a risk by the association shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

9. Must provide that the association shall make its best efforts to procure catastrophe reinsurance at reasonable rates, as determined by the board of governors.

10. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., or by the Florida Windstorm Underwriting Association under sub-sub-subparagraph (2)(b)2.d.(I) or sub-sub-subparagraph (2)(b)2.d.(II), the association shall levy upon association policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for member insurers for the prior calendar year. Market equalization surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

11. The policies issued by the association must provide that, if the association or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. However, if the risk is located in an area in which Florida Windstorm Underwriting Association coverage is available, such an offer of a standard or basic policy terminates eligibility regardless of whether or not the offer includes wind coverage. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy shall be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this subparagraph.

12. Association policies and applications must include a notice that the association policy could, under this section or s. 627.3511, be replaced with a policy issued by an admitted insurer that does not provide coverage identical to the coverage provided by the association. The notice shall also specify that acceptance of association coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

13. May establish, subject to approval by the department, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

Section 2. Subsection (4) of section 627.3511, Florida Statutes,is amended to read:

627.3511 Depopulation of Residential Property and Casualty Joint Underwriting Association.—

(4) AGENT BONUS.—When the Residential Property and Casualty Joint Underwriting Association enters into a contractual agreement for a take-out plan that provides a bonus to the insurer, the producing agent of record of the association policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

(a) Pay to the producing agent of record of the association policy*, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association* ~~an amount equal to the insurer's usual and customary commission for the type of policy written if the term of the association policy was in excess of 6 months, or one-half of such usual and customary commission if the term of the association policy was 6 months or less~~; or

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

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with paragraph (a). The insurer need not take any further action if the offer is rejected. This subsection does not apply to any reciprocal interinsurance exchange, nonprofit federation, or any subsidiary or affiliate of such organization. This subsection does not apply if the agent is also the agent of record on the new coverage. The requirement of this subsection that the producing agent of record is entitled to retain the unearned commission on an association policy does not apply to a policy for which coverage has been provided in the association for 30 days or less or for which a cancellation notice has been issued pursuant to s. 627.351(6)(c)11. during the first 30 days of coverage.

Section 3. Subsection (2) of section 627.7013, Florida Statutes is amended to read:

627.7013 Orderly markets for personal lines residential property insurance.—

(2) MORATORIUM COMPLETION.—

(a) As used in this subsection, the term "total number of policies" means the number of an insurer's policies of a specified type that were in force on June 1, 1996, or the date on which this section became law, whichever was later.

(b) The following restrictions apply only to cancellation or nonrenewal of personal lines residential property insurance policies that were in force on June 1, 1996, or the date on which this section became law, whichever was later.

1. In any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of such insurer's total number of homeowner's policies, 5 percent of such insurer's total number of mobile home owner's policies, or 5 percent of such insurer's total number of personal lines residential policies of all types and classes in the state for the purpose of reducing the insurer's exposure to hurricane claims and may not, with

respect to any county, cancel or nonrenew more than 10 percent of its total number of homeowner's policies, 10 percent of its total number of mobile home owner's policies, or 10 percent of its total number of personal lines residential policies of all types and classes in the county for the purpose of reducing the insurer's exposure to hurricane claims. This subparagraph does not prohibit any cancellations or nonrenewals of such policies for any other lawful reason unrelated to the risk of loss from hurricane exposure.

2.a. If, for any 12-month period, an insurer proposes to cancel or nonrenew personal lines residential policies to an extent not authorized by subparagraph 1. for the purpose of reducing exposure to hurricane claims, the insurer must file a phaseout plan with the department at least 90 days prior to the effective date of the plan. In the plan, the insurer must demonstrate to the department that the insurer is protecting market stability and the interests of its policyholders. The plan may not be implemented unless it is approved by the department. In developing the plan, the insurer must consider policyholder longevity, the use of voluntary incentives to accomplish the reduction, and geographic distribution. The insurer must demonstrate that under the plan the insurer will not cancel or nonrenew more policies in the 12-month period than the largest number of similar policies the insurer canceled or nonrenewed for any reason in any 12-month period between August 24, 1989, and August 24, 1992.

b. If the insurer considers the number of cancellations and nonrenewals under sub-subparagraph a. to be insufficient, the insurer may apply for approval of additional cancellations or nonrenewals on the basis of an unreasonable risk of insolvency. In evaluating a request under this sub-subparagraph, the department shall consider and shall require the insurer to provide information relevant to: the insurer's size, market concentration, and general financial condition; the portion of the insurer's business in this state represented by personal lines residential property insurance; the reasonableness of assumptions with respect to size, frequency, severity, and path of hurricanes; the reinsurance available to the insurer and potential recoveries from the Florida Hurricane Catastrophe Fund; and the extent to which the insurer's assets have been voluntarily transferred by dividend or otherwise from the insurer to its stockholders, parent companies, or affiliated companies since June 1, 1996, or the date on which this section became law, whichever was later. In the implementation of exposure reductions under this sub-subparagraph, the department and the insurer shall consider such factors as policyholder longevity, the use of voluntary incentives to accomplish the exposure reduction, and geographic distribution.

c. A policy shall not be counted as having been canceled or nonrenewed for purposes of this subsection if any of the following apply:

(I) The policy was canceled or nonrenewed for an underwriting reason unrelated to the risk of loss from hurricane exposure, nonpayment of premium, or any other lawful reason that is unrelated to the risk of loss from hurricane exposure. The department shall consider the reason specified in the notice of cancellation or nonrenewal to be the reason for the cancellation or nonrenewal unless the department finds by a preponderance of the evidence that the stated reason was not the insurer's actual reason for the cancellation or nonrenewal.

(II) The cancellation or nonrenewal was initiated by the insured.

(III) The insurer has offered the policyholder replacement or alternative coverage at approved rates, which coverage meets the requirements of the secondary mortgage market.

d. In addition to any other cancellations or nonrenewals subject to the limitations in this subsection, a policy shall be considered as having been canceled or nonrenewed for purposes of this subsection if:

(I) The insurer implements a rate increase under the use-and-file provisions of s. 627.062(2)(a)2., which rate increase exceeds 150 percent of the increase ultimately approved by the department, and, while the rate filing was pending, the policyholder voluntarily canceled or nonrenewed the policy and obtained replacement coverage from another insurer, including the Residential Property and Casualty Joint Underwriting Association; or

(II) The insurer reduces the commission to an agent by more than 25 percent and the agent thereafter places the risk with another insurer, including the Residential Property and Casualty Joint Underwriting Association, or the Florida Windstorm Underwriting Association.

e. The department must approve or disapprove an application for a waiver within 90 days after the department receives the application for waiver.

3. In addition to the cancellations or nonrenewals authorized under this section, an insurer may cancel or nonrenew policies to the extent authorized by an exemption from or waiver of either the moratorium created by chapter 93-401, Laws of Florida, or the moratorium phaseout under former s. 627.7013(2).

4. Notwithstanding any provisions of this section to the contrary, this section does not apply to any insurer that, prior to August 24, 1992, filed notice of such insurer's intent to discontinue writing insurance in this state under s. 624.430, and for which a finding has been made by the department, the Division of Administrative Hearings of the Department of Management Services, or a court that such notice satisfied all requirements of s. 624.430. Nothing in this section shall be construed to authorize an insurer to withdraw from any line of property insurance business for the purpose of reducing exposure to risk of hurricane loss if such withdrawal commenced at any time that the moratorium under chapter 93-401, Laws of Florida, or the moratorium phaseout under this section is in effect.

5. The following actions by an insurer do not constitute cancellations or nonrenewals for purposes of this subsection:

a. The transfer of a risk from one admitted insurer to another admitted insurer, unless the terms of the new or replacement policy place the policyholder in default of a mortgage obligation.

b. An increase in the hurricane deductible applicable to the policy, unless the new deductible places the policyholder in default of a mortgage obligation or the deductible exceeds the limits specified in s. 627.701.

c. Any other lawful change in coverage that does not place the policyholder in default of a mortgage obligation.

d. A cancellation or nonrenewal that is part of the same action as the removal of a policy including windstorm or hurricane coverage from the Residential Property and Casualty Joint Underwriting Association.

6. In order to assure fair and effective enforcement of this subsection, each insurer shall, no later than October 1, 1996, report to the department the policy number of each policy subject to this subsection, arranged by county. The report shall include the policy number for each personal lines residential policy that was in force on June 1, 1996, or the date this section became law, whichever was later. Beginning October 1, 1996, each insurer shall also report, on a monthly basis, all cancellations and nonrenewals of policies included in such policy list and the reasons for the cancellations and nonrenewals.

(c) The department may adopt rules to implement this subsection.

(d) This section shall cease to operate at such time as the department determines that the insured value of all residential properties insured by the Florida Windstorm Underwriting Association and all properties insured by the Residential Property and Casualty Joint Underwriting Association under policies providing wind coverage, combined, has remained below $25 billion for 3 consecutive months, based on exposure data reported to the department by the associations.

(e) This subsection is repealed on June 1, *2004* ~~2001~~.

Section 4. Subsections (1) and (4) of section 624.4072, Florida Statutes, are amended to read:

624.4072 Minority-owned property and casualty insurers; limited exemption for taxation and assessments.—

(1) A minority business that is at least 51 percent owned by minority persons, as defined in s. 288.703(3), initially issued a certificate of authority in this state as an authorized insurer after May 1, 1998, to write property and casualty insurance shall be exempt, for a period not to exceed *10* ~~5~~ years from the date of receiving its certificate of authority, from the following taxes and assessments:

(a) Taxes imposed under ss. 175.101, 185.08, and 624.509;

(b) Assessments by the Florida Residential Property and Casualty Joint Underwriting Association or by the Florida Windstorm Underwriting Association, as provided under s. 627.351, except for emergency assessments collected from policyholders pursuant to s. 627.351(2)(b)2.d.(III) and (6)(b)3.d. Any such insurer shall be a member insurer of the Florida Windstorm Underwriting Association and the Florida Residential Property and Casualty Joint Underwriting Association. The premiums of such insurer shall be included in determining, for the Florida Windstorm Underwriting Association, the aggregate statewide direct written premium for property insurance and in determining, for the Florida Residential Property and Casualty Joint Underwriting Association, the aggregate statewide direct written premium for the subject lines of business for all member insurers.

(4) This section is repealed effective *December 31, 2010* ~~July 1, 2003~~, and the tax and assessment exemptions authorized by this section shall terminate on such date.

And the title is amended as follows:

On page 16, line 28, of the amendment
remove: "the Department of Insurance"

and insert in lieu thereof: insurance; amending s. 627.351, F.S.; specifying membership of the boards of the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association; revising criteria for limited apportionment; providing rate standards; specifying duties with respect to pursuit of federal tax exemptions and tax-free bond status; providing premium tax exemption; providing for appropriation of funds for hurricane loss mitigation purposes; providing standards for certain payments to agents of record of Florida Winstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association policies; amending s. 627.3511, F.S.; revising agent compensation in connection with take-out plans; amending s. 627.7013, F.S.; delaying the repeal date of the moratorium on hurricane-related cancellation or nonrenewal of property insurance policies; amending s. 624.4072, F.S.; increasing a period of exemption from certain taxes and assessments for certain minority businesses; extending a future repeal;

Rep. Ryan moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Bennett offered the following:

(Amendment Bar Code: 075569)

Amendment 5 to Amendment 1 (with title amendment)—On page 15, lines 2 through 27,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 17, line 30 through page 18, line 1, of the amendment
remove: all of said lines

and insert in lieu thereof: 641.3108,

Rep. Bennett moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Heyman offered the following:

(Amendment Bar Code: 413689)

Amendment 6 to Amendment 1 (with title amendment)—On page 16, between lines 16 and 17, of the amendment,

insert:

Section 17. *Any meeting of the board or a committee of the Florida Windstorm Underwriting Association, held pursuant to s. 627.351, Florida Statutes, shall be open to the public and notice shall be provided to the public pursuant to s. 286.011, Florida Statutes.*

And the title is amended as follows:

On page 18, line 5, of the amendment, after the semicolon,

insert: requirign certain meetings of the Florida Windstorm Underwriting Association to be open to the public; requiring notice;

Rep. Heyman moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 161—A bill to be entitled An act relating to water management; creating the Citrus/Hernando Waterways Restoration Council; providing for membership, powers, and duties; providing for separate county task forces; providing for an advisory group to the council; providing for a report to the Legislature; requiring the Southwest Florida Water Management District to provide staff for the council; providing for a Citrus/Hernando Waterways restoration program; providing program tasks; providing for award of contracts subject to an appropriation of funds; providing for demonstration restoration projects; providing appropriations; providing effective dates.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 214975)

Amendment 1—On page 2, line 15
remove from the bill: *Basin Boards*

and insert in lieu thereof: *Basins*

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 523701)

Amendment 2—On page 5, line 21
remove from the bill: *undertaken*

and insert in lieu thereof: *considered*

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 125799)

Amendment 3—On page 6, line 23

after the word "River" insert: *with proper permits*

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 140375)

Amendment 4 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *(1) Citrus/Hernando Waterways Restoration Council.—There is created within the Withlacoochee and Coastal Rivers Basins of the Southwest Florida Water Management District the Citrus/Hernando Waterways Restoration Council. The council shall be coordinated by representatives of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the Southwest Florida Water Management District. The council is subject to the provisions of chapters 119 and 120, Florida Statutes.*

(2) The council shall consist of 12 voting members, six of whom shall be appointed by the President of the Senate and six of whom shall be appointed by the Speaker of the House of Representatives.

(a) The President of the Senate shall appoint council members as follows:

1. An attorney from each county.

2. A member of the board of directors of the chamber of commerce from each county.

3. An environmental engineer from each county.

(b) The Speaker of the House of Representatives shall appoint council members as follows:

1. A waterfront property owner from each county.

2. An engineer from each county.

3. A person from each county with training in biology or another scientific discipline.

(3) The council members from each county shall form two separate county task forces from the council to review and make recommendations on specific waterways within their respective counties.

(4) There shall be a technical advisory group to the council and the two county task forces which shall consist of one representative each from the Southwest Florida Water Management District, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, and the United States Army Corps of Engineers, each of whom shall be appointed by his or her respective agency and each of whom, with the exception of the representatives from the Withlacoochee River Basin Board and the Coastal Rivers Basin Board, shall have had training in biology or another scientific discipline.

(5) Immediately after appointment, the council shall meet and organize by electing a chair, a vice chair, and a secretary, whose terms shall be for 2 years each. Council officers shall not serve consecutive terms. Each council member shall be a voting member. Additionally, the two county task forces shall each elect a chair and a secretary, whose terms shall be for 2 years each.

(6) The council or a county task force shall meet at the call of its chair or at the request of six of its members.

(7) The council shall have the powers and duties to:

(a) Review audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration, sand and other sediment control and removal, exotic species management, floating tussock management or removal, navigation, water quality, and fish and wildlife habitat improvement, particularly as they may apply to the Citrus/Hernando waterways.

(b) Evaluate whether additional studies are needed.

(c) Explore all possible sources of funding to conduct the restoration activities, including funds provided to any advisory group agency for restoration purposes.

(d) Report to the Speaker of the House of Representatives and the President of the Senate before November 25 of each year on the progress of the Citrus/Hernando Waterways restoration program and any recommendations for the next fiscal year.

(8) The Southwest Florida Water Management District shall provide staff to assist the council in carrying out the provisions of this act.

(9) Members of the council shall receive no compensation for their services but are entitled to be reimbursed for the per diem and travel expenses incurred during execution of their official duties, as provided in s. 112.061, Florida Statutes. State and federal agencies shall be responsible for the per diem and travel expenses of their representatives on the technical advisory group, and the Southwest Florida Water Management District shall be responsible for per diem and travel expenses of council members.

Section 2. *Citrus/Hernando Waterways restoration program.—*

(1) The Fish and Wildlife Conservation Commission and the Southwest Florida Water Management District, in conjunction with the Department of Environmental Protection, pertinent local governments, and the Citrus/Hernando Waterways Restoration Council, shall review existing restoration proposals to determine which provide the most environmentally sound and economically feasible methods of improving the fish and wildlife habitat and natural systems of the Citrus/Hernando waterways.

(2) To initiate the Citrus/Hernando Waterways restoration program recommended by the Citrus/Hernando Waterways Restoration Council, the Fish and Wildlife Conservation Commission, with assistance from the Southwest Florida Water Management District and in consultation and by agreement with the Department of Environmental Protection and pertinent local governments, shall develop tasks to be considered by those entities for the enhancement of fish and wildlife habitat. These agencies shall:

(a) Evaluate different methodologies for removing the extensive tussocks and buildup of organic matter along the shoreline and of the aquatic vegetation in the lake.

(b) Conduct any additional studies as recommended by the Citrus/Hernando Waterways Restoration Council.

(3) Contingent upon the Legislature's appropriating funds for the Citrus/Hernando Waterways restoration program and in conjunction with financial participation by federal, other state, and local governments, the appropriate agencies shall, through competitive bid, award contracts to implement the activities of the Citrus/Hernando Waterways restoration program.

Section 3. *The Fish and Wildlife Conservation Commission is authorized to conduct a demonstration restoration project on the Tsala-Apopka Chain of Lakes for the purpose of removing, with proper permits, overlying undesirable vegetation and associated organic material down to mineralized soils, thus allowing for the establishment of a more desirable aquatic plant community on hard, sandy substrate and creating better habitat for fish and wildlife.*

Section 4. *The Southwest Florida Water Management District is authorized to conduct a demonstration restoration project on the Weeki Wachee River with proper permits to improve water flow by implementing a sand containment and erosion control project. The project may include other restoration activities related to improving water flow.*

Section 5. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 15
remove from the title of the bill: "providing appropriations;"

Rep. Argenziano moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 920995)

Amendment 5 (with title amendment)—On page 4, line 21, and on

Page 4, line 31, and on

Page 6, lines 5-6
remove from the bill: *Southwest Florida Water Management District*

and insert in lieu thereof: *Florida Fish and Wildlife Conservation Commission*

And the title is amended as follows:

On page 1, lines 8-9
remove from the title of the bill: all of said lines

and insert in lieu thereof:
Legislature; requiring the Florida Fish and Wildlife Conservation Commission to provide staff for

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 595 was taken up. On motion by Rep. Haridopolos, the rules were waived and CS for SB 838 was substituted for HB 595. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 838—A bill to be entitled An act relating to landlord and tenant; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending s. 475.011, F.S.; providing an exemption from the real estate brokers and salespersons regulatory law; amending ss. 715.105, 715.106, 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; providing an effective date.

—was read the second time by title.

Representative(s) Haridopolos offered the following:

(Amendment Bar Code: 304711)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (3) of section 83.49, Florida Statutes, is amended to read:

83.49 Deposit money or advance rent; duty of landlord and tenant.—

(3)(a) Upon the vacating of the premises for termination of the lease, *if the landlord does not intend to impose a claim on the security deposit,* the landlord shall have 15 days to return the security deposit together with interest if otherwise required, or *the landlord shall have 30 days* ~~in which~~ to give the tenant written notice by certified mail to the tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim. The notice shall contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of . . . . upon your security deposit, due to . . . . . It is sent to you as required by s. 83.49(3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to . . .(landlord's address). . ..

If the landlord fails to give the required notice within the *30-day* ~~15-day~~ period, he or she forfeits the right to impose a claim upon the security deposit.

(b) Unless the tenant objects to the imposition of the landlord's claim or the amount thereof within 15 days after receipt of the landlord's notice of intention to impose a claim, the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages.

(c) If either party institutes an action in a court of competent jurisdiction to adjudicate the party's right to the security deposit, the prevailing party is entitled to receive his or her court costs plus a reasonable fee for his or her attorney. The court shall advance the cause on the calendar.

(d) Compliance with this section by an individual or business entity authorized to conduct business in this state, including Florida-licensed real estate brokers and salespersons, shall constitute compliance with all other relevant Florida Statutes pertaining to security deposits held pursuant to a rental agreement or other landlord-tenant relationship. Enforcement personnel shall look solely to this section to determine compliance. This section prevails over any conflicting provisions in chapter 475 and in other sections of the Florida Statutes, and shall operate to permit licensed real estate brokers to disburse security deposits and deposit money without having to comply with the notice and settlement procedures contained in s. 475.25(1)(d).

Section 2. Subsection (3) of section 83.67, Florida Statutes, is amended to read:

83.67 Prohibited practices.—

(3) No landlord of any dwelling unit governed by this part shall remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; nor shall the landlord remove the tenant's personal property from the dwelling unit unless said action is taken after surrender, abandonment, or a lawful eviction. If provided in the rental agreement or a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord *is not required to comply with s. 715.104 and is* ~~shall~~ not ~~be~~ liable or responsible for storage or disposition of the tenant's personal property; if provided in the rental agreement there *must* ~~shall~~ be printed or clearly stamped on such rental agreement a legend in substantially the following form:

BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON SURRENDER OR ABANDONMENT, AS DEFINED BY *CHAPTER 83,* ~~THE~~ FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.

For the purposes of this section, abandonment shall be as set forth in s. 83.59(3)(c).

Section 3. Section 715.105, Florida Statutes, is amended to read:

715.105 Form of notice to former tenant.—

(1) A notice to the former tenant which is in substantially the following form satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name of former tenant). . .
. . .(Address of former tenant). . .

When you vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

You may claim this property at . . .(address where property may be claimed). . ..

Unless you pay the reasonable costs of storage and advertising, if any, for all the above-described property and take possession of the property which you claim, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 4. Section 715.106, Florida Statutes, is amended to read:

715.106 Form of notice to owner other than former tenant.—

(1) A notice which is in substantially the following form given to a person who is not the former tenant and whom the landlord reasonably believes to be the owner of any of the abandoned personal property satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name). . .
. . .(Address). . .

When . . .(name of former tenant). . . vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

If you own any of this property, you may claim it at . . .(address where property may be claimed). . .. Unless you pay the reasonable costs of storage and advertising, if any, and take possession of the property to which you are entitled, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 5. Subsection (1) of section 715.109, Florida Statutes, is amended to read:

715.109 Sale or disposition of abandoned property.—

(1) If the personal property described in the notice is not released pursuant to s. 715.108, it shall be sold at public sale by competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than *$500* ~~$250~~, she or he may retain such property for her or his own use or dispose of it in any manner she or he chooses. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale. The successful bidder's title is subject to ownership rights, liens, and security interests which have priority by law.

Section 6. *(1) Any member of the United States Armed Forces who is required to move pursuant to permanent change of station orders to depart 35 miles or more from the location of a rental premises or who is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces may terminate his or her rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.*

(2) Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due to the early termination of the tenancy except the liquidated damages provided in this section. If a tenant terminates the rental agreement pursuant to this section 14 or more days prior to occupancy, no damages or penalties of any kind are due.

(3) In consideration of early termination of the rental agreement, the tenant is liable to the landlord for liquidated damages provided the tenant has completed less than 9 months of the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The liquidated damages must be no greater than 1 month's rent if the tenant has completed less than 6 months of the tenancy as of the effective date of termination, or one-half of 1 month's rent if the tenant has completed at least 6 but not less than 9 months of the tenancy as of the effective date of termination.

(4) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances.

Section 7. Subsection (13) is added to section 475.011, Florida Statutes, to read:

475.011 Exemptions.—This part does not apply to:

(13) Any property management firm or any owner of an apartment complex for the act of paying a finder's fee or referral fee to an unlicensed person who is a tenant in such apartment complex provided the value of the fee does not exceed $50 per transaction. Nothing in this subsection authorizes an unlicensed person to advertise or otherwise promote the person's services in procuring or assisting in procuring prospective lessees or tenants of apartment units. For purposes of this subsection, "finder's fee" or "referral fee" means a fee paid, credit towards rent, or some other thing of value provided to a person for introducing or arranging an introduction between parties to a transaction involving the rental or lease of an apartment unit. It is a violation of s. 475.25(1)(h) and punishable under s. 475.42 for a property management firm or any owner of an apartment complex to pay a finder's fee or a referral fee to an unlicensed person unless expressly authorized by this subsection.

Section 8. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, lines 2-13,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to landlord and tenant; amending s. 83.49, F.S.; increasing the time period within which a landlord must notify a tenant of the intention to impose a claim on a security deposit; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending ss. 715.105, 715.106, and 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or

destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; amending s. 475.011, F.S.; providing an additional exemption for certain activities; providing an effective date.

Rep. Haridopolos moved the adoption of the amendment.

On motion by Rep. Haridopolos, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Haridopolos and Miller offered the following:

(Amendment Bar Code: 614151)

Amendment 1 to Amendment 1 (with title amendment)—On page 1, line 17 through page 9 line 4, remove from the bill: all of said lines and

insert:

Section 1. Subsection (3) of section 83.49, Florida Statutes, is amended to read:

83.49 Deposit money or advance rent; duty of landlord and tenant.—

(3)(a) Upon the vacating of the premises for termination of the lease, *if the landlord does not intend to impose a claim on the security deposit,* the landlord shall have 15 days to return the security deposit together with interest if otherwise required, or *the landlord shall have 30 days* ~~in which~~ to give the tenant written notice by certified mail to the tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim. The notice shall contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of . . . . upon your security deposit, due to . . . . . It is sent to you as required by s. 83.49(3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to . . .(landlord's address). . ..

If the landlord fails to give the required notice within the *30-day* ~~15-day~~ period, he or she forfeits the right to impose a claim upon the security deposit.

(b) Unless the tenant objects to the imposition of the landlord's claim or the amount thereof within 15 days after receipt of the landlord's notice of intention to impose a claim, the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages.

(c) If either party institutes an action in a court of competent jurisdiction to adjudicate the party's right to the security deposit, the prevailing party is entitled to receive his or her court costs plus a reasonable fee for his or her attorney. The court shall advance the cause on the calendar.

(d) Compliance with this section by an individual or business entity authorized to conduct business in this state, including Florida-licensed real estate brokers and salespersons, shall constitute compliance with all other relevant Florida Statutes pertaining to security deposits held pursuant to a rental agreement or other landlord-tenant relationship. Enforcement personnel shall look solely to this section to determine compliance. This section prevails over any conflicting provisions in chapter 475 and in other sections of the Florida Statutes, and shall operate to permit licensed real estate brokers to disburse security deposits and deposit money without having to comply with the notice and settlement procedures contained in s. 475.25(1)(d).

Section 2. Subsection (3) of section 83.67, Florida Statutes, is amended to read:

83.67 Prohibited practices.—

(3) No landlord of any dwelling unit governed by this part shall remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; nor shall the landlord remove the tenant's personal property from the dwelling unit unless said action is taken after surrender, abandonment, or a lawful eviction. If provided in the rental agreement or a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord *is not required to comply with s. 715.104 and is* ~~shall~~ not ~~be~~ liable or responsible for storage or disposition of the tenant's personal property; if provided in the rental agreement there *must* ~~shall~~ be printed or clearly stamped on such rental agreement a legend in substantially the following form:

BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON SURRENDER OR ABANDONMENT, AS DEFINED BY *CHAPTER 83,* ~~THE~~ FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.

For the purposes of this section, abandonment shall be as set forth in s. 83.59(3)(c).

Section 3. Section 715.105, Florida Statutes, is amended to read:

715.105 Form of notice to former tenant.—

(1) A notice to the former tenant which is in substantially the following form satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name of former tenant). . .
. . .(Address of former tenant). . .

When you vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

You may claim this property at . . .(address where property may be claimed). . ..

Unless you pay the reasonable costs of storage and advertising, if any, for all the above-described property and take possession of the property which you claim, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 4. Section 715.106, Florida Statutes, is amended to read:

715.106 Form of notice to owner other than former tenant.—

(1) A notice which is in substantially the following form given to a person who is not the former tenant and whom the landlord reasonably believes to be the owner of any of the abandoned personal property satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name). . .
. . .(Address). . .

When . . .(name of former tenant). . . vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

If you own any of this property, you may claim it at . . .(address where property may be claimed). . .. Unless you pay the reasonable costs of storage and advertising, if any, and take possession of the property to which you are entitled, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 5. Subsection (1) of section 715.109, Florida Statutes, is amended to read:

715.109 Sale or disposition of abandoned property.—

(1) If the personal property described in the notice is not released pursuant to s. 715.108, it shall be sold at public sale by competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than *$500* ~~$250~~, she or he may retain such property for her or his own use or dispose of it in any manner she or he chooses. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale. The successful bidder's title is subject to ownership rights, liens, and security interests which have priority by law.

Section 6. *(1)(a) Any member of the United States Armed Forces who is required to move pursuant to permanent change of station orders to depart 35 miles or more from the location of a rental premises or who is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces may terminate his or her rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.*

(b) In the event a member of the United States Armed Forces dies during active duty, an adult member of his immediate family may terminate his rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's Commanding Officer.

(2) Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due to the early termination of the tenancy except the liquidated damages provided in this section. If a tenant terminates the rental agreement pursuant to this section 14 or more days prior to occupancy, no damages or penalties of any kind are due.

(3) In consideration of early termination of the rental agreement, the tenant is liable to the landlord for liquidated damages provided the tenant has completed less than 9 months of the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The liquidated damages must be no greater than 1 month's rent if the tenant has completed less than 6 months of the tenancy as of the effective date of termination, or one-half of 1 month's rent if the tenant has completed at least 6 but not less than 9 months of the tenancy as of the effective date of termination.

(4) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances.

Section 7. Subsection (13) is added to section 475.011, Florida Statutes, to read:

475.011 Exemptions.—This part does not apply to:

(13) Any property management firm or any owner of an apartment complex for the act of paying a finder's fee or referral fee to an unlicensed person who is a tenant in such apartment complex provided the value of the fee does not exceed $50 per transaction. Nothing in this subsection authorizes an unlicensed person to advertise or otherwise promote the person's services in procuring or assisting in procuring prospective lessees or tenants of apartment units. For purposes of this subsection, "finder's fee" or "referral fee" means a fee paid, credit towards rent, or some other thing of value provided to a person for introducing or arranging an introduction between parties to a transaction involving the rental or lease of an apartment unit. It is a violation of s. 475.25(1)(h) and punishable under s. 475.42 for a property management firm or any owner of an apartment complex to pay a finder's fee or a referral fee to an unlicensed person unless expressly authorized by this subsection.

And the title is amended as follows:

On page 9, lines 15 through 30, of the amendment, remove all of said lines and

insert: amending s. 83.49, F.S.; increasing the time period within which a landlord must notify a tenant of the intention to impose a claim on a security deposit; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending ss. 715.105, 715.106, and 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; amending s. 475.011, F.S.; providing an additional exemption for certain activities; providing an effective date.

Rep. Haridopolos moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1865—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for appointment by the Governor; providing an effective date.

—was read the second time by title.

Representative(s) Ball offered the following:

(Amendment Bar Code: 255803)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsections (1), (2), (4), (5), (6), (7), (9), (10), (11), (13), (15), (17), (18), and (20) of section 26.031, Florida Statutes, are amended to read:

26.031 Judicial circuits; number of judges.—The number of circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(1) First	*21* ~~20~~
(2) Second	*15* ~~13~~
(4) Fourth	*31* ~~30~~
(5) Fifth	*23* ~~22~~
(6) Sixth	*40* ~~39~~
(7) Seventh	*23* ~~22~~
(9) Ninth	*36* ~~35~~
(10) Tenth	*20* ~~19~~
(11) Eleventh	*72* ~~71~~
(13) Thirteenth	*36* ~~35~~
(15) Fifteenth	*33* ~~32~~
(17) Seventeenth	*50* ~~49~~
(18) Eighteenth	*23* ~~22~~
(20) Twentieth	*22* ~~21~~

Section 2. Current subsections (5), (6), (16), (29), (36), (48), and (52), of section 34.022, Florida Statutes, are amended, current subsection (13) of said section is renumbered as subsection (43) and amended, and subsections (14) through (43) of said section are renumbered as subsections (13) through (42), respectively, to read:

34.022 Number of county court judges for each county.—The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(5) Brevard	*8* ~~7~~
(6) Broward	*26* ~~25~~
(15)~~(16)~~ Duval	*15* ~~14~~
(28)~~(29)~~ Hillsborough	*15* ~~14~~
(35)~~(36)~~ Lee	*7* ~~6~~
(43)~~(13)~~ *Miami-Dade* ~~Dade~~	41
(48) Orange	*15* ~~14~~
(52) Pinellas	*14* ~~13~~

Section 3. *The judges filling new offices created by this act shall be appointed by the Governor and shall take office for a term beginning on January 2, 2002.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for appointment by the Governor; providing an effective date.

Rep. Goodlette moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1153 was taken up. On motion by Rep. Harrell, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 684, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Health, Aging and Long-Term Care and Senator Cowin and others—

CS for SB 684—A bill to be entitled An act relating to organ transplantation; providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 1153. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Harrell, the rules were waived and CS for SB 684 was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Special Orders

Special Order Calendar

CS/HB 997—A bill to be entitled An act relating to persons with disabilities; creating s. 413.402, F.S.; directing the Florida Association of Centers for Independent Living to develop a personal care attendant pilot program to serve persons with spinal cord injuries; providing for memorandums of understanding with specified entities; providing eligibility for pilot program participation; providing for selection and training of participants and personal care attendants; providing for assessment of participants for work-related training programs; providing for development of a plan for program implementation; requiring a report to the Legislature; providing for implementation on a specified date; directing the Department of Revenue to develop and implement a tax collection enforcement diversion program; providing for coordination with the Florida Association of Centers for Independent Living, the Florida Prosecuting Attorneys Association, and the state attorneys' offices; providing for deposit and use of funds collected; directing the Revenue Estimating Conference to make certain annual projections; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 904033)

Amendment 1 (with title amendment)—On page 4, between lines 26 and 27, of the bill

insert:

Section 3. Section 18 of chapter 99-144, Laws of Florida, is amended to read:

Section 18. From the lump sum appropriated for developmental services in the 1999-2000 General Appropriations Act, the Department

of Children and Family Services shall design a system of providing services for persons with developmental disabilities which provides a consumer-directed, choice-based system. The department shall institute at least one, but not more than three, differently structured pilot programs to test a payment model in which the consumer controls the money that is available for his or her care. The department shall report its progress under this section to the appropriate legislative committees by December 1, 2000, ~~and~~ December 1, 2001*, and December 1, 2002*. This section is repealed July 1, *2003* ~~2002~~, and shall be reviewed by the Legislature prior to that date.

And the title is amended as follows:

On page 1, line 26,

after the semicolon insert: amending s. 18 of ch. 99-144, Laws of Florida; extending repeal date of a developmental disabilities pilot program; requiring an additional report;

Rep. Littlefield moved the adoption of the amendment, which was adopted.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 902433)

Amendment 2—On page 5, line 2, of the bill

after the period insert: *The initial $50,000 from each of the pilot counties deposited with The Florida Endowment Foundation for Vocational Rehabilitation shall be used to repay the $250,000 to the Brain and Spinal Cord Injury Program Trust Fund.*

Rep. Littlefield moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1219—A bill to be entitled An act relating to insurance agents; amending s. 624.318, F.S.; requiring maintenance of separate records relating to insurance products and transactions; amending s. 626.112, F.S.; describing activities which constitute the solicitation of insurance requiring licensure as an insurance agent; prohibiting certain referral payments or receipts of payments; amending s. 626.171, F.S.; revising agent application requirements; amending s. 626.181, F.S.; extending a period of eligibility for reappointment; creating s. 626.202, F.S.; requiring fingerprinting of certain persons; amending s. 626.431, F.S.; extending a period of eligibility for reappointment; amending s. 626.5715, F.S.; applying requirements of the Florida Insurance Code equally to all insurance transactions; creating s. 626.9531, F.S.; requiring identification of insurers, agents, and insurance contracts; amending s. 626.541, F.S.; revising requirements for notification of name and information change; amending s. 626.601, F.S.; deleting a limitation on a confidentiality provision; amending 626.611, F.S.; prohibiting the sale of certain unregistered securities; amending ss. 626.741, 626.792, and 626.835, F.S.; limiting authority of certain nonresident licenses; amending ss. 626.927 and 626.8427, F.S.; revising certain time provisions relating to licensure; amending s. 626.872, F.S.; clarifying a temporary license loss adjustment provision; amending s. 626.856, F.S.; revising a definition; amending s. 626.873, F.S.; clarifying application of certain adjuster provisions; amending s. 626.521, F.S.; revising certain information reporting requirements; amending ss. 648.315, 648.38, and 648.384, F.S.; extending a period of eligibility for reappointment; repealing s. 624.501(11) and (23), F.S., relating to appointment fees for vending machines and health care risk managers; providing an effective date.

—was read the second time by title.

Representative(s) Brown offered the following:

(Amendment Bar Code: 201029)

Amendment 1—On page 4, line 9,
remove from the bill: *has entered into or*

Rep. Brown moved the adoption of the amendment, which was adopted.

Representative(s) Brown offered the following:

(Amendment Bar Code: 935499)

Amendment 2 (with title amendment)—On page 18, lines 30 and 31,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 25. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules shall be based on, consistent with, and not more restrictive than the National Association of Insurance Commissioners' Privacy of Consumer Financial and Health Information Regulation adopted September 26, 2000, by the National Association of Insurance Commissioners, provided, however, the rules shall permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research in accordance with federal law. In addition, these rules shall be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999 (Pub. L. No. 106-102). Any health insurer or health maintenance organization determined by the department to be in compliance with, or to be actively undertaking compliance with, the consumer privacy protection rules promulgated by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, shall be deemed in compliance with this section. This section shall take effect July 1, 2001.

Section 26. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2,
remove from the title of the bill: agents

and insert in lieu thereof: creating s. 626.9651, F.S.; directing the department to adopt rules to govern the use of a consumer's nonpublic personal financial and health information by health insurers and health maintenance organizations; providing standards governing the rules;

Rep. Brown moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Goodlette, the House returned to consideration of HB 1601, which was temporarily postponed earlier today.

HB 1601 was taken up. On motion by Rep. Andrews, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1226, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Commerce and Economic Opportunities and Senator Holzendorf—

CS for SB 1226—A bill to be entitled An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; requiring certain funds to be expended for after-school care programs; prohibiting certain uses of such funds; prescribing eligibility criteria for certain organizations providing such programs; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in

board activities; providing legislative findings and intent; creating the Digital Divide Council in the State Technology Office; specifying membership; providing for terms, filling vacancies, and compensation; providing for council meetings and officers; requiring the State Technology Office to provide administrative and technical support; providing powers and duties of the council; authorizing design and implementation of certain programs; providing program objectives and goals; requiring the council to monitor, review, and assess program performances; requiring reports; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 1601. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Andrews, the rules were waived and CS for SB 1226 was read the second time by title.

Representative(s) Byrd, Jennings, and Melvin offered the following:

(Amendment Bar Code: 902973)

Amendment 1 (with title amendment)—
remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (3) and paragraph (a) of subsection (10) of section 445.004, Florida Statutes, are amended to read:

445.004 Workforce Florida, Inc.; creation; purpose; membership; duties and powers.—

(3)(a) Workforce Florida, Inc., shall be governed by a board of directors, the number of directors to be determined by the Governor, whose membership and appointment must be consistent with Pub. L. No. 105-220, Title I, s. 111(b), and contain one member representing the licensed nonpublic postsecondary educational institutions authorized as individual training account providers, one member from the staffing service industry, *at least one member who is a current or former recipient of welfare transition services as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1),* and five representatives of organized labor who shall be appointed by the Governor. Notwithstanding s. 114.05(1)(f), the Governor may appoint remaining members to Workforce Florida, Inc., from the current Workforce Development Board and the WAGES Program State Board of Directors, established pursuant to chapter 96-175, Laws of Florida, to serve on the reconstituted board. By July 1, 2000, the Workforce Development Board will provide to the Governor a transition plan to incorporate the changes required by this act and Pub. L. No. 105-220, specifying the manner of changes to the board. This plan shall govern the transition, unless otherwise notified by the Governor. The importance of minority, gender, and geographic representation shall be considered when making appointments to the board.

(10) The workforce development strategy for the state shall be designed by Workforce Florida, Inc., and shall be centered around the strategies of First Jobs/First Wages, Better Jobs/Better Wages, and High Skills/High Wages.

(a) First Jobs/First Wages is the state's strategy to promote successful entry into the workforce through education and workplace experience that lead to self-sufficiency and career advancement. The components of the strategy include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. *A minimum of 15 percent of all Workforce Investment Act youth services funds shall be expended for after-school care programs, through contracts with qualified community-based organizations and faith–based organizations, on an equal basis with other private organizations, to provide after-school care programs to eligible children 14 through 18 years of age. These programs shall include academic tutoring, mentoring, and other appropriate services. Similar services may be provided for eligible children 6 through 13 years of age using Temporary Assistance for Needy Families funds. To provide after–school care programs under this paragraph, a community–based organization or a faith–based organization must be a nonprofit organization that holds a current exemption from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code or must be a religious organization that is not required to apply for recognition of its exemption from federal taxation under s. 501(c)(3) of the Internal Revenue Code.*

Section 2. Subsection (1) of section 445.007, Florida Statutes, is amended to read:

445.007 Regional workforce boards.—

(1) One regional workforce board shall be appointed in each designated service delivery area and shall serve as the local workforce investment board pursuant to Pub. L. No. 105-220. The membership of the board shall be consistent with Pub. L. No. 105-220, Title I, s. 117(b), and contain one representative from a nonpublic postsecondary educational institution that is an authorized individual training account provider within the region and confers certificates and diplomas, one representative from a nonpublic postsecondary educational institution that is an authorized individual training account provider within the region and confers degrees, and three representatives of organized labor. Individuals serving as members of regional workforce development boards or local WAGES coalitions, as of June 30, 2000, are eligible for appointment to regional workforce boards, pursuant to this section. *It is the intent of the Legislature that, whenever possible and to the greatest extent practicable, membership of a regional workforce board include persons who are current or former recipients of welfare transition assistance as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1), or that such persons be included as ex officio members of the board or of committees organized by the board.* The importance of minority and gender representation shall be considered when making appointments to the board. If the regional workforce board enters into a contract with an organization or individual represented on the board of directors, the contract must be approved by a two-thirds vote of the entire board, and the board member who could benefit financially from the transaction must abstain from voting on the contract. A board member must disclose any such conflict in a manner that is consistent with the procedures outlined in s. 112.3143.

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; requiring certain funds to be expended for after-school care programs; prescribing eligibility criteria for certain organizations providing such programs; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in board activities; providing an effective date.

Rep. Byrd moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Special Orders

Special Order Calendar

HB 1205 was taken up. On motion by Rep. Diaz-Balart, the rules were waived and SB 708 was substituted for HB 1205. Under Rule 5.15, the House bill was laid on the table and—

SB 708—A bill to be entitled An act relating to education; amending s. 231.40, F.S.; limiting the amount of pay certain employees of district school systems may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; amending s. 231.481, F.S.; limiting the amount of pay certain employees of district school systems may earn for unused vacation leave upon termination of employment; amending s. 240.343, F.S.; limiting the amount of pay certain employees of community college districts may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; providing for payment to the employee's beneficiary under specified conditions; providing an effective date.

—was read the second time by title.

Rep. McGriff moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Rep. Romeo moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Rep. Richardson moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1221—A bill to be entitled An act relating to water resources; amending s. 373.083, F.S.; authorizing water management districts to solicit donations; amending s. 373.085, F.S.; authorizing water management districts to establish permit durations for works connecting to or using the works or land of the district; amending s. 373.093, F.S.; authorizing water management districts to lease certain personal property; creating s. 373.608, F.S.; authorizing water management districts to obtain and enforce patents, copyrights, and trademarks on work products of the district; providing for rules; creating s. 373.610, F.S.; authorizing water management districts to suspend contractors who have defaulted on contracts; providing procedure; providing for rules; creating s. 373.611, F.S.; authorizing water management districts to enter into contracts to limit or alter the measure of damages recoverable from a vendor; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 471365)

Amendment 1 (with title amendment)—On page 2, lines 6 through 27
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 4 through 8
remove from the title of the bill: all of said lines

and insert in lieu thereof: districts to solicit donations; amending s. 373.093, F.S.;

Rep. Cantens moved the adoption of the amendment, which was adopted.

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 371757)

Amendment 2—On page 4, lines 12-26
remove from the bill: all of said lines

and insert in lieu thereof:

373.610 Defaulting vendors and contractors.—

The district may suspend a contractor from doing work with the district, on a temporary or permanent basis, any contractor who has materially breached its contract with the district. The district shall adopt rules to administer the provisions of this section and shall have the authority to amend such rules as it deems appropriate.

Rep. Cantens moved the adoption of the amendment.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 860835)

Substitute Amendment 2—On page 4, lines 12 through 26 of the bill
remove from the bill: all of said lines

and insert in lieu thereof:

373.610 Defaulting vendors and contractors.—The district may suspend a contractor on a temporary or permanent basis, from doing work with the district if such contractor has materially breached its contract with the district. The district shall adopt rules to administer the provisions of this section to specify the circumstances and conditions that constitute a materially breached contract and conditions that constitute the period for temporary or permanent suspension and for reinstatement.

Rep. Cantens moved the adoption of the substitute amendment, which was adopted.

Representative(s) Bennett offered the following:

(Amendment Bar Code: 214439)

Amendment 3 (with title amendment)—On page 5, between lines 3 and 4,

insert:

Section 7. Subsection (7) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District. *Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of three members from Manatee County and three members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ex officio chair designated by the governing board to vote in case of a tie vote.*

And the title is amended as follows:

On page 1, line 21, after the semicolon

insert: amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes;

Rep. Bennett moved the adoption of the amendment, which was adopted.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 800757)

Amendment 4 (with title amendment)—On page 5 between lines 3 and 4

insert:

Section 7. Paragraph (a) of subsection (1) of section 73.015, Florida Statutes, is amended to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(a) *No later than the time the initial written or oral offer of compensation for acquisition is made to the fee owner,* ~~At the inception~~

~~of negotiation for acquisition,~~ the condemning authority must notify the fee owner of the following:

1. That all or a portion of his or her property is necessary for a project.

2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.

3. That, within 15 business days after receipt of a request by the fee owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, and pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.

4. The fee owner's statutory rights under ss. 73.091 and 73.092*, or alternatively provide copies of these provisions of law*.

5. The fee owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4)*, or alternatively provide copies of these provisions of law*.

Section 8. Subsections (1) and (3) of section 270.11, Florida Statutes, are amended to read:

270.11 Contracts for sale of public lands to reserve certain mineral rights; prohibition on exercise of right of entry in certain cases.—

(1) *Unless the applicable agency chooses not to reserve such interest and except* ~~Except~~ as otherwise provided by law, in all contracts and deeds for the sale of land executed by the Board of Trustees of the Internal Improvement Trust Fund or by any local government, water management district, or other agency of the state, there shall be reserved for such local government, water management district, other agency of the state, or the board of trustees and its successors an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half interest in all the petroleum that is or may be in, on, or under said land with the privilege to mine and develop the same.

(3) A local government, water management district, or agency of the state may, at its discretion, sell or release ~~such~~ reserved interest in any parcel of land, except that such sale or release shall be made upon petition of the purchaser for such interest and *with* ~~upon submission by the local government, water management district, or agency of the state which owns the parcel of~~ a statement of reasons justifying such sale or release.

Section 9. Subsection (4) of section 373.056, Florida Statutes, is amended to read:

373.056 State agencies, counties, drainage districts, municipalities, or governmental agencies or public corporations authorized to convey or receive land from water management districts.—

(4) Any water management district within this chapter shall have authority to convey *or lease* to any *governmental entity,* other agency described herein or to the United States Government, including its agencies, land or rights in land owned by such district not required for its purposes under such terms and conditions as the governing board of such district may determine. *In addition to other general law authorizing the grant of utility easements, any water management district may grant utility easements on land owned by such district to any private or public utility for the limited purpose of obtaining utility service to district property under such terms and conditions as the governing board of such district may determine.*

Section 10. Section 373.096, Florida Statutes, is amended to read:

373.096 Releases.—The governing board of the district may release any ~~canal~~ easement, reservation or right-of-way interests, conveyed to it for which it has no present or apparent future use under terms and conditions determined by the board.

Section 11. Subsection (2) of section 373.093, Florida Statutes, is amended to read:

373.093 Lease of lands or interest in land.—The governing board of the district may lease any lands or interest in land, including but not limited to oil and mineral rights, to which the district has acquired title, or to which it may hereafter acquire title in the following manner, as long as the lease is consistent with the purposes for which the lands or any interest in land was acquired:

(2) Before leasing any land, or interest in land including but not limited to oil and mineral rights, the district shall cause a notice of intention to lease to be published in a newspaper published in the county in which said land is situated and such other places as the board may determine once each week for 3 successive weeks (three insertions being sufficient), the first publication of which shall be not less than 30 nor more than *90* ~~45~~ days prior to *the date the board executes the* ~~any~~ lease, which said notice shall set forth the time and place of leasing and a description of the lands to be leased.

Section 12. Subsection (2) and paragraph (a) of subsection (3) of section 373.139, Florida Statutes, are amended to read:

373.139 Acquisition of real property.—

(2) The governing board of the district is empowered and authorized to acquire in fee or less than fee title to real property, ~~and~~ easements *and other interests or rights* therein, by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, conservation and protection of water resources, aquifer recharge, water resource and water supply development, and preservation of wetlands, streams, and lakes. Eminent domain powers may be used only for acquiring real property for flood control and water storage or for curing title defects or encumbrances to real property *owned by the district or* to be acquired *by the district* from a willing seller.

(3) The initial 5-year work plan and any subsequent modifications or additions thereto shall be adopted by each water management district after a public hearing. Each water management district shall provide at least 14 days' advance notice of the hearing date and shall separately notify each county commission within which a proposed work plan project or project modification or addition is located of the hearing date.

(a) ~~Title information,~~ Appraisal reports, offers, and counteroffers are confidential and exempt from the provisions of s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. In the event that negotiation is terminated by the district, the title information, appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding the provisions of this section and s. 259.041, a district and the Division of State Lands may share and disclose title information, appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such title information, appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 259.041, except in those cases in which a district and the division have exercised discretion to disclose such information. *A district may disclose appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the district to work with or on the behalf of or to assist the district in connection with land acquisitions. The third party shall maintain the confidentiality of such information in conformance with this section. In addition, a district may*

use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraisal is reviewed and approved by the district.

Section 13. Section 373.1401, Florida Statutes, is amended to read:

373.1401 Management of lands of water management districts.—*In addition to provisions contained in s. 373.1391(1) for soil and water conservation districts, the* ~~The~~ governing board of each water management district may contract with a *non-governmental person or entity, any* federal or state agency, a county, a municipality, or any other governmental entity*,* or environmental nonprofit organization to provide for the improvement, management, or maintenance of any real property owned by or under the control of the district.

Section 14. Paragraph (a) of subsection (6) of section 374.984, Florida Statutes, is amended to read:

374.984 Purpose; powers and duties.—It is the purpose and intent of this act that the board perform and do all things which shall be requisite and necessary to comply with the requirements and conditions imposed upon a "local interest" by the Congress of the United States in the several acts authorizing and directing the improvement and maintenance of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Dade County. Said acts include but are not limited to: the Rivers and Harbors Act approved January 21, 1927, as amended by the River and Harbor Act approved July 3, 1930; the River and Harbor Act of June 20, 1938; and s. 107 of the Federal River and Harbor Act of 1960. Pursuant thereto, the powers of the board shall include, but not be limited to:

(6)(a) *Contracting directly for, or* entering into agreement from time to time with the district engineer of the Jacksonville, Florida, United States Army Corps of Engineers district, or other *agency or party* ~~duly authorized representative of the United States~~, to contribute toward the cost of dredging performed on the waterway ~~by the United States~~, to construct retaining bulkheads, dikes, and levees, to construct ditches for the control of water discharged by the dredges, and to do all other work and/or things which, in the judgment of the board, shall be proper and necessary to produce economies in meeting the conditions with respect to right-of-way and dredged material management areas imposed upon a "local interest" by the Congress of the United States in the several acts authorizing and directing the improvement, navigability, and maintenance of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Dade County.

And the title is amended as follows:

On page 1, line 21
remove from the title of the bill: all of said line

insert: damages recoverable from a vendor; amending s. 73.015, F.S.; clarifying time-frame for providing specific information to fee-owners; requiring agencies to provide specified portions of statute to fee-owners; amending s. 270.11, F.S.; providing discretion to water management districts, local governments, board of trustees and other state agencies to determine whether to reserve mineral interests when selling lands; clarifying the types of information to be given by land-owner wanting a release of a reservation; amending s. 373.056, F.S.; granting water management districts the authority to grant utility easements on district-owned land for providing utility service; amending s. 373.093, F.S.; granting additional time to water management districts to provide notification before executing lease agreements; amending s. 373.096, F.S.; providing for release of certain easements, reservations, or right-of-way interests; amending s. 373.139, F.S.; authorizing water management districts to cure title defects after a land sale is executed; allowing water management districts to disclose appraisal information, offers and counter offers to third parties working on the district's behalf; allowing third party appraisals to be used under specific circumstances; amending s. 373.1401, F.S.; allowing water management districts to contract with private entities for management, improvement, or maintenance of land held by the districts; providing an

Rep. Cantens moved the adoption of the amendment, which was adopted.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 841563)

Amendment 5 (with title amendment)—On page 5, between lines 3 and 4 of the bill

insert:

Section 7. Section 110.152, Florida Statutes, is amended to read:

110.152 Adoption benefits for state ~~or water management district~~ employees; parental leave.—

(1)(a) Any *full-time or part-time* employee of the state *who is paid from regular salary appropriations and* ~~or of a water management district~~ who adopts a special-needs child, as defined in paragraph (b), is eligible to receive a monetary benefit in the amount of $10,000 per child, $5,000 of which is payable in equal monthly installments over a 2-year period. Any employee of the state ~~or of a water management district~~ who adopts a child *whose permanent custody has been awarded to the Department of Children and Family Services or to a Florida-licensed child-placing agency*, other than a special-needs child as defined in paragraph (b), shall be eligible to receive a monetary benefit in the amount of $5,000 per child, $2,000 of which is payable in equal monthly installments over a 2-year period. *Benefits paid under this subsection to a part-time employee must be prorated based on the employee's full-time-equivalency status at the time of applying for the benefits.*

(b) For purposes of this section, a "special-needs child" is a child whose permanent custody has been awarded to the Department of Children and Family Services or to a Florida-licensed child-placing agency and who is not likely to be adopted because he or she is:

1. Eight years of age or older.

2. A person with a developmental disability.

3. A person with a physical or emotional handicap.

4. Of a minority race or of a racially mixed heritage.

5. A member of a sibling group of any age, provided that two or more members of a sibling group remain together for the purposes of adoption.

(2) An employee of the state ~~or of a water management district~~ who adopts a special-needs child must apply to his or her agency head to obtain the monetary benefit provided in subsection (1). Applications must be on forms approved by the department and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent.

(3) Nothing in this section shall affect the right of any state employee who adopts a special-needs child to receive financial aid for adoption expenses pursuant to s. 409.166 or any other statute that provides financial incentives for the adoption of children.

(4) Any employee of the state ~~or of a water management district~~ who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, shall be granted parental leave for a period not to exceed 6 months as provided in s. 110.221.

Section 8. Section 110.15201, Florida Statutes, is amended to read:

110.15201 Adoption benefits for state ~~or water management district~~ employees; rulemaking authority.—The Department of Management Services may adopt rules to administer the provisions of this act. *Such rules may provide for an application process such as, but not limited to, an open-enrollment period during which employees may apply for monetary benefits as provided in s. 110.152(1).*

Section 9. Paragraph (c) of subsection (2) of section 215.32, Florida Statutes, is amended to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(c)1. The Budget Stabilization Fund shall consist of amounts equal to at least 5 percent of net revenue collections for the General Revenue Fund during the last completed fiscal year. The Budget Stabilization Fund's principal balance shall not exceed an amount equal to 10 percent of the last completed fiscal year's net revenue collections for the General Revenue Fund. As used in this paragraph, the term "last completed fiscal year" means the most recently completed fiscal year prior to the regular legislative session at which the Legislature considers the General Appropriations Act for the year in which the transfer to the Budget Stabilization Fund must be made under this paragraph.

2. By September 15 of each year, the Governor shall authorize the Comptroller to transfer, and the Comptroller shall transfer pursuant to appropriations made by law, to the Budget Stabilization Fund the amount of money needed for the balance of that fund to equal the amount specified in subparagraph 1., less any amounts expended and not restored. The moneys needed for this transfer may be appropriated by the Legislature from any funds.

3. Unless otherwise provided in this subparagraph, an expenditure from the Budget Stabilization Fund must be restored pursuant to a restoration schedule that provides for making five equal annual transfers from the General Revenue Fund, beginning in the fiscal year following that in which the expenditure was made. For any Budget Stabilization Fund expenditure, the Legislature may establish by law a different restoration schedule and such change may be made at any time during the restoration period. Moneys are hereby appropriated for transfers pursuant to this subparagraph.

4. The Budget Stabilization Fund and the Working Capital Fund may be used as revolving funds for transfers as provided in s. 18.125; however, any interest earned must be deposited in the General Revenue Fund.

5. The Comptroller and the Department of Management Services shall transfer funds to water management districts to pay eligible water management district employees for all benefits due under s. 373.6065, as long as funds remain available for the program described under s. 100.152.

Section 10. Section 373.6065, Florida Statutes, is created to read:

373.6065 Adoption benefits for water management district employees.—

(1) Any employee of a water management district is eligible to receive monetary benefits for child adoption to the same extent as is an employee of the state, as described in s. 110.152. The employee shall apply for such benefits pursuant to s. 110.15201

(2) The Comptroller and the Department of Management Services shall transfer funds to water management districts to pay eligible water management district employees for these child adoption monetary benefits in accordance with s. 215.32(1)(c)5., as long as funds remain available for the program described under s. 110.152.

(3) Parental leave for eligible water management district employees shall be provided according to the policies and procedures of the individual water management district in existence at the time eligibility is determined.

(4) Each water management district shall develop means of implementing these monetary adoption benefits for water management district employees, consistent with its current practices. Water management district rules, policies, guidelines, or procedures so implemented will remain valid and enforceable as long as they do not conflict with the express terms of s. 110.152.

And the title is amended as follows:

On page 1 line 21
remove from the title of the bill: all of said line

and insert in lieu thereof: damages recoverable from a vendor; amending s. 110.152, F.S.; specifying employees who are entitled to receive such benefits for adopting a special-needs child; deleting references to water management district employees; prescribing the manner of establishing the amount of such benefits; amending s. 110.15201, F.S.; providing that rules for administering such adoption benefits may provide for an application process; deleting a reference to water management district employees; amending s. 215.32, F.S.; requiring the Comptroller and the Department of Management Services to transfer funds to water management districts to pay monetary benefits to water management district employees; creating s. 373.6065, F.S.; providing child-adoption monetary benefits to water management district employees; providing an

Rep. Littlefield moved the adoption of the amendment, which was adopted.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 854149)

Amendment 6 (with title amendment)—On page 5, between lines 3 and 4 of the bill

insert:

Section 7. Section 373.536, Florida Statutes, is amended to read:

373.536 District budget and hearing thereon.—

(1) *FISCAL YEAR.*—The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year.

(2) BUDGET SUBMITTAL.—The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed *operations* ~~operation~~ and *funding* requirements for the ensuing fiscal year.

(3) BUDGET HEARINGS AND WORKSHOPS; NOTICE.—

(a) Unless alternative notice requirements are otherwise provided by law, notice of all budget hearings conducted by the governing board or district staff must be published in a newspaper of general *paid* circulation in each county in which the district lies not less than 5 days nor more than 15 days before the hearing.

(b) Budget workshops conducted for the public and not governed by s. 200.065 must be advertised in a newspaper of general *paid* circulation in the community or area in which the workshop will occur not less than 5 days nor more than 15 days before the workshop.

(c) The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond September 3 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(g), in a newspaper of general paid circulation in that county. ~~The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve. District administrative and operating expenses must be identified in the budget and allocated among district programs.~~

~~(2) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the requirements of the district.~~

(d)~~(3)~~ As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to ~~finally~~ adopt a *final* budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement *that sets* ~~which shall set~~ forth the tentative budget *in a format meeting the budget summary requirements of s. 129.03(3)(b)* ~~in~~

~~full~~. *The district shall not include expenditures of federal special revenues and state special revenues when preparing the statement required by s. 200.065(3)(l).* The notice and advertisement shall be published in one or more newspapers having a combined general *paid* circulation in *each county* ~~the counties having land~~ in *which* the district *lies*. Districts may include explanatory phrases and examples in budget advertisements published under s. 200.065 to clarify or illustrate the effect that the district budget may have on ad valorem taxes.

(e)~~(4)~~ The hearing *for adoption of* ~~to finally adopt~~ a *final* budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board.

(4) BUDGET CONTROLS.—

(a) The final *adopted* budget for the district will thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board.

(b) The district shall control its budget, at a minimum, by funds and shall provide to the Executive Office of the Governor a description of its budget control mechanisms.

(c) Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including such funds, so long as notice of intention to amend is published *in the notice of the governing board meeting at which the amendment will be considered, pursuant to s. 120.525* ~~one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district~~. The notice shall set forth *a summary of* the proposed amendment ~~and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered~~. However, in the event of a disaster or of an emergency arising to prevent or avert the same, the governing board shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

(5) *TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND APPROVAL.—*

(a) The Executive Office of the Governor is authorized to approve or disapprove, in whole or in part, the budget of each water management district and shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility.

(b) The Executive Office of the Governor and the water management districts shall develop a process to facilitate review and communication regarding water management district budgets, as necessary. Written disapproval of any provision in the tentative budget must be received by the district at least 5 business days prior to the final district budget adoption hearing conducted under s. 200.065(2)(d). If written disapproval of any portion of the budget is not received at least 5 business days prior to the final budget adoption hearing, the governing board may proceed with final adoption. Any provision rejected by the Governor shall not be included in a district's final budget.

(c) Each water management district shall, by August 1 of each year, submit for review a tentative budget to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over water management districts, *as determined by the President of the Senate or Speaker of the House of Representatives as applicable,* the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district.

(d) The tentative budget must set forth the proposed expenditures of the district, to which may be added an amount to be held as reserve. The tentative budget must include, but is not limited to, the following information for the preceding fiscal year and the current fiscal year, and the proposed amounts for the upcoming fiscal year, in a standard format prescribed by the Executive Office of the Governor ~~which is generally consistent with the format prescribed by legislative budget instructions for state agencies and the format requirements of s. 216.031~~:

1. *The estimated amount of funds remaining at the beginning of the fiscal year which have been obligated for the payment of outstanding commitments not yet completed.*

2. The estimated amount of unobligated funds or net cash balance on hand at the beginning of the fiscal year, and the estimated amount of funds to be raised by district taxes or received from other sources to meet the requirements of the district.

3. The millage rates and the percentage increase above the rolled-back rate, together with a summary of the reasons the increase is required, and the percentage increase in taxable value resulting from new construction *within the district.*~~;~~

4.~~2.~~ The *salaries* ~~salary~~ and benefits, expenses, operating capital outlay, number of authorized positions, and other personal services for the following program areas *of the district*~~, including a separate section for lobbying, intergovernmental relations, and advertising~~:

a. Water resource planning and monitoring;

b. Land acquisition, restoration, and public works;

c. Operation and maintenance of works and lands;

d. Regulation;

e. Outreach for which the information provided must contain a full description and accounting of expenditures for water resources education; public information and public relations, including public service announcements and advertising in any media; and lobbying activities related to local, regional, state and federal governmental affairs, whether incurred by district staff or through contractual services; and

f. Management and administration.

~~a. District management and administration;~~

~~b. Implementation through outreach activities;~~

~~c. Implementation through regulation;~~

~~d. Implementation through acquisition, restoration, and public works;~~

~~e. Implementation through operations and maintenance of lands and works;~~

~~f. Water resources planning and monitoring; and~~

~~g. A full description and accounting of expenditures for lobbying activities relating to local, regional, state, and federal governmental affairs, whether incurred by district staff or through contractual services and all expenditures for public relations, including all expenditures for public service announcements and advertising in any media.~~

In addition to the program areas reported by all water management districts, the South Florida Water Management District shall include in its budget document ~~a~~ separate *sections* ~~section~~ on all costs associated with the Everglades Construction Project *and the Comprehensive Everglades Restoration Plan*.

5.~~3.~~ The total *estimated* amount in the district budget for each area of responsibility listed in *subparagraph 4.* ~~paragraph (a)~~ and for water resource development projects identified in the district's regional water supply plans.

~~4. A 5-year capital improvements plan.~~

6.~~5.~~ A description of each new, expanded, reduced, or eliminated program.

~~6. A proposed 5-year water resource development work program, that describes the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised pursuant to s. 373.0361. The work program shall address all the elements of the water resource development component in the district's approved regional water supply plans. The office of the Governor, with the assistance of the department, shall review the proposed work program. The review shall include a written evaluation of its consistency with and furtherance of the district's approved regional water supply plans, and adequacy of proposed expenditures. As part of the review, the Executive Office of the Governor and the department shall afford to all interested parties the opportunity to provide written comments on each district's proposed work program. At least 7 days prior to the adoption of its final budget, the governing board shall state in writing to the Executive Office of the Governor which changes recommended in the evaluation it will incorporate into its work program, or specify the reasons for not incorporating the changes. The office of the Governor shall include the district's responses in the written evaluation and shall submit a copy of the evaluation to the Legislature; and~~

7. The funding sources, including, but not limited to, ad valorem taxes, Surface Water Improvement and Management Program funds, other state funds, federal funds, and user fees and permit fees for each program area.

(e)~~(d)~~ By September 5 of the year in which the budget is submitted, the House and Senate appropriations chairs may transmit to each district comments and objections to the proposed budgets. Each district governing board shall include a response to such comments and objections in the record of the governing board meeting where final adoption of the budget takes place, and the record of this meeting shall be transmitted to the Executive Office of the Governor, the department, and the chairs of the House and Senate appropriations committees.

(f)~~(e)~~ The Executive Office of the Governor shall annually, on or before December 15, file with the Legislature a report that summarizes *its review* ~~the expenditures~~ of the water management *districts' tentative budgets and displays the adopted budget allocations* ~~districts~~ by program area*. The report must identify* ~~and identifies~~ the districts that are not in compliance with the reporting requirements of this section. State funds shall be withheld from a water management district that fails to comply with these reporting requirements.

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(a) Each district must, by the date specified for each item, furnish copies of the following documents to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over the districts, as determined by the President or Speaker as applicable, the secretary of the department, and the governing board of each county in which the district has jurisdiction or derives any funds for the operations of the district;

1. The adopted budget, to be furnished within 10 days after its adoption.

2. A financial audit of its accounts and records, to be furnished within 10 days after its acceptance by the governing board. The audit must be conducted in accordance with the provisions of s. 11.45 and the rules adopted thereunder. In addition to the entities named above, the district must provide a copy of the audit to the Auditor General within 10 days after its acceptance by the governing board.

3. A 5-year capital improvements plan, to be furnished within 45 days after the adoption of the final budget. The plan must include expected sources of revenue for planned improvements and must be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043.

4. A 5-year water resource development work program to be furnished within 45 days after the adoption of the final budget. The program must describe the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised under s. 373.0361. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans. Within 45 days after its submittal, the department shall review the proposed work program and submit its findings, questions, and comments to the district. The review must include a written evaluation of the program's consistency with the furtherance of the district's approved regional water supply plans, and the adequacy of proposed expenditures. As part of the review, the department shall give interested parties the opportunity to provide written comments on each district's proposed work program. Within 60 days after receipt of the department's evaluation, the governing board shall state in writing to the department which changes recommended in the evaluation it will incorporate into its work program or specify the reasons for not incorporating the changes. The department shall include the district's responses in a final evaluation report and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) If any entity listed in paragraph (a) provides written comments to the district regarding any document furnished under this subsection, the district must respond to the comments in writing and furnish copies of the comments and written responses to the other entities.

Section 8. Paragraph (b) of subsection (4) of section 373.079, Florida Statutes, is amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)

(b)1. The governing board of each water management district shall employ an inspector general, who shall report directly to the board. However, the governing boards of the Suwannee River Water Management District and the Northwest Florida Water Management District may jointly employ an inspector general, or provide for inspector general services by interagency agreement with a state agency or water management district inspector general.

2. An inspector general must have the qualifications prescribed and perform the applicable duties of state agency inspectors general as provided in s. 20.055.

~~3. Within 45 days of the adoption of the final budget, the governing board shall submit a 5-year capital improvement plan and fiscal report for the district to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection. The capital improvement plan must include expected sources of revenue for planned improvements and shall be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043. The fiscal report shall cover the preceding fiscal year and shall include a summary statement of the financial operations of the district.~~

Section 9. Section 373.501, Florida Statutes, is amended to read:

373.501 Appropriation of funds to water management districts.—

(1) The department may allocate to the water management districts, from funds appropriated to the department, such sums as may be deemed necessary to defray the costs of the administrative, regulatory, and other activities of the districts. The governing boards shall submit annual budget requests for such purposes to the department, and the department shall consider such budgets in preparing its budget request for the Legislature.

(2) Funds appropriated by the Legislature for the purpose of funding a specific water management district project shall be transferred to the water management district when the proposed project has been reviewed by the secretary of the pertinent state agency and upon receipt of a governing board resolution requesting such funds.

Section 10. Subsection (11) of section 373.59, Florida Statutes, is amended to read:

373.59 Water Management Lands Trust Fund.—

(11) Notwithstanding any provision of this section to the contrary, ~~and for the 2000-2001 fiscal year only,~~ the governing board of a water management district may request, and the Secretary of Environmental Protection shall release upon such request, moneys allocated to the districts pursuant to subsection (8) for ~~the purpose of carrying out the~~ purposes *consistent with the provisions* of s. 373.0361, *s. 373.0831* ~~s. 375.0831~~, s. 373.139, or ss. 373.451-373.4595 and for legislatively authorized land acquisition and water restoration initiatives. No funds may be used pursuant to this subsection until necessary debt service obligations, requirements for payments in lieu of taxes, and land management obligations that may be required by this chapter are provided for. ~~This subsection is repealed on July 1, 2001~~.

Section 11. *Sections 373.507 and 373.589, Florida Statutes, are repealed.*

And the title is amended as follows:

On page 1, line 21
remove from the title of the bill: all of said line

and insert in lieu thereof: damages recoverable from a vendor;amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budget must be sent for review; specifying the contents of the tentative budget; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; amending s. 373.59, F.S.; providing for the transfer of certain funds; amending s. 373.501, F.S.; providing for the release of moneys from the Water Management Lands Trust Fund; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; providing an

Rep. Cantens moved the adoption of the amendment, which was adopted.

On motion by Rep. Cantens, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 711437)

Amendment 7 (with title amendment)—On page 1, line 25,

insert:

Section 1. Paragraph (k) is added to subsection (2) of section 373.1961, Florida Statutes, to read:

373.1961 Water production.—

(2) The Legislature finds that, due to a combination of factors, vastly increased demands have been placed on natural supplies of fresh water, and that, absent increased development of alternative water supplies, such demands may increase in the future. The Legislature also finds that potential exists in the state for the production of significant quantities of alternative water supplies, including reclaimed water, and that water production includes the development of alternative water supplies, including reclaimed water, for appropriate uses. It is the intent of the Legislature that utilities develop reclaimed water systems, where reclaimed water is the most appropriate alternative water supply option, to deliver reclaimed water to as many users as possible through the most cost-effective means, and to construct reclaimed water system infrastructure to their owned or operated properties and facilities where they have reclamation capability. It is also the intent of the Legislature that the water management districts which levy ad valorem taxes for water management purposes should share a percentage of those tax revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies. The Legislature finds that public moneys or services provided to private entities for such uses constitute public purposes which are in the public interest. In order to further the development and use of alternative water supply systems, including reclaimed water systems, the Legislature provides the following:

(k) The Florida Public Service Commission shall allow entities under its jurisdiction constructing alternative water supply facilities, including but not limited to aquifer storage and recovery wells, to recover the full, prudently incurred cost of such facilities through their rate structure. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates.

And the title is amended as follows:

On page 1, line 2,

after the semicolon insert: amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the cost of such facilities through rate structures;

Rep. Cantens moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

HB 1111—A bill to be entitled An act relating to the Spaceport Infrastructure Reinvestment Act; creating said act; providing legislative findings; amending s. 212.20, F.S.; providing that taxes on sales, use, and other transactions collected by dealers conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station on admissions thereto and on sales of tangible personal property at such business shall be separately returned and distributed by the Department of Revenue to the Florida Commercial Space Financing Corporation and used for funding aerospace infrastructure; providing a definition; providing for rules; providing an effective date.

—was read the second time by title.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 754677)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *This act may be cited as the "Aerospace Infrastructure Reinvestment Act."*

Section 2. *The Legislature finds that promoting the growth of the space industry in Florida is a vital component of its overall economic plan and that facilitating additions to aerospace infrastructure will make the state more competitive and promote the retention and growth of space businesses in this state. This act therefore provides for the reinvestment of certain sales tax receipts arising from the presence of the space industry in Florida as a means of providing for that infrastructure growth.*

Section 3. Paragraphs (b) and (e) of subsection (6) of section 212.20, Florida Statutes, are amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter shall be as follows:

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055*, except those distributed under s. 212.20(6)(e)7.c.,* shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(e) The proceeds of all other taxes and fees imposed pursuant to this chapter shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

e. Every dealer conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station and selling admissions to the Kennedy Space Center or Cape Canaveral Air Station, or any part of either, pursuant to a contract with the National Aeronautics and Space Administration or pursuant to a subcontract thereto, shall file returns each month in accordance with this sub-subparagraph. Each such dealer shall file a separate return each month which reports, separately from any other sales and use taxes due pursuant to this chapter, the sale of admissions to the Kennedy Space Center or Cape Canaveral Air Station or any part thereof or to any event held at either location, together with sales at retail of tangible personal property from such fixed place of business, and the taxes collected with respect to such admissions and sales. All amounts due pursuant to this chapter with respect to such transactions shall be timely remitted to the department. The dealer shall simultaneous file a copy of the return with the Florida Commercial Space Financing Corporation and a copy with the director of the Office of Tourism, Trade, and Economic Development, all of which return copies and information therein shall be subject to the same confidentiality provisions as are applicable to returns and information filed with the department pursuant to s. 213.053. Each month the department shall distribute to the Florida Commercial Space Financing Corporation all such proceeds collected and remitted to the department as shown on the returns required by this sub-subparagraph. The funds distributed to the Florida Commercial Space Financing Corporation shall be used solely for funding aerospace infrastructure as defined in this sub-subparagraph. In the event the department collects any additional amounts pursuant to this chapter with respect to any transactions for which a separate return is required by this sub-subparagraph, the proceeds shall, within 30 days following collection, be distributed by the department to the Florida Commercial Space Financing Corporation for the uses specified in this sub-subparagraph. For purposes of this sub-subparagraph, "aerospace infrastructure" means land, buildings and other improvements, fixtures, machinery, equipment, instruments, and software that will improve the state's capability to support, expand, or attract the launch, construction, processing, refurbishment, or manufacturing of rockets, missiles, capsules, spacecraft, satellites, satellite control facilities, ground support equipment and related tangible personal property, launch vehicles, modules, space stations or components destined for space station operation, and space flight research and development facilities, instruments, and equipment, together with any engineering, permitting, and other expenses directly related to such land, buildings, improvements, fixtures, machinery,

equipment, instruments, or software. Nothing in this sub-subparagraph shall be construed as affecting any dealer's liability for other taxes imposed by and due pursuant to this chapter.

8. All other proceeds shall remain with the General Revenue Fund.

Section 4. If section 35 of chapter 2000-260, Laws of Florida, is not repealed by section 58 of said chapter, effective October 1, 2001, paragraphs (b) and (e) of subsection (6) of section 212.20, Florida Statutes, as amended by section 35 of chapter 2000-260, Laws of Florida, are amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055*, except those distributed under s. 212.20(6)(e)7.c.,* shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(e) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

e. Every dealer conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station and selling admissions to the Kennedy Space Center or Cape Canaveral Air Station, or any part of either, pursuant to a contract with the National Aeronautics and Space Administration or pursuant to a subcontract thereto, shall file returns each month in accordance with this sub-subparagraph. Each such dealer shall file a separate return each month which reports, separately from any other sales and use taxes due pursuant to this chapter, the sale of admissions to the Kennedy Space Center or Cape Canaveral Air Station or any part thereof or to any event held at either location, together with sales at retail of tangible personal property from such fixed place of business, and the taxes collected with respect to such admissions and sales. All amounts due pursuant to this chapter with respect to such transactions shall be timely remitted to the department. The dealer shall simultaneously file a copy of the return with the Florida Commercial Space Financing Corporation and a copy with the director of the Office of Tourism, Trade, and Economic Development, all of which return copies and information therein shall be subject to the same confidentiality provisions as are applicable to returns and information filed with the department pursuant to s. 213.053. Each month the department shall distribute to the Florida Commercial Space Financing Corporation all such proceeds collected and remitted to the department as shown on the returns required by this sub-subparagraph. The funds distributed to the Florida Commercial Space Financing Corporation

shall be used solely for funding aerospace infrastructure as defined in this sub-subparagraph. In the event the department collects any additional amounts pursuant to this chapter with respect to any transactions for which a separate return is required by this sub-subparagraph, the proceeds shall, within 30 days following collection, be distributed by the department to the Florida Commercial Space Financing Corporation for the uses specified in this sub-subparagraph. For purposes of this sub-subparagraph, "aerospace infrastructure" means land, buildings and other improvements, fixtures, machinery, equipment, instruments, and software that will improve the state's capability to support, expand, or attract the launch, construction, processing, refurbishment, or manufacturing of rockets, missiles, capsules, spacecraft, satellites, satellite control facilities, ground support equipment and related tangible personal property, launch vehicles, modules, space stations or components destined for space station operation, and space flight research and development facilities, instruments, and equipment, together with any engineering, permitting, and other expenses directly related to such land, buildings, improvements, fixtures, machinery, equipment, instruments, or software. Nothing in this sub-subparagraph shall be construed as affecting any dealer's liability for other taxes imposed by and due pursuant to this chapter.

8. All other proceeds shall remain with the General Revenue Fund.

Section 5. *The Department of Revenue is authorized to promulgate rules implementing the provisions of this act.*

Section 6. This act shall take effect July 1, 2001, and be applicable to taxes due on or after that date.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Aerospace Infrastructure Reinvestment Act; creating said act; providing legislative findings; amending s. 212.20, F.S.; providing that the amounts due under the chapter on sales, use, and other transactions collected by dealers conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station on admissions thereto and on sales of tangible personal property at such business shall be separately returned and distributed by the Department of Revenue to the Florida Commercial Space Financing Corporation and used for funding aerospace infrastructure; providing an exemption for the reallocation of certain proceeds to the Discretionary Sales Surtax Clearing Trust Fund; providing a definition; providing for rules; providing an effective date.

Rep. Allen moved the adoption of the amendment.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 162333)

Amendment 1 to Amendment 1—On page 2, line 7, and

On page 7, line 26
remove from the amendment: *s. 212.20(6)(e)7.c.*

and insert in lieu thereof: *s. 212.20(6)(e)7.e.*

Rep. Allen moved the adoption of the amendment to the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 260763)

Amendment 2 to Amendment 1—On page 6, line 6
remove from the amendment: *simultaneous*

and insert in lieu thereof: *simultaneously*

Rep. Allen moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 7 was taken up. On motion by Rep. Heyman, SB 130 was substituted for HB 7. Under Rule 5.15, the House bill was laid on the table and—

SB 130—A bill to be entitled An act relating to eminent domain; amending s. 166.411, F.S.; authorizing municipalities to exercise the power of eminent domain for public school purposes; providing for future repeal; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 19—A bill to be entitled An act relating to the Fair Housing Act; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from said act with respect to familial status for housing for older persons shall register with the Florida Commission on Human Relations and affirm compliance with specified requirements; providing for a registration fee; providing for fines; amending s. 760.31, F.S.; providing for rules; providing an effective date.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 205781)

Amendment 1 (with title amendment)—On page 1, line 15,

insert:

Section 1. Paragraph (d) of subsection (2) and subsection (11) of section 420.5092, Florida Statutes, are amended to read:

420.5092 Florida Affordable Housing Guarantee Program.—

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

(d) "Eligible housing" means any real and personal property designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for homeownership or rental for eligible persons*, including specifically housing for the homeless,* as determined by the corporation pursuant to rule.

(11) The maximum total amount of revenue bonds that may be issued by the corporation pursuant to subsection (5) is *$400* ~~$200~~ million.

And the title is amended as follows:

On page 1, lines 2-5 ,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to housing; amending s. 420.5092, F.S.; including housing for the homeless in eligible housing under the Florida Affordable Housing Guarantee Program; increasing the maximum amount of revenue bonds that may be issued by the Florida Housing Finance Corporation under said program; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status

Rep. Greenstein moved the adoption of the amendment, which was adopted.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 114581)

Amendment 2 (with title amendment)—On page 1, line 15,

insert:

Section 1. Paragraph (a) of subsection (1) of section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program.—There is created the Florida Homeownership Assistance Program for the purpose of assisting low-income persons in purchasing a home by reducing the

cost of the home with below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the purchaser. Loans shall be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold or transferred.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families ~~who are eligible to participate in the corporation's single-family mortgage revenue bond programs and~~ who have incomes that do not exceed 80 percent of the state or local median income, whichever is greater, adjusted for family size. ~~If the corporation determines that there is insufficient demand for such loans by persons or families who are eligible to participate in the corporation's single-family mortgage revenue bond programs, the corporation may make such mortgage loans to other persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater.~~

And the title is amended as follows:

On page 1, lines 2-5,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to housing; amending s. 420.5088, F.S.; revising eligibility requirements for certain loans under the Florida Homeownership Assistance Program; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status

Rep. Greenstein moved the adoption of the amendment, which was adopted.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 523251)

Amendment 3 (with title amendment)—On page 1, line 15,

insert:

Section 1. Subsections (15) and (19) of section 420.503, Florida Statutes, are amended to read:

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

(15) "Elderly" means persons 62 years of age or older. *This definition shall not be deemed to prohibit housing from being deemed housing for the elderly as defined by subsection (19) if such housing otherwise meets the requirements of subsection (19).*

(19) "Housing for the elderly" means, for purposes of s. 420.5087(3)(c)2., any nonprofit housing community that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that is subject to income limitations established by the United States Department of Housing and Urban Development, or any program funded by the Rural Development Agency of the United States Department of Agriculture and subject to income limitations established by the United States Department of Agriculture. A project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as housing for the elderly for purposes of s. 420.5087(3)(c)2. *and for purposes of any loans made pursuant to s. 420.508.* In addition, if the corporation adopts a qualified allocation plan pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any other rules that prioritize projects targeting the elderly for purposes of allocating tax credits pursuant to s. 420.5099 or for purposes of the HOME program under s. 420.5089, a project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as a project targeted for the elderly, if the project satisfies the other requirements set forth in this part.

And the title is amended as follows:

On page 1, lines 2-5,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to housing; amending s. 420.503, F.S.; revising the definitions of "elderly" and "housing for the elderly" under the Florida Housing Finance Corporation Act; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status

Rep. Greenstein moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1223—A bill to be entitled An act relating to plans review and inspection of commercial buildings; amending ss. 471.015 and 481.213, F.S.; requiring the Board of Professional Engineers and the Board of Architecture and Interior Design to establish by rule qualifications for certifying professional engineers and licensed architects, respectively, as commercial building inspectors; requiring the boards to also establish minimum qualifications for authorized representatives of commercial building inspectors; amending ss. 471.045 and 481.222, F.S.; allowing professional engineers and licensed architects certified as commercial building inspectors to perform certain building code inspection services; providing for the conduct and applicability of complaint and disciplinary provisions; prohibiting plans review or building code inspection on certain projects; creating s. 553.791, F.S.; providing requirements for plans review and inspection of commercial buildings by commercial building inspectors; providing definitions; providing for inspection records and certificates of compliance; providing for resolution of disagreements; providing requirements for local enforcement agencies; providing for initiation of disciplinary proceedings; requiring certain minimum liability coverage; providing an effective date.

—was read the second time by title.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 345401)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *The Building Construction Permitting and Inspection Task Force is hereby created to recommend a procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property, and the appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.*

(1) The task force shall be composed of 10 members, as follows:

(a) The Building Officials Association of Florida shall designate four members;

(b) The Associated General Contractors of florida shall designate one member;

(c) The Florida Home Builders Association shall designate one member;

(d) The Florida Engineering Society shall designate one member;

(e) The Florida Association of the American Institute of Architects shall designate one member;

(f) The Florida Building Commission shall designate two members, one member to be a building official or inspector, and one to be a contractor, architect, or engineer.

(2) The task force shall meet at least four times prior to January 1, 2002. Members may participate in any meeting via telephone conference.

Members shall serve on a voluntary basis, without compensation and without reimbursement for per diem and travel expenses.

(3) The task force shall examine the various processes used by local building officials throughout the state in conducting plans review for the construction, alteration, repair, or improvement of real property, and approving building permit applications, as well as those processes used by local building officials in conducting required inspections for construction, alteration, repair, or improvement of real property, and issuing certificates of occupancy. The task force shall make recommendations on the following:

(a) A procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property; and

(b) The appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.

(4) The task force shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate, by January 1, 2002, a report presenting the task force's recommendations and findings.

(5) The Florida Building Commission shall provide logistical and staff support for the task force.

Section 2. This act shall take effect upon becoming law.

And the title is amended as follows:

On page 1, lines 2-31,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to construction permitting and inspection; creating the Building Construction Permitting and Inspection Task Force; providing responsibilities; providing for appointment of members; providing for meetings and staffing by the Florida Building Commission; providing for recommendations and a report by a date certain; providing an effective date.

Rep. Cantens moved the adoption of the amendment.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 221899)

Amendment 1 to Amendment 1 (with title amendment)—
Remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. *The Florida Building Commission shall convene an ad hoc subcommittee to recommend a procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property, and the appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.*

(1) The ad hoc committee shall be composed of 11 members appointed by the Chairman of the Commission who shall meet the following qualifications:

(a) Five members from the Building Officials Association of Florida;

(b) Two members from the Associated General Contractors of Florida;

(c) One member from the Florida Homebuilders Association;

(d) One member from the Florida Engineering Society;

(e) One member from the American Institute of Architects;

(f) One Insurance Industry Representative;

(2) The ad hoc subcommittee shall meet at least four times prior to January 1, 2002. Members may participate in any meeting via telephone conference if the technology is available at the meeting location. Members shall serve on a voluntary basis, without compensation and without reimbursement of per diem and travel expenses.

(3) The ad hoc subcommittee shall examine the various processes used by local building officials throughout the state in conducting plans review for the construction, alteration, repair, or improvement of real property, and approving building permit applications, as well as those processes used by local building officials in conducting required inspections for construction, alteration, repair, or improvement of real property, and issuing certificates of occupancy. The ad hoc subcommittee shall make recommendations on the following:

(a) A procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property; and

(b) The appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.

(4) The ad hoc subcommittee shall submit to the Florida Building Commission its recommendations and findings by January 1, 2002. The Commission shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate, before the beginning of the next regularly scheduled session, a report of its findings, which shall include the recommendations of the ad hoc committee.

(5) The Department of Community Affairs shall provide logistical and staff support for the ad hoc subcommittee.

Section 2. This act shall take effect upon becoming law.

And the title is amended as follows:

On page 1, lines 2-31 of the amendment
remove: all of said lines

and insert in lieu thereof: An act relating to construction permitting and inspection; requiring the Florida Building Commission to convene an ad hoc subcommittee to make recommendations regarding alternative plans review and inspection procedures; requiring a report; providing responsibilities; providing for appointment of members; providing for meetings and staffing by the Florida Building Commission; providing for recommendations and a report by a date certain; providing an effective date.

Rep. Cantens moved the adoption of the amendment to the amendment, which was adopted.

On motion by Rep. Cantens, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 310157)

Amendment 2 to Amendment 1—On page 1, lines 26, through page 2, line 9,
remove from the amendment: all of said lines

and insert in lieu thereof:

(1) The task force shall be composed of 11 members, appointed as follows:

(a) The Building Officials Association of Florida shall appoint four members;

(b) The Associated General Contractors of Florida shall appoint one member;

(c) The Florida Home Builders Association shall appoint one member;

(d) The Florida Engineering Society shall appoint one member;

(e) The Florida Association of the American Institute of Architects shall appoint one member;

(f) The Florida Building Commission shall appoint two members, one member to be a building official or inspector, and one to be a contractor, architect, or engineer.

(g) The Florida Insurance Council shall appoint one member.

Rep. Cantens moved the adoption of the amendment to the amendment.

On motion by Rep. Cantens, further consideration of **Amendment 2 to Amendment 1** was temporarily postponed under Rule 11.10.

Reconsideration

On motion by Rep. Cantens, the House reconsidered the vote by which **Amendment 1 to Amendment 1** was adopted. The question recurred on the adoption of the amendment to the amendment, which failed of adoption.

The question recurred on the adoption of **Amendment 2 to Amendment 1**, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 157—A bill to be entitled An act relating to motor vehicle airbags; creating s. 860.146, F.S.; prohibiting the installation or reinstallation in a motor vehicle of anything other than a new or salvaged airbag designed in accordance with certain federal safety standards; providing a felony penalty; providing for application of certain recordkeeping requirements and penalties; providing an effective date.

—was read the second time by title.

On motion by Rep. Weissman, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Weissman offered the following:

(Amendment Bar Code: 525181)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

insert:

Section 1. Section 860.146, Florida Statutes, is created to read:

860.146 Fake airbags; junk-filled airbag compartment.—

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

(a) "Fake airbag" means any item other than an air bag that was designed in accordance with federal safety regulations for a given make, model, and year of motor vehicle as part of a motor vehicle inflatable restraint system.

(b) "Junk-filled airbag compartment" means an airbag compartment that is filled with any substance that does not function in the same manner or to the same extent as an airbag to protect vehicle occupants in a vehicle crash. The term does not include a compartment from which an airbag has deployed if there is no concealment of the deployment.

(2) It is unlawful for anyone to knowingly purchase, sell, or install on any vehicle any fake airbag or junk-filled airbag compartment. Any person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: The entire title

and insert: A bill to be entitled An act relating to Motor Vehicles; creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties; providing an effective date.

Rep. Weissman moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 285 was taken up. On motion by Rep. Wilson, the rules were waived and SB 226 was substituted for HB 285. Under Rule 5.15, the House bill was laid on the table and—

SB 226—A bill to be entitled An act relating to prisons; creating the "Protection Against Sexual Violence in Florida Jails and Prisons Act"; amending s. 944.35, F.S.; requiring the Criminal Justice Standards and Training Commission to develop a course relating to sexual assault identification and prevention as part of the correctional-officer training program; creating s. 951.221, F.S.; prohibiting sexual misconduct by employees of county or municipal detention facilities; providing for termination of employment under certain circumstances; providing penalties; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Benson, consideration of **HB 805** was temporarily postponed under Rule 11.10.

HB 349 was taken up. On motion by Rep. Gannon, the rules were waived and CS for CS for SB 400 was substituted for HB 349. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 400—A bill to be entitled An act relating to support of dependents; amending s. 827.06, F.S.; providing alternative punishment for nonsupport of dependents; providing a felony penalty for fourth or subsequent violations; providing for the amount of restitution due; providing requirements with respect to certain evidence; providing for satisfaction of the element of notice under certain circumstances; providing an effective date.

—was read the second time by title.

Representative(s) Gannon offered the following:

(Amendment Bar Code: 930887)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 827.06, Florida Statutes, is amended to read:

827.06 ~~Persistent~~ Nonsupport *of dependents*.—

(1) The Legislature finds that most noncustodial parents want to support their children and remain connected to their families. The Legislature also finds that while many noncustodial parents lack the financial resources and other skills necessary to provide that support, a small percentage of such parents willfully fail to provide support to their children even when they are aware of the obligation and have the ability to do so pursuant to s. 61.30. The Legislature further finds that existing statutory provisions for civil enforcement of support have not proven sufficiently effective or efficient in gaining adequate support for all children. Recognizing that it is the public policy of this state that children shall be maintained primarily from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs, it is the intent of the Legislature that the criminal penalties provided for in this section are to be pursued in all appropriate cases where exhaustion of appropriate civil enforcement has not resulted in payment.

(2) ~~(1)~~ Any person who, after notice *as specified in subsection (6), and who has been previously adjudged in contempt for failure to comply with a support order, willfully* fails to provide support which he or she *has the ability* ~~is able~~ to provide to *a child* ~~children~~ or *a* spouse whom the person knows he or she is legally obligated to support *commits*~~, and over whom~~

~~no court has jurisdiction in any proceedings for child support or dissolution of marriage, shall be guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *In lieu of any punishment imposed pursuant to s. 775.082 or s. 775.083, any person who is convicted of a violation of this subsection shall be punished:*

(a) By a fine to be paid after restitution for:

1. Not less than $250 nor more than $500 for a first conviction.

2. Not less than $500 nor more than $750 for a second conviction.

3. Not less than $750 nor more than $1,000 for a third conviction; and

(b) By imprisonment for:

1. Not less than 15 days nor more than 1 month for a first conviction.

2. Not less than 1 month nor more than 3 months for a second conviction.

3. Not less than 3 months nor more than 6 months for a third conviction.

(3) Any person who is convicted of a fourth or subsequent violation of subsection (2) or who violates subsection (2) and who has owed to that child or spouse for more than 1 year support in an amount equal to or greater than $5,000 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Upon a conviction under this section, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(5)(a) Evidence that the defendant willfully failed to make sufficient good faith efforts to legally acquire the resources to pay legally ordered support may be sufficient to prove that he or she had the ability to provide support but willfully failed to do so, in violation of this section.

(b) The element of knowledge may be proven by evidence that a court or tribunal as defined by s. 88.1011(22) has entered an order that obligates the defendant to provide the support.

(6) ~~(2)~~ Prior to commencing prosecution under this section, the state attorney must *notify* ~~advise~~ the person responsible for support by certified mail, return receipt requested, that a prosecution under this section will be commenced against him or her unless the person *pays the total unpaid support obligation* ~~makes such delinquent support payments~~ or provides a satisfactory explanation as to why he or she has not made such payments.

Section 2. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 2,
remove from the title of the bill: all of said lines

and insert in lieu thereof:

An act relating to support of dependents; amending s. 827.06, F.S.; providing alternative punishment for nonsupport of dependents; providing a felony penalty for fourth or subsequent violations; providing for the amount of restitution due; providing requirements with respect to certain evidence; providing for satisfaction of the element of notice under certain circumstances; providing an effective date.

Rep. Gannon moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 109 was taken up. On motion by Rep. Cantens, the rules were waived and CS for SB 94 was substituted for CS/CS/HB 109. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 94—A bill to be entitled An act relating to consumer collection practices; amending s. 559.72, F.S.; prohibiting certain communications with a debtor who is represented by an attorney; prohibiting the causing of charges to be made to a debtor; amending s. 559.77, F.S.; revising civil remedies for engaging in prohibited collection practices; providing for damages in class actions; prescribing circumstances under which liability does not attach; providing a limitation on bringing an action for a remedy for unlawful collection practices; providing for application of federal precedent regarding corresponding federal laws; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 375 was taken up. On motion by Rep. Ausley, the rules were waived and SB 338 was substituted for HB 375. Under Rule 5.15, the House bill was laid on the table and—

SB 338—A bill to be entitled An act relating to criminal justice; providing a short title; amending s. 782.04, F.S.; making it a capital felony to commit the unlawful killing of a human being while perpetrating or attempting to perpetrate the act of resisting an officer with violence to the officer's person; providing penalties for specified murders involving the perpetration of or the attempt to perpetrate the act of resisting an officer with violence to the officer's person; amending s. 775.0823, F.S.; correcting sentencing references; reenacting ss. 782.051, 903.133, 921.0022(3)(h) and (i), and 947.146(3)(i), F.S., relating to attempted felony murder, relating to bail on appeal prohibited for certain felony convictions, relating to the Criminal Punishment Code offense severity ranking chart, and relating to the Control Release Authority; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 575—A bill to be entitled An act relating to filing fees; amending s. 15.16, F.S.; authorizing the Department of State to discount certain filing fees under certain circumstances; amending s. 607.193, F.S.; providing an exception to imposition of a late charge for a supplemental corporate fee under certain circumstances; providing an effective date.

—was read the second time by title.

On motion by Rep. Baker, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Baker offered the following:

(Amendment Bar Code: 145035)

Amendment 1—On page 1, lines 13-22,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 1. Subsection (8) is added to section 15.16, Florida Statutes, to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(8) The Department of State may use government or private sector contractors in the promotion or provision of any electronic filing services and may discount the filing fee in an amount equal to the convenience charge for such electronic filings.

Rep. Baker moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 423 was taken up. On motion by Rep. Greenstein, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 350, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Children and Families and Senators Dawson, Miller, Mitchell and Lawson—

CS for SB 350—A bill to be entitled An act relating to individual development accounts; providing purposes; providing definitions; requiring the Department of Children and Family Services to amend the Temporary Assistance for Needy Families State Plan to provide for use of funds for individual development accounts; specifying criteria and requirements for contributions to such accounts; specifying purposes for use of such accounts; providing for procedures for withdrawals from such accounts; specifying certain organizations to act as fiduciary organizations for certain purposes; providing for controlling the withdrawal of funds for uses other than qualified purposes; providing for resolution of certain disputes; providing for transfer of ownership of such accounts under certain circumstances; providing for establishment of such accounts by certain financial institutions under certain circumstances; providing requirements; providing that account funds and matching funds do not affect certain program eligibility; providing for rules; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 423. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Greenstein, the rules were waived and CS for SB 350 was read the second time by title.

THE SPEAKER IN THE CHAIR

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Special Orders

Special Order Calendar

HB 731—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing exemptions from public records requirements for specified identifying information relating to local government or water management district human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers and their spouses and children; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

Representative(s) Smith offered the following:

(Amendment Bar Code: 110441)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (i) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(3)

(i)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from the provisions of subsection (1). The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from subsection (1). The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1). The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. ~~The home addresses and home telephone numbers of county and municipal code inspectors and code enforcement officers are confidential and exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.~~

2. The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

3. The home addresses, telephone numbers, social security numbers, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

4.~~2.~~ An agency that is the custodian of the personal information specified in subparagraph 1.*, subparagraph 2., or subparagraph 3.* and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1.*, subparagraph 2., or subparagraph 3.* shall maintain the confidentiality of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for confidentiality to the custodial agency.

Section 2. *The Legislature finds that the exemption from public records requirements provided by this act for identifying information*

relating to current and former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of local government agencies or water management districts and their families is justified because, if such information were not confidential, a human resource, labor relations, or employee relations director, assistant director, manager, or assistant manager or such person's family could be harmed or threatened with harm by a current or former employee or a friend or family member of a current or former employee.

Section 3. *The Legislature finds that the exemption from public records requirements provided for by this act for identifying information relating to current and former code enforcement officers and their families is a public necessity. The current exemption of names and addresses has not completely shielded the identities of county and municipal code enforcement officers. The responsibilities of these employees regularly take them into areas of neglect, abuse, and personal danger. Citations issued in response to violations that they encounter often lead to retribution by the offenders. Their personnel files are reviewed on numerous occasions by code violators seeking information relating to the code enforcement officers and their families. The disclosure of this personal information has led to threats, acts of violence, and unwarranted risk to the officers and their families.*

Section 4. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, lines 10 and 11,
remove from the title of the bill: all of said lines

and insert in lieu thereof: expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity;

Rep. Smith moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Motions Relating to Committee or Council References

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 509 was withdrawn from the Procedural & Redistricting Council and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 933 was withdrawn from the Committee on State Administration and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1519 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1699 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1823 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1265 was withdrawn from the Committee on General Government Appropriations and the Council for Ready Infrastructure and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 135 was withdrawn from the Council for Lifelong Learning and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1101 was withdrawn from the Council for Ready Infrastructure and placed on the Calendar of the House.

Motion

On motion by Rep. Goodlette, the rules were waived and **CS/HB 459, HBs 567, 1017, 1169, 1365, CS/HB 1385, HBs 1471,** and **1789** were added to the Special Order Calendar.

Special Orders

Special Order Calendar

HB 1491—A bill to be entitled An act relating to wastewater sludge; creating the "Florida Wastewater Residual Reduction Act"; providing for appropriate disposal and treatment of wastewater sludge; providing fee incentives for utilities using appropriate treatment; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 400573)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (c) of subsection (3) of section 373.4595, Florida Statutes, is amended to read:

373.4595 Lake Okeechobee Protection Program.—

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

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

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the coordinating agencies during any best management

practice reevaluation performed pursuant to sub-subparagraph d. The department shall use best professional judgment in making the initial determination of best management practice effectiveness.

a. As provided in s. 403.067(7)(d), by October 1, 2000, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices, conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee phosphorus load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices for the purpose of adoption of such practices by rule.

b. Where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate compliance with the district's WOD program by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management practices adopted by rule of the Department of Agriculture and Consumer Services shall be subject to the provisions of s. 403.067(7). The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds.

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

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

2. Nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the department and the district shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the department and the district during any best management practice reevaluation performed pursuant to sub-subparagraph d.

a. The department and the district are directed to work with the University of Florida's Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067(7)(c), by January 1, 2001, the department, in consultation with the district and affected parties, shall develop interim measures, best management practices, or other measures necessary for Lake Okeechobee phosphorus load reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The department, the district, and affected parties shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices. The district shall adopt technology-based standards under the district's WOD program for nonagricultural nonpoint sources of phosphorus.

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

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

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

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

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

5.*(a)* The department shall require all entities disposing of domestic wastewater residuals within the Lake Okeechobee watershed to develop and submit to the department by July 1, 2001, an agricultural use plan that limits applications based upon phosphorus loading. Phosphorus loading originating from these application sites shall not exceed the limits established in the district's WOD program.

(b) Private and government-owned utilities within Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry and Glades counties that dispose of wastewater residual sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater residual treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of critical economic concern pursuant to s. 288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and shall not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the County Commission or their designated assignee in the county in which the alternative method treatment facility is located. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee shall not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using the provisions of this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater residuals including any treatment technology that helps reduce the volume of residuals that require final disposal, but such proceeds shall not be used for transportation or shipment costs for disposal or any costs relating to the land application of residuals in the Lake Okeechobee watershed.

6. By July 1, 2001, the Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop conservation or nutrient management plans that limit application, based upon phosphorus loading. Such rules may include criteria and

thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirements.

7. Prior to authorizing a discharge into works of the district, the district shall require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loading over that of existing land uses.

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

Section 2. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, lines 2 through 7
remove from the title of the bill:

and insert in lieu thereof: An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing an effective date.

Rep. Attkisson moved the adoption of the amendment.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 773343)

Amendment 1 to Amendment 1—On page 7, line 16,

after "*located.*" insert:
The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected county commission, the Public Service Commission will provide assistance in establishing the fee.

Rep. Attkisson moved the adoption of the amendment to the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 110193)

Amendment 2 to Amendment 1 (with title amendment)—On page 7, between lines 30 and 31, of the amendment

insert:

c. No less than once every 3 years, the Public Service Commission or the county commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Public Service Commission or the county commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Public Service Commission or the county commission shall, within 120 days of completion of an audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the commissions of the counties set forth in sub-subparagraph 5.b. The books and records, of any facilities receiving compensation from an environmental protection disposal fee, shall be open to the Public Service Commission and the Auditor General for review upon request.

And the title is amended as follows:

On page 9, line 2, of the amendment

after the semicolon, insert: requiring an audit of certain treatment facilities; requiring a report to the Legislature;

Rep. Attkisson moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 617—A bill to be entitled An act relating to youthful offenders; amending s. 944.1905, F.S.; requiring that certain inmates who are less than a specified age be placed in specific correctional facilities and housed in separate dormitories; requiring that the Department of Corrections report to the Legislature on its compliance with the requirements for housing youthful offenders; requiring that certain inmates who are less than a specified age and who have no prior juvenile adjudication be placed in facilities for youthful offenders; providing for the reassignment of an inmate to the general population if the inmate threatens the safety of other inmates or the correctional staff; providing an effective date.

—was read the second time by title.

Representative(s) Harper offered the following:

(Amendment Bar Code: 793979)

Amendment 1 (with title amendment)—
remove from the bill: Everything after the enacting Clause

insert:

Section 1. Subsection (5) is added to section 944.1905, Florida Statutes, to read:

944.1905 Initial inmate classification; inmate reclassification.—The Department of Corrections shall classify inmates pursuant to an objective classification scheme. The initial inmate classification questionnaire and the inmate reclassification questionnaire must cover both aggravating and mitigating factors.

(5)(a) Notwithstanding any other provision of this section, the department shall assign to specific correctional facilities all inmates who are less than 18 years of age and who are not eligible for and have not been assigned to a facility for youthful offenders. Any such inmate who is less than 18 years of age shall be housed in a dormitory that is separate from inmates who are 18 years of age or older. Furthermore, the department shall provide any food service, education, and recreation for such inmate separately from inmates who are 18 years of age or older. The department shall report to the Legislature on compliance with this paragraph by April 1, 2002.

(b) Notwithstanding the requirements of s. 958.11, any inmate who is less than 18 years of age, who was 15 years of age or younger at the time of his or her offense, and who has no prior juvenile adjudication must be placed in a facility for youthful offenders until the inmate is 18 years of age. At the discretion of the department, such an inmate may be placed in a facility for youthful offenders until the inmate is 21 years of age.

(c) Any inmate who is assigned to a facility under paragraph (a) or paragraph (b) shall be removed and reassigned to the general inmate population if his or her behavior threatens the safety of other inmates or correctional staff.

Section 2. Subsection (5) of section 921.0021, Florida Statutes, is amended to read:

921.0021 Definitions.—As used in this chapter, for any felony offense, except any capital felony, committed on or after October 1, 1998, the term:

(5) "Prior record" means a conviction for a crime committed by the offender, as an adult or a juvenile, prior to the time of the primary offense. Convictions by federal, out-of-state, military, or foreign courts, and convictions for violations of county or municipal ordinances that incorporate by reference a penalty under state law, are included in the offender's prior record. Convictions for offenses committed by the offender more than 10 years before the primary offense are not included in the offender's prior record if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense. Juvenile dispositions of offenses committed by the offender within *5* ~~3~~ years before the primary offense

are included in the offender's prior record when the offense would have been a crime had the offender been an adult rather than a juvenile. Juvenile dispositions of sexual offenses committed by the offender which were committed *5* ~~3~~ years or more before the primary offense are included in the offender's prior record if the offender has not maintained a conviction-free record, either as an adult or a juvenile, for a period of *5* ~~3~~ consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense.

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to youthful offenders; amending s. 944.1905, F.S.; requiring that certain inmates who are less than a specified age be placed in specific correctional facilities and housed in separate dormitories; requiring that the Department of Corrections report to the Legislature on its compliance with housing youthful offenders; requiring that certain inmates who are less than a specified age and who have no prior juvenile adjudication be placed in facilities for youthful offenders; providing for the reassignment of an inmate to the general population if the inmate threatens the safety of other inmates or correctional staff; amending s. 944.1905, F.S.; requiring that certain inmates who are less than a specified age be placed in specific correctional facilities and housed in separate dormitories; requiring that the Department of Corrections report to the Legislature on its compliance with housing youthful offenders; requiring that certain inmates who are less than a specified age and who have no prior juvenile adjudication be placed in facilities for youthful offenders; providing for the reassignment of an inmate to the general population if the inmate threatens the safety of other inmates or correctional staff; amending s. 921.0021, F.S.; redefining the term "prior record" to extend the time during which the disposition of certain juvenile offenses are included in an offender's record; providing an effective date.

Rep. Harper moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1777—A bill to be entitled An act relating to educational facilities; amending s. 847.001, F.S.; adding and revising definitions; creating s. 847.0134, F.S.; prohibiting the location of adult entertainment establishments within a specified distance of a school; providing a criminal penalty; providing an exception; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 831239)

Amendment 1—On page 2, lines 17 through 29,
remove from the bill: all said lines

and insert in lieu thereof: *(c) "Unlicensed massage establishment" means any business or enterprise which offers, sells, or provides, or which holds itself out as offering, selling, or providing massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. "Unlicensed massage establishment" does not include establishments licensed under s. 480.43 that routinely provide medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.*

Rep. Murman moved the adoption of the amendment, which was adopted.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 751573)

Amendment 2—On page 7, line 1,
remove from the bill: *in operation*

and insert in lieu thereof:
that are legally operating or have been granted a permit from a local government to operate as an adult entertainment establishment

Rep. Murman moved the adoption of the amendment, which was adopted.

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 073217)

Amendment 3—On page 1, line 22,
remove from the bill: *, but is not limited to,*

Rep. Murman moved the adoption of the amendment, which was adopted.

Representative(s) Murman offered the following:

(Amendment Bar Code: 063563)

Amendment 4 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 847.001, Florida Statutes, is amended to read:

847.001 Definitions.—When used in this chapter:

(1) "Adult" means a person 18 years of age or older.

(2) "Adult entertainment establishment" means the following terms as defined:

(a) "Adult bookstore" means any corporation, partnership, or business of any kind that restricts or purports to restrict admission only to adults, that has as part of its stock books, magazines, or other periodicals or videos, discs, or other graphic media, and that offers, sells, provides, or rents for a fee any sexually oriented material.

(b) "Adult theater" means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons and that restricts or purports to restrict admission only to adults.

(c) "Unlicensed massage establishment" means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing massages, that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. "Unlicensed massage establishment" does not include establishments licensed under s. 480.043 that routinely provide medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.

(d) "Special cabaret" means any business that features persons who engage in specific sexual activities for observation by patrons, and that restricts or purports to restrict admission only to adults.

(3)~~(1)~~ "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device. The term also includes: any on-line service, Internet service, or local bulletin board; any electronic storage device, including a floppy disk or other magnetic storage device; or any compact disc that has read-only memory and the capacity to store audio, video, or written materials.

(4)~~(2)~~ "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(5)~~(3)~~ "Harmful to minors" means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, or sexual excitement when it:

(a) Predominantly appeals to the prurient, shameful, or morbid interest of minors;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

A mother's breastfeeding of her baby is not under any circumstance "harmful to minors."

(6) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture, or death.

(7)~~(4)~~ "Minor" means any person under the age of 18 years.

(8)~~(5)~~ "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

(9)~~(6)~~ "Person" includes individuals, firms, associations, corporations, and all other groups and combinations.

(10)~~(7)~~ "Obscene" means the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

A mother's breastfeeding of her baby is not under any circumstance "obscene."

(11) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture, or death upon another person or an animal.

(12)~~(8)~~ "Sadomasochistic abuse" means flagellation or torture by or upon a person or animal, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(13)~~(9)~~ "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.

(14)~~(10)~~ "Sexual bestiality" means any sexual act*, actual or simulated,* between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(15)~~(11)~~ "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(16)~~(12)~~ "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(17) "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(18)~~(13)~~ "Simulated" means the explicit depiction of conduct described in subsection *(15)* ~~(11)~~ which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(19) "Specific sexual activities" includes the following sexual activities and the exhibition of the following anatomical areas:

(a) Human genitals in the state of sexual stimulation or arousal.

(b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.

(c) The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.

(d) Less than completely and opaquely covered:

1. Human genitals or the pubic region.

2. Buttocks.

3. Female breasts below the top of the areola.

4. Human male genitals in a discernably turgid state, even if completely and opaquely covered.

Section 2. Section 847.0134, Florida Statutes, is created to read:

847.0134 Prohibition of adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet a school.—

(1) Except for those establishments that are legally operating or have been granted a permit from a local government to operate as an adult entertainment establishment on or before July 1, 2001, an adult entertainment establishment that sells, rents, loans, distributes, transmits, shows, or exhibits any obscene material, as described in s. 847.0133, or presents live entertainment or a motion picture, slide, or other exhibit that, in whole or in part, depicts nudity, sexual conduct, sexual excitement, sexual battery, sexual bestiality, or sadomasochistic abuse and that is harmful to minors, as described in s. 847.001, may not be located within 2,500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location under proceedings as provided in s. 125.66(4) for counties or s. 166.041(3)(c) for municipalities.

(2) A violation of this section constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 9,

insert:

WHEREAS, based upon the experience and research of other counties and cities and the personal observation of the legislators in their own

districts, the Legislature finds that adult entertainment establishments cause adverse affects in and around these establishments, and

WHEREAS, relevant studies demonstrate a significant increase in crime in areas where adult entertainment establishments are located, and

WHEREAS, the United States Supreme Court has recognized the adverse secondary effects caused by adult entertainment establishments in Renton v. Playtime Theatres, 475 U.S. 41 (1986) and Erie v. Pap's, 529 U.S. 277 (2000), and

WHEREAS, prohibiting adult entertainment establishments that show or exhibit material obscene or harmful to minors near public or private elementary schools, middle schools, or secondary schools will serve to protect minors from the adverse effects of the activities that accompany such establishments, and

WHEREAS, the Legislature does not intend to impinge on the First Amendment rights of free speech by limiting the location of these establishments to keep them away from schools where minors will be present, NOW, THEREFORE,

Rep. Murman moved the adoption of the amendment, which was adopted.

Rep. Richardson moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 199 on Special Orders.

CS/HB 199—A bill to be entitled An act relating to substance abuse treatment programs; providing goals for treatment-based drug courts; requiring judicial circuits to establish a model of treatment-based drug courts for certain purposes; providing criteria; providing legislative intent; providing certain principles for operating drug courts; establishing a drug court coordinator in each judicial circuit for certain purposes; providing for inclusion of certain programs in such courts; amending s. 910.035, F.S.; providing for transferring persons eligible for participation in drug court treatment programs to other jurisdictions under certain circumstances; providing criteria, requirements, and limitations; amending s. 948.08, F.S.; adding persons charged with specified crimes to the list of persons eligible for admission into a pretrial substance abuse program; creating s. 948.16, F.S.; providing for a misdemeanor pretrial substance abuse education and treatment intervention program; providing for admitting certain persons to the program under certain circumstances; providing for disposition of persons in the program; providing criteria; providing contracting requirements for entities providing such a program; providing an effective date.

—was read the second time by title.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 662361)

Amendment 1 (with title amendment)—On page 4, lines 6 through 27
remove from the bill: all of said lines

and insert in lieu thereof:

(4) Treatment-based drug courts may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.306, Florida Statutes.

(5)(a) The Florida Association of Drug Court Professionals is created. The membership of the association may consist of drug court practitioners who comprise the multidisciplinary drug court team, including, but not limited to, judges, state attorneys, defense counsel, drug court coordinators, probation officers, law enforcement officers, members of the academic community, and treatment professionals. Membership in the association shall be voluntary.

And the title is amended as follows:

On page 1, lines 9 and 10
remove from the title of the bill: all of said lines

and insert in lieu thereof: courts;

Rep. Trovillion moved the adoption of the amendment, which was adopted.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 855907)

Amendment 2—On page 6, lines 9-31 and page 7, lines 1-4
remove from the bill: all of said lines

and insert in lieu thereof: (6)(a) Notwithstanding any provision of this section, a person who is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, *tampering with evidence, solicitation for purchase, obtaining a prescription by fraud, and who has not been charged with a crime, involving violence, including but not limited to, murder, sexual battery, robbery, car jacking, home-invasion robbery, or any other crime involving violence* and who has not previously been convicted of a felony nor been admitted to a *felony* pretrial program referred to in this section, is eligible for admission into a pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the courts own motion, except:

1. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program.

2. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

(7) The chief judge in each circuit may appoint an advisory committee for the pretrial intervention program composed of the chief judge or his or her designee, who shall serve as chair; the state attorney, the public defender, and the program administrator, or their designees; and such other persons as the chair deems appropriate. *The advisory committee may not designate any defendant eligible for a pretrial intervention program for any offense not listed under section 948.08(6)(a) without the state attorney's recommendation and approval.* The committee may also include persons representing any other agencies to which persons released to the pretrial intervention program may be referred.

Rep. Trovillion moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of HB 1039 on Special Orders.

HB 1039—A bill to be entitled An act relating to ad valorem tax exemption; amending s. 196.24, F.S.; increasing the amount of the exemption provided under s. 3(b), Art. VII of the State Constitution for certain disabled ex-service members; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of HB 1429 on Special Orders.

HB 1429—A bill to be entitled An act relating to automatic external defibrillators; creating s. 768.1325, F.S.; creating the Cardiac Arrest

Survival Act; providing definitions; providing immunity from liability for certain persons who use automatic external defibrillators under certain circumstances; providing exceptions; repealing s. 768.13(4), F.S., relating to the Good Samaritan Act, to delete reference to the use of an automatic external defibrillator in certain emergency situations; amending s. 401.2915, F.S.; revising a provision of law relating to automatic external defibrillators to conform to the act; providing an effective date.

—was taken up, having been read the second time on April 26; now pending on motion by Rep. Murman to adopt Amendment 1 (shown in the *Journal* on page 851).

The question recurred on the adoption of **Amendment 1 to Amendment 1**, which was withdrawn.

The question recurred on the adoption of **Amendment 1**.

Representative(s) Byrd offered the following:

(Amendment Bar Code: 615089)

Substitute Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 768.1325, Florida Statutes, is created to read:

768.1325 Cardiac Arrest Survival Act; immunity from civil liability.—

(1) This section may be cited as the "Cardiac Arrest Survival Act."

(2) As used in this section:

(a) "Perceived medical emergency" means circumstances in which the behavior of an individual leads a reasonable person to believe that the individual is experiencing a life-threatening medical condition that requires an immediate medical response regarding the heart or other cardiopulmonary functioning of the individual.

(b) "Automated external defibrillator device" means a defibrillator device that:

1. Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act.

2. Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed.

3. Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.

(c) "Harm" means damage or loss of any and all types, including, but not limited to, physical, nonphysical, economic, noneconomic, actual, compensatory, consequential, incidental, and punitive damages or losses.

(3) Notwithstanding any other provision of law to the contrary, and except as provided in subsection (4), any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency, without objection of the victim of the perceived medical emergency, is immune from civil liability for any harm resulting from the use or attempted use of such device. In addition, any person who acquired the device is immune from such liability, if the harm was not due to the failure of such acquirer of the device to:

(a) Notify the local emergency medical services medical director of the most recent placement of the device within a reasonable period of time after the device was placed;

(b) Properly maintain and test the device; or

(c) Provide appropriate training in the use of the device to an employee or agent of the acquirer when the employee or agent was the person who used the device on the victim, except that such requirement of training does not apply if:

1. The employee or agent was not an employee or agent who would have been reasonably expected to use the device; or

2. The period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the device and the occurrence of the harm in any case in which the device was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

(4) Immunity under subsection (3) does not apply to a person if:

(a) The harm involved was caused by that person's willful or criminal misconduct, gross negligence, reckless disregard or misconduct, or a conscious, flagrant indifference to the rights or safety of the victim who was harmed;

(b) The person is a licensed or certified health professional who used the automated external defibrillator device while acting within the scope of the license or certification of the professional and within the scope of the employment or agency of the professional;

(c) The person is a hospital, clinic, or other entity whose primary purpose is providing health care directly to patients, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent;

(d) The person is an acquirer of the device who leased the device to a health care entity, or who otherwise provided the device to such entity for compensation without selling the device to the entity, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent; or

(e) The person is the manufacturer of the device.

(5) This section does not establish any cause of action. This section does not require that an automated external defibrillator device be placed at any building or other location or require an acquirer to make available on its premises one or more employees or agents trained in the use of the device.

Section 2. *Subsection (4) of section 768.13, Florida Statutes, is repealed.*

Section 3. Section 401.2915, Florida Statutes, is amended to read:

401.2915 *Automated* ~~Automatic~~ external defibrillators.—It is the intent of the Legislature that an *automated* ~~automatic~~ external defibrillator may be used by any person for the purpose of saving the life of another person in cardiac arrest. In order to ensure public health and safety:

(1) All persons who ~~have access to or~~ use an *automated* ~~automatic~~ external defibrillator must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an *automated* ~~automatic~~ external defibrillator;

(2) Any person or entity in possession of an *automated* ~~automatic~~ external defibrillator is encouraged to register with the local emergency medical services medical director the existence and location of the *automated* ~~automatic~~ external defibrillator; and

(3) Any person who uses an *automated* ~~automatic~~ external defibrillator is required to activate the emergency medical services system as soon as possible upon use of the *automated* ~~automatic~~ external defibrillator.

Section 4. *No later than January 1, 2003, the Secretary of the Department of Health shall adopt rules to establish guidelines on the appropriate placement of automated external defibrillator devices in buildings or portions of buildings owned or leased by the state, and shall establish, by rule, recommendations on procedures for the deployment of automated external defibrillator devices in such buildings in accordance with the guidelines. The Secretary of the Department of Management*

Services shall assist the Secretary of the Department of Health in the development of the guidelines. The guidelines for the placement of the automated external defibrillators shall take into account the typical number of employees and visitors in the buildings, the extent of the need for security measures regarding the buildings, special circumstances in buildings or portions of buildings such as high electrical voltages or extreme heat or cold, and such other factors as the Secretaries determine to be appropriate. The Secretary of the Department of Health's recommendations for deployment of automated external defibrillators in buildings or portions of buildings owned or leased by the state shall include:

(a) A reference list of appropriate training courses in the use of such devices, including the role of cardiopulmonary resuscitation;

(b) The extent to which such devices may be used by laypersons;

(c) Manufacturer recommended maintenance and testing of the devices; and

(d) Coordination with local emergency medical services systems regarding the incidents of use of the devices.

In formulating these guidelines and recommendations, the Secretary may consult with all appropriate public and private entities, including national and local public health organizations that seek to improve the survival rates of individuals who experience cardiac arrest.

Section 5. This act shall take effect October 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: An act relating to automated external defibrillators; creating s. 768.1325, F.S.; creating the Cardiac Arrest Survival Act; providing definitions; providing immunity from liability for certain persons who use automated external defibrillators under certain circumstances; providing exceptions; repealing s. 768.13(4), F.S., relating to the Good Samaritan Act, to delete reference to the use of an automatic external defibrillator in certain emergency situations; amending s. 401.2915, F.S.; revising a provision of law relating to automatic external defibrillators to conform to the act; directing the Department of Health, with assistance from the Department of Management Services, to adopt rules to establish guidelines on the appropriate placement and deployment of automated external defibrillator devices in certain buildings owned or leased by the state; specifying factors to be considered in device placement and deployment; providing an effective date.

WHEREAS, over 700 lives are lost every day to sudden cardiac arrest in the United States alone, and

WHEREAS, two out of every three sudden cardiac deaths occur before a victim can reach a hospital, and

WHEREAS, more than 95 percent of these cardiac arrest victims will die, many because of lack of readily available lifesaving medical equipment, and

WHEREAS, with current medical technology, up to 30 percent of cardiac arrest victims could be saved if victims had access to immediate medical response, including defibrillation and cardiopulmonary resuscitation, and

WHEREAS, once a victim has suffered a cardiac arrest, every minute that passes before returning the heart to a normal rhythm decreases the chances of survival by 10 percent, and

WHEREAS, most cardiac arrests are caused by an abnormal heart rhythm called ventricular fibrillation, which occurs when the heart's electrical system malfunctions, causing a chaotic rhythm that prevents the heart from pumping oxygen to the victim's brain and body, and

WHEREAS, communities that have implemented programs ensuring widespread access to defibrillators, combined with appropriate training, maintenance, and coordination with local emergency medical systems have dramatically improved the survival rates from cardiac arrest, and

WHEREAS, automated external defibrillator devices have been demonstrated to be safe and effective, even when used by laypersons, since the devices are designed not to allow a user to administer a shock until after the device has analyzed a victim's heart rhythm and determined that an electric shock is required, and

WHEREAS, increased public awareness regarding automated external defibrillator devices will greatly facilitate their adoption, and

WHEREAS, limiting the liability of users and acquirers of automated external defibrillator devices in emergency situations may encourage the use of the devices, and result in saved lives, NOW, THEREFORE,

Rep. Byrd moved the adoption of the substitute amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of CS/CS/HB 1121 on Special Orders.

CS/CS/HB 1121—A bill to be entitled An act relating to driver licenses; amending s. 322.02, F.S.; providing legislative intent with regard to the delivery of driver license services; authorizing county tax collectors to serve as exclusive agents of the Department of Highway Safety and Motor Vehicles; amending s. 322.135, F.S.; providing an application process for county tax collectors to serve as exclusive agents; creating the Cost Determination and Allocation Task Force; establishing the duties and responsibilities of the task force; providing for the development of transition plans to transfer certain responsibilities to tax collectors; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1431—A bill to be entitled An act relating to welfare transition; providing a short title; providing legislative intent; authorizing the Passport to Economic Progress demonstration program in specified areas; requiring Workforce Florida, Inc., and the Department of Children and Family Services to pursue federal government waivers as necessary; increasing the amount of income that may be disregarded in determining eligibility for temporary cash assistance for families residing in the demonstration areas; authorizing an extended period of time for the receipt of welfare-transition benefits by families residing in the demonstration areas; providing legislative findings; directing Workforce Florida, Inc., to create a transitional wage supplementation program; authorizing wage supplementation payments to certain individuals; requiring an evaluation and reports on the demonstration program; providing for conflicts of laws; providing appropriations; providing an effective date.

—was read the second time by title.

The Committee on Workforce & Technical Skills offered the following:

(Amendment Bar Code: 641455)

Amendment 1 (with title amendment)—On page 3, line 22-25,
remove from the bill: all said lines

and insert in lieu thereof: *(2)WAIVERS.—If Workforce Florida, Inc., in consultation with the Department of Children and Family Services, finds that federal waivers would facilitate implementation of the demonstration program, the department shall immediately request such waivers, and Workforce Florida, Inc., shall report to the Governor, the President of the*

And the title is amended as follows:

On page 1, line 6
remove from the title of the bill: all said lines

and insert in lieu thereof: areas; requiring

Rep. Byrd moved the adoption of the amendment, which was adopted.

Representative(s) Lerner offered the following:

(Amendment Bar Code: 333035)

Amendment 2 (with title amendment)—On page 7, between lines 18 and 19, of the bill

insert:

Section 4. Subsection (3) is added to section 414.31, Florida Statutes, to read:

414.31 State agency for administering federal food stamp program.—

(3) The state elects, within the provisions of Pub. L. No. 106-387, to adopt more liberal methodologies for valuing vehicles as assets for purposes of food stamp eligibility than the regular food stamp rules allow. The department is directed to exclude from consideration as an asset the value of the vehicles of food stamp applicants and recipients to the same extent that vehicles' values are financially excluded as assets under any program providing assistance under the state program funded under part A of Title IV of the Social Security Act. Additionally, the department shall apply the most favorable rules of resource exclusion, and the most favorable rules for treating nonprimary vehicles, from either the food stamp program or any program providing assistance under the state program funded under part A of Title IV of the Social Security Act. The department is authorized to adopt rules to implement this subsection, which rules shall be implemented no later than January 1, 2002.

And the title is amended as follows:

On page 1, line 22,

after the semicolon, insert: amending s. 414.31, F.S.; providing a methodology for valuing vehicles as assets for purposes of food stamp eligibility; providing rulemaking authority; providing a deadline for implementation;

Rep. Lerner moved the adoption of the amendment, which failed of adoption.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 9—A bill to be entitled An act relating to solid waste management facilities; amending s. 403.707, F.S.; requiring an applicant for a permit to construct or modify such a facility to notify the local government of the filing of such application; requiring publication of notice of such filing; providing requirements with respect thereto; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 073535)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (14) is added to section 403.707, Florida Statutes, to read:

403.707 Permits.—

(14) Before or on the same day of filing with the department of an application for a permit to construct or substantially modify a solid waste management facility, the applicant shall notify the local government having jurisdiction over the facility of the filing of the application. The applicant also shall publish notice of the filing of the application in a newspaper of general circulation in the area where the facility will be located. Notice shall be given and published in accordance with applicable department rules. The department shall not issue the requested permit until the applicant has provided the department with proof that the notices required by this subsection have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

Section 2. Section 403.71851, Florida Statutes, is amended to read:

403.71851 *Electronic recycling* ~~Lead-containing materials~~ grants.—The Department of Environmental Protection is authorized to use funds from the Solid Waste Management Trust Fund as grants to Florida-based businesses *with 5 or more years' experience in electronics recycling* that recycle *electronics such as commercial telephone switching equipment, computers, televisions,* ~~lead-acid batteries and other lead-containing materials, including products such as televisions and~~ computer monitors *and other products* that utilize lead-containing cathode ray tubes. This ~~incentive~~ funding *shall* ~~may~~ be used for *demonstration projects with one or more counties for countywide comprehensive electronics recycling where that term means recycling that provides service to the private sector, nonprofit organizations, governmental agencies and the residential sector. This funding may also be used for grants to counties to develop methods to collect and transport electronics to be recycled provided such methods are comprehensive in nature* ~~research and development in methods to recover and recycle lead from the environment; for innovative technologies and equipment to process and recycle lead-containing materials; and for establishing an infrastructure to collect and transport lead-containing material to Florida-based recycling businesses~~.

Section 3. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in this section and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; and alternative strategies for meeting the needs of the programs. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and private waste management industry. The department shall issue its report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2001.*

Section 4. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, lines 4-9,
remove from the title of the bill: all of said lines

and insert in lieu thereof: requiring an applicant for a permit to construct or modify a solid waste management facility to notify the local government of the filing of application; requiring publishing of the application; providing requirements with respect thereto; amending s. 403.71851, F.S.; providing for electronics recycling grants; providing that grant funding shall be used for certain demonstration projects; providing for the Department of Environmental Protection to conduct a comprehensive review of certain waste reduction and recycling goals and other related legislative requirements; providing that the department must issue a report;

Rep. Ball moved the adoption of the amendment.

Representative(s) Ball offered the following:

(Amendment Bar Code: 305905)

Substitute Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (f) of subsection (1) of section 165.061, Florida Statutes, is added, and paragraph (d) of subsection (2) is amended to said section, to read:

165.061 Standards for incorporation, merger, and dissolution.—

(1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:

(f) In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid waste contracts in the affected geographic area subject to incorporation; however, the plan for incorporation may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

(2) The incorporation of a new municipality through merger of existing municipalities and associated unincorporated areas must meet the following conditions:

(d) In accordance with s. 10, Art. I of the State Constitution, the plan for merger ~~or incorporation~~ must honor existing solid waste contracts in the affected geographic area subject to merger ~~or incorporation~~; however, the plan for merger ~~or incorporation~~ may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

Section 2. Subsection (14) is added to section 403.707, Florida Statutes, to read:

403.707 Permits.—

(14) Before or on the same day of filing with the department of an application for a permit to construct or substantially modify a solid waste management facility, the applicant shall notify the local government having jurisdiction over the facility of the filing of the application. The applicant also shall publish notice of the filing of the application in a newspaper of general circulation in the area where the facility will be located. Notice shall be given and published in accordance with applicable department rules. The department shall not issue the requested permit until the applicant has provided the department with proof that the notices required by this subsection have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

Section 3. Section 403.71851, Florida Statutes, is amended to read:

403.71851 *Electronic recycling* ~~Lead-containing materials~~ grants.—The Department of Environmental Protection is authorized to use funds from the Solid Waste Management Trust Fund as grants to Florida-based businesses *with 5 or more years' experience in electronics recycling* that recycle *electronics such as commercial telephone switching equipment, computers, televisions,* ~~lead-acid batteries and other lead-containing materials, including products such as televisions and~~ computer monitors *and other products* that utilize lead-containing cathode ray tubes. This ~~incentive~~ funding *shall* ~~may~~ be used for *demonstration projects with one or more counties for countywide comprehensive electronics recycling where that term means recycling that provides service to the private sector, nonprofit organizations, governmental agencies and the residential sector. This funding may also be used for grants to counties to develop methods to collect and transport electronics to be recycled provided such methods are comprehensive in nature* ~~research and development in methods to recover and recycle lead from the environment; for innovative technologies and equipment to process and recycle lead-containing materials; and for establishing an infrastructure to collect and transport lead-containing material to Florida-based recycling businesses~~.

Section 4. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in this section and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; and alternative strategies for meeting the needs of the programs. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and private waste management industry. The department shall issue its report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2001.*

Section 5. This act shall take July 1, 2001.

And the title is amended as follows:

On page 1, lines 2 through 9
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to solid waste management; amending s. 165.061, F.S.; providing for the continuation of existing solid waste contracts; requiring written evidence of the duration of the contract within a specified timeframe; amending s. 403.707, F.S.; requiring an applicant for a permit to construct or modify a solid waste management facility to notify the local government of the filing of application; requiring publishing of the application; providing requirements with respect thereto; amending s. 403.71851, F.S.; providing for electronics recycling grants; providing that grant funding shall be used for certain demonstration projects; providing for the Department of Environmental Protection to conduct a comprehensive review of certain waste reduction and recycling goals and other related legislative requirements; providing that the department must issue a report; providing an effective date.

Rep. Ball moved the adoption of the substitute amendment.

Representative(s) Ball offered the following:

(Amendment Bar Code: 590413)

Amendment 1 to Substitute Amendment 1—On page 4, lines 3 through 20,
remove from the substitute amendment: all of said lines

and insert in lieu thereof:

Section 4. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in part IV of chapter 403, Florida Statutes, and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; alternative strategies for meeting the needs of the programs; and any other issues related to resource recovery and management. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and the private waste management industry. The department shall issue its report, recommendations, and proposed legislative changes to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 31, 2001.*

Section 5. This act shall take effect July 1, 2001.

Rep. Ball moved the adoption of the amendment to the substitute amendment, which was adopted.

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted.

Reconsideration

The House reconsidered the vote by which **Substitute Amendment 1**, as amended, was adopted.

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 093141)

Amendment 2 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (f) of subsection (1) of section 165.061, Florida Statutes, is added, and paragraph (d) of subsection (2) is amended to said section, to read:

165.061 Standards for incorporation, merger, and dissolution.—

(1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:

(f) In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid waste contracts in the affected geographic area subject to incorporation; however, the plan for incorporation may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

(2) The incorporation of a new municipality through merger of existing municipalities and associated unincorporated areas must meet the following conditions:

(d) In accordance with s. 10, Art. I of the State Constitution, the plan for merger ~~or incorporation~~ must honor existing solid waste contracts in the affected geographic area subject to merger ~~or incorporation~~; however, the plan for merger ~~or incorporation~~ may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

Section 2. Subsection (14) is added to section 403.707, Florida Statutes, to read:

403.707 Permits.—

(14) Before or on the same day of filing with the department of an application for a permit to construct or substantially modify a solid waste management facility, the applicant shall notify the local government having jurisdiction over the facility of the filing of the application. The applicant also shall publish notice of the filing of the application in a newspaper of general circulation in the area where the facility will be located. Notice shall be given and published in accordance with applicable department rules. The department shall not issue the requested permit until the applicant has provided the department with proof that the notices required by this subsection have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

Section 3. Section 403.71851, Florida Statutes, is amended to read:

403.71851 *Electronic recycling* ~~Lead-containing materials~~ grants.—The Department of Environmental Protection is authorized to use funds from the Solid Waste Management Trust Fund as grants to Florida-based businesses *with 5 or more years' experience in electronics recycling* that recycle *electronics such as commercial telephone switching equipment, computers, televisions,* ~~lead-acid batteries and other lead-containing materials, including products such as televisions and~~ computer monitors *and other products* that utilize lead-containing cathode ray tubes. This ~~incentive~~ funding *shall* ~~may~~ be used for *demonstration projects with one or more counties for countywide comprehensive electronics recycling where that term means recycling that provides service to the private sector, nonprofit organizations, governmental agencies and the residential sector. This funding may also be used for grants to counties to develop methods to collect and transport electronics to be recycled provided such methods are comprehensive in nature* ~~research and development in methods to recover and recycle lead from the environment; for innovative technologies and equipment to process and recycle lead-containing materials; and for establishing an infrastructure to collect and transport lead-containing material to Florida-based recycling businesses~~.

Section 4. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in this section and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; and alternative strategies for meeting the needs of the programs. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and private waste management industry. The department shall issue its report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2001.*

Section 5. This act shall take July 1, 2001.

And the title is amended as follows:

On page 1, lines 2 through 9
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to solid waste management; amending s. 165.061, F.S.; providing for the continuation of existing solid waste contracts; requiring written evidence of the duration of the contract within a specified timeframe; amending s. 403.707, F.S.; requiring an applicant for a permit to construct or modify a solid waste management facility to notify the local government of the filing of application; requiring publishing of the application; providing requirements with respect thereto; amending s. 403.71851, F.S.; providing for electronics recycling grants; providing that grant funding shall be used for certain demonstration projects; providing for the Department of Environmental Protection to conduct a comprehensive review of certain waste reduction and recycling goals and other related legislative requirements; providing that the department must issue a report; providing an effective date.

Rep. Ball moved the adoption of the amendment, which failed of adoption.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1361—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; prohibiting a public school from using the word "charter" in its name unless it is currently operating under a charter that has been granted pursuant to this section; providing additional purposes of charter schools; requiring a public school to have been in operation for at least 2 years prior to application to convert to charter school status; requiring a school board to provide notice of denial to charter school applicant in writing; prohibiting a sponsor from charging a fee related to the consideration of a charter school application; prohibiting the consideration or approval of a charter school application from being contingent on the promise of future payment of any kind; clarifying provisions relating to appeals of denial of charter

school applications; deleting provisions relating to failure to act in accordance with the recommendation of the State Board of Education regarding a charter school application; exempting a charter school from a sponsor's policies; authorizing charter school cooperatives; deleting a cap on the number of newly created charter schools; authorizing students in a charter school-in-a-development or charter school-in-a-municipality as a condition of eligibility; authorizing students articulating from one charter school to another as a condition of eligibility; authorizing the establishment of reasonable academic, artistic, or other standards as a condition for eligibility; requiring the capacity of a charter school to be annually determined by the charter school's governing body based on certain factors; allowing required financial records to follow accounting principles for not-for-profit organizations; requiring a charter to address the identification and acquisition of appropriate technologies; requiring a charter to address how a school board shall provide academic student performance data to charter schools; requiring a charter to address means for ensuring accountability; requiring a charter to address a description of delineated responsibilities needed to effectively manage the charter school; requiring a charter to address procedures that identify risks and provide an approach to remove the impact of losses; requiring a charter to include a financial plan for the facilities to be used; requiring a charter to address the strategies used to recruit qualified staff; requiring the governing body to exercise continuing oversight over charter school operations; providing for appeal of a sponsor's decision to terminate a charter; providing for a charter school governing board to request a waiver of statutes directly from the commissioner, rather than through the sponsor; providing for notice of receipt and final disposition of such request; stipulating that a charter school may not knowingly employ an individual whose certification has been revoked by this or any other state; requiring student enrollment report to be submitted in a certain format; prohibiting a sponsor from withholding an administrative fee from certain funds; requiring PECO maintenance funds to remain with a conversion charter school; authorizing the establishment of a charter school-in-a-development and a charter school-in-a-municipality; amending s. 228.0561, F.S.; deleting current capital outlay distribution methods; requiring the Department of Education to distribute capital outlay funds on a monthly basis; amending s. 228.058, F.S.; requiring public schools in a charter school district to vote by a time certain to convert to a charter school; amending s. 232.425, F.S.; authorizing charter school students to participate at the public school to which the student would be assigned in any interscholastic extracurricular activity of that school; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 722679)

Amendment 1—On page 32, line 12, of the bill

insert:

(i) If any financings permitted by this section, s. 228.056, or any successor provision of law, are structured by a charter school so that interest paid by the charter school will be excluded from the gross income of the recipient for federal income tax purposes, the appropriate district school board shall expedite consideration of adoption of any resolution submitted to it within 30 days or at the next board meeting following the request of the charter school, whichever is most expedient for the charter school, by or on behalf of the charter school, for adoption for the purposes of Revenue Procedure 82-26 of the Internal Revenue Service, or any successor revenue procedure. This section shall be liberally construed in order to achieve the purposes stated herein.

Rep. Arza moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 944569)

Amendment 2—On page 35, lines 12 and 22,
remove from the bill: *involves*

and insert in lieu thereof: *involves, but is not limited to,*

Rep. Arza moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 120299)

Amendment 3—On page 18, between lines 6 and 7, of the bill

insert: *(j) The governing board of a charter school shall annually adopt and maintain an operating budget.*

Rep. Arza moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 410721)

Amendment 4—On page 28, line 18,
remove from the bill: *parents*

and insert in lieu thereof: *a parent at the time the parent submits an admission application to a charter school.*

Rep. Arza moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 900047)

Amendment 5—On page 32, lines 3 and 4,
remove from the bill: all of said lines

and insert in lieu thereof: *the facility pursuant to s. 235.435(1)(a), and operated as a conversion school shall remain with the conversion school as a credit for fixed capital outlay maintenance needs, and against which, necessary and proper fixed capital outlay maintenance expenses attributable to the conversion school shall be deducted.*

Rep. Arza moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 384497)

Amendment 6—On page 16, line 9,
remove from the bill: *board*

and insert in lieu thereof: *board, in conjunction with the sponsor,*

Rep. Arza moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 805409)

Amendment 7—On page 25, line 11,
remove from the bill: all of said line

and insert in lieu thereof: assume operation of the school under these circumstances. *With the exception of those instances when a charter is immediately terminated because the sponsor determines that the health, safety, or welfare of students is threatened, the*

Rep. Arza moved the adoption of the amendment, which was adopted.

Representative(s) Melvin and Mack offered the following:

(Amendment Bar Code: 495965)

Amendment 8—On page 33, lines 1 & 2,
remove from the bill: all of said lines

and insert in lieu thereof:

(c) *On the effective date of the Florida Building Code, charter school facilities shall utilize facilities which comply with section 306.1.1 of the rules promulgated pursuant to the* Florida ~~After January 1, 2001, charter school facilities shall utilize facilities which comply with the~~

Rep. Arza moved the adoption of the amendment, which was adopted.

On motion by Rep. Attkisson, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 770887)

Amendment 9 (with title amendment)—On page 41, between lines 17 and 18,

insert:

Section 5. Paragraph (b) of subsection (22) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(22) "Educational facility" means:

(b) Property that comprises the buildings and equipment, structures, and special education use areas that are built, installed, or established to serve primarily the educational purposes of operating any nonprofit private preschool, kindergarten, elementary school, middle school, or high school that is established under chapter 617 or chapter 623, or that is owned or operated by an organization described in s. 501(c)(3) of the United States Internal Revenue Code*, or operating any preschool, kindergarten, elementary school, middle school, or high school that is owned or operated as part of the state's system of public education, including, but not limited to, a charter school or a developmental research school operated under chapter 228*. The requirements of this part for the financing of projects through local agencies shall also apply to such schools. Bonds issued under the provisions of this part for such schools shall not be deemed to constitute a debt, liability, or obligation of the state or any political subdivision thereof, or a pledge of the faith and credit of the state or of any such political subdivision, but shall be payable solely from the revenues provided therefor.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 26, after the semicolon,

insert: amending s. 159.27, F.S.; redefining the term "educational facility" for purposes of part II of ch. 159, F.S., the Florida Industrial Development Financing Act, to include charter schools and developmental research schools;

Rep. Attkisson moved the adoption of the amendment, which was adopted.

On motion by Rep. Gardiner, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 295497)

Amendment 10—On page 38, lines 7-14,
remove from the bill: all of said lines

and insert in lieu thereof: *Beginning July 1, 2001, the State Board of Education shall provide the option to each school that has been in operation for at least 2 years within a school district that is approved for charter school district status to vote within the first year of the approved charter school district status, or if the charter school district was approved prior to July 1, 2001, to vote no later than June 30, 2002, to convert to charter school status and upon the vote, as described in s. 228.056(3)(a), to apply for charter school status.*

Rep. Attkisson moved the adoption of the amendment, which was adopted.

Representative(s) Arza offered the following:

(Amendment Bar Code: 883977)

Amendment 11—On page 21, lines 25 & 26
remove from the bill: all of said lines

and insert in lieu thereof: *school fixed capital outlay shall be included in this financial plan as a separate source of potential income.*

Rep. Arza moved the adoption of the amendment, which was adopted.

On motion by Rep. Arza, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Arza offered the following:

(Amendment Bar Code: 802497)

Amendment 12—On page 25, line 25 after the period

insert: *In case of real property, school districts may have first right of refusal in determining whether to assume the asset.*

Rep. Arza moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 457—A bill to be entitled An act relating to property and casualty insurers; amending s. 624.4072, F.S.; increasing a period of exemption from certain taxes and assessments for certain minority businesses; extending a future repeal; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 241979)

Amendment 1—On page 2, line 8
remove from the bill: "July 1"

and insert in lieu thereof: *December 31*

Rep. Lee moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 867—A bill to be entitled An act relating to Hillsborough County; providing that, notwithstanding any provision of general law, the Hillsborough County Tourist Development Council shall consist of 11 members; providing that an elected municipal official shall be appointed to the council from each municipality within the county; providing that seven members shall be persons involved in the tourist industry; providing that the additional members shall be appointed within 30 days of the effective date of this act; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 273735)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Hillsborough County Tourist Development Council; composition.—Notwithstanding any provision of general law, the Hillsborough County Tourist Development Council shall consist of 11 members. The Chair of the Hillsborough County Board of County Commissioners or any other member as designated by the chair shall serve on the Council. The governing board of Hillsborough County shall appoint an elected municipal official from each municipality within the county to the council. The governing board of the county shall also appoint seven members to the council who are persons involved in the tourist industry and who have demonstrated an interest in tourist development, of which not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to a tourist*

development tax. The additional municipal and industry members shall be appointed within 30 days after the effective date of this act. The changes in composition of the membership of the Hillsborough County Tourist Development Council mandated by the act shall not cause the interruption of the current term of any person who is a member of the Hillsborough County Tourist Development Council on the effective date of this act.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to Hillsborough County; providing that, notwithstanding any provision of general law, the Hillsborough County Tourist Development Council shall consist of 11 members; providing that the chair of the county governing board, or a designee, serves on the council; providing that an elected municipal official shall be appointed to the council from each municipality within the county; providing that seven members shall be persons involved in the tourist industry; providing that the additional members shall be appointed within 30 days of the effective date of this act; providing that terms of current members are not interrupted by change to council composition; providing an effective date.

Rep. Romeo moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Consideration of **CS/HB 1255** was temporarily postponed under Rule 11.10.

HB 1611—A bill to be entitled An act for the relief of Mary Beth Wiggers; providing an appropriation to compensate Mary Beth Wiggers for injuries she sustained due to the negligence of the Department of Corrections; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 159—A bill to be entitled An act relating to health maintenance organizations; amending s. 641.51, F.S.; providing a licensure requirement for a physician who renders an adverse determination regarding services provided by another state-licensed physician; eliminating authority of certain out-of-state physicians to render such determinations; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 852583)

Amendment 1—On page 2, lines 6-7
remove from the bill: all of said lines

and insert in lieu thereof:

Section 2. This act shall take effect January 1, 2002.

Rep. Rubio moved the adoption of the amendment, which was adopted.

Representative(s) Sobel offered the following:

(Amendment Bar Code: 531915)

Amendment 2 (with title amendment)—On page 1, line 24 of the bill

after the period, insert: *Such physician and the organization are liable for damages for harm to a subscriber or enrollee proximately caused by the adverse determination when such determination is made without the exercise of ordinary care.*

And the title is amended as follows:

On page 1, line 9,

after "determinations;" insert: providing for damages when an organization or physician fails to exercise ordinary care;

Rep. Sobel moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 206

Yeas—38

Ausley	Gelber	Kosmas	Siplin
Bendross-Mindingall	Gottlieb	Lee	Slosberg
Betancourt	Greenstein	Lerner	Smith
Bucher	Harper	Machek	Sobel
Bullard	Henriquez	McGriff	Weissman
Cusack	Heyman	Rich	Wiles
Detert	Holloway	Richardson	Wilson
Fields	Jennings	Ritter	Wishner
Frankel	Joyner	Romeo	
Gannon	Justice	Seiler	

Nays—59

The Chair	Bowen	Goodlette	Mealor
Alexander	Brummer	Haridopolos	Melvin
Allen	Byrd	Harrell	Miller
Andrews	Cantens	Harrington	Murman
Arza	Carassas	Hart	Needelman
Attkisson	Clarke	Kallinger	Negron
Baker	Davis	Kendrick	Paul
Ball	Diaz de la Portilla	Kilmer	Pickens
Barreiro	Diaz-Balart	Kottkamp	Rubio
Baxley	Dockery	Kravitz	Russell
Bean	Fasano	Kyle	Simmons
Bennett	Fiorentino	Mack	Spratt
Bense	Flanagan	Mahon	Stansel
Benson	Gardiner	Mayfield	Trovillion
Bilirakis	Gibson	Maygarden	

Representative(s) Frankel and Sobel offered the following:

(Amendment Bar Code: 783209)

Amendment 3 (with title amendment)—On page 2, line 3,

after the period, insert: *The treating provider may, within 10 working days of receiving such notification, overrule the adverse determination by written notification to the organization.*

And the title is amended as follows:

On page 1, line 9,

after "determinations;" insert: authorizing the treating provider to overrule an adverse determination;

Rep. Frankel moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 207

Yeas—41

Ausley	Gannon	Joyner	Richardson
Bendross-Mindingall	Gelber	Justice	Ritter
Betancourt	Gottlieb	Kosmas	Romeo
Brutus	Greenstein	Lee	Ryan
Bucher	Harper	Lerner	Seiler
Bullard	Henriquez	Machek	Siplin
Cusack	Heyman	McGriff	Slosberg
Fields	Holloway	Meadows	Smith
Frankel	Jennings	Rich	Sobel

Sorensen	Wiles	Wilson	Wishner
Weissman			

Nays—71

The Chair	Brummer	Green	Maygarden
Alexander	Byrd	Haridopolos	Mealor
Allen	Cantens	Harrell	Melvin
Andrews	Carassas	Harrington	Miller
Arza	Clarke	Johnson	Murman
Attkisson	Davis	Jordan	Needelman
Atwater	Detert	Kallinger	Negron
Baker	Diaz de la Portilla	Kendrick	Paul
Ball	Diaz-Balart	Kilmer	Pickens
Barreiro	Dockery	Kottkamp	Rubio
Baxley	Farkas	Kravitz	Russell
Bean	Fasano	Kyle	Simmons
Bennett	Fiorentino	Lacasa	Spratt
Bense	Flanagan	Littlefield	Stansel
Benson	Garcia	Lynn	Trovillion
Berfield	Gardiner	Mack	Wallace
Bilirakis	Gibson	Mahon	Waters
Bowen	Goodlette	Mayfield	

Representative(s) Murman and Berfield offered the following:

(Amendment Bar Code: 093461)

Amendment 4 (with title amendment)—On page 2, lines 6 and 7, remove from the bill: all of said lines,

and insert in lieu thereof:

Section 2. Paragraph (a) of subsection (6) of section 627.410, Florida Statutes, is amended, and paragraph (f) is added to subsection (7) of said section, to read:

627.410 Filing, approval of forms.—

(6)(a) An insurer shall not deliver or issue for delivery or renew in this state any health insurance policy form until it has filed with the department a copy of every applicable rating manual, rating schedule, change in rating manual, and change in rating schedule; if rating manuals and rating schedules are not applicable, the insurer must file with the department applicable premium rates and any change in applicable premium rates. *This paragraph does not apply to group health insurance policies insuring groups of 51 or more persons, except for Medicare supplement insurance, long-term care insurance, and any coverage under which the increase in claims costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(7)

(f) Insurers with fewer than 1,000 nationwide policyholders or insured group members or subscribers covered under any form or pooled group of forms with health insurance coverage, as described in s. 627.6561(5)(a)2., excluding Medicare supplement insurance coverage under part VIII, at the time of a rate filing made pursuant to subparagraph (b)1., may file for an annual rate increase limited to medical trend as adopted by the department pursuant to s. 627.411(5). The filing is in lieu of the actuarial memorandum required for a rate filing prescribed by paragraph (6)(b). The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 3. Paragraph (e) of subsection (1) of section 627.411, Florida Statutes, is amended to read:

627.411 Grounds for disapproval.—

(1) The department shall disapprove any form filed under s. 627.410, or withdraw any previous approval thereof, only if the form:

(e) Is for health insurance, and*:*

1. Provides benefits *that* ~~which~~ are unreasonable in relation to the premium charged*;*~~,~~

2. Contains provisions *that* ~~which~~ are unfair or inequitable or contrary to the public policy of this state or *that* ~~which~~ encourage misrepresentation*;*~~,~~ or

3. Contains provisions that ~~which~~ apply rating practices *that* ~~which result in premium escalations that are not viable for the policyholder market or~~ result in unfair discrimination *pursuant to s. 626.9541(1)(g)2.;* ~~in sales practices~~.

Section 4. Subsection (9) is added to section 627.6515, Florida Statutes, to read:

627.6515 Out-of-state groups.—

(9) For purposes of this section, any insurer that issues any group health insurance policy or group certificate for health insurance to a resident of this state and requires individual underwriting to determine coverage eligibility or premium rates to be charged shall combine the experience of all association-based group policies or association-based group certificates which are substantially similar with respect to type and level of benefits and marketing method issued in this state after the policy form has been in force for a period of 5 years to calculate uniform percentage rate increases. For purposes of this section, policy forms that have different cost-sharing arrangements or different riders are considered to be different policy forms. Nothing in this subsection shall be construed to require uniform rates for policies or certificates after their fifth duration, it being the intent and purpose of this law to require uniform percentage rate increases for such policies or certificates. Furthermore, nothing in this subsection shall be construed to eliminate changes in rates by age for attained age policies or certificates. The provisions of this subsection shall apply to policies or certificates issued after July 1, 2001. For purposes of this subsection, a group health policy or group certificate for health insurance means any hospital or medical policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. The term does not include accident-only, specified disease, individual hospital indemnity, credit, dental-only, vision-only, Medicare supplement, long-term care, or disability income insurance; similar supplemental plans provided under a separate policy, certificate, or contract of insurance, which cannot duplicate coverage under an underlying health plan and are specifically designed to fill gaps in the underlying health plan, coinsurance, or deductibles; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

Section 5. Paragraph (n) of subsection (3) and paragraph (b) of subsection (6) of section 627.6699, Florida Statutes, are amended to read:

627.6699 Employee Health Care Access Act.—

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

(n) "Modified community rating" means a method used to develop carrier premiums which spreads financial risk across a large population; allows the use of separate rating factors for age, gender, family composition, tobacco usage, and geographic area as determined under paragraph (5)(j); and allows adjustments for~~: claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5.; and~~ administrative and acquisition expenses as permitted under subparagraph (6)(b)5. *A carrier may separate the experience of small employer groups with less than 2 eligible employees from the experience of small employer groups with 2 through 50 eligible employees.*

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

(b) For all small employer health benefit plans that are subject to this section and are issued by small employer carriers on or after January 1, 1994, premium rates for health benefit plans subject to this section are subject to the following:

1. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible

dependent's gender, age, family composition, tobacco use, or geographic area as determined under paragraph (5)(j) and in which the premium may be adjusted as permitted by subparagraphs *6.* ~~5.~~ and *7.* ~~6.~~

2. Rating factors related to age, gender, family composition, tobacco use, or geographic location may be developed by each carrier to reflect the carrier's experience. The factors used by carriers are subject to department review and approval.

3. If the modified community rate is determined from two experience pools as authorized by paragraph (3)(n), the rate to be charged to small employer groups of less than 2 eligible employees may not exceed 150 percent of the rate determined for groups of 2 through 50 eligible employees; however, the carrier may charge excess losses of the less than 2 eligible employee experience pool to the experience pool of the 2 through 50 eligible employees so that all losses are allocated and the 150-percent rate limit on the less than 2 eligible employee experience pool is maintained.

4.~~3.~~ Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed. However, a small employer carrier may modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers covered under the policy if:

a. The carrier discloses to the employer in a clear and conspicuous manner the date of the first renewal and the fact that the premium may increase on or after that date.

b. The insurer demonstrates to the department that efficiencies in administration are achieved and reflected in the rates charged to small employers covered under the policy.

5.~~4.~~ A carrier may issue a group health insurance policy to a small employer health alliance or other group association with rates that reflect a premium credit for expense savings attributable to administrative activities being performed by the alliance or group association if such expense savings are specifically documented in the insurer's rate filing and are approved by the department. Any such credit may not be based on different morbidity assumptions or on any other factor related to the health status or claims experience of any person covered under the policy. Nothing in this subparagraph exempts an alliance or group association from licensure for any activities that require licensure under the insurance code. A carrier issuing a group health insurance policy to a small employer health alliance or other group association shall allow any properly licensed and appointed agent of that carrier to market and sell the small employer health alliance or other group association policy. Such agent shall be paid the usual and customary commission paid to any agent selling the policy.

6.~~5.~~ Any adjustments in rates for claims experience, health status, or duration of coverage may not be charged to individual employees or dependents. For a small employer's policy, such adjustments may not result in a rate for the small employer which deviates more than 15 percent from the carrier's approved rate. Any such adjustment must be applied uniformly to the rates charged for all employees and dependents of the small employer. A small employer carrier may make an adjustment to a small employer's renewal premium, not to exceed 10 percent annually, due to the claims experience, health status, or duration of coverage of the employees or dependents of the small employer. Semiannually, small group carriers shall report information on forms adopted by rule by the department, to enable the department to monitor the relationship of aggregate adjusted premiums actually charged policyholders by each carrier to the premiums that would have been charged by application of the carrier's approved modified community rates. If the aggregate resulting from the application of such adjustment exceeds the premium that would have been charged by application of the approved modified community rate by 5 percent for the current reporting period, the carrier shall limit the application of such adjustments only to minus adjustments beginning not more than 60 days after the report is sent to the department. For any subsequent reporting period, if the total aggregate adjusted premium actually charged does not exceed the premium that would have been charged by application of the approved modified community rate by 5 percent, the carrier may apply both plus and minus adjustments. A small employer carrier may provide a credit to a small employer's premium based on administrative and acquisition expense differences resulting from the size of the group. Group size administrative and acquisition expense factors may be developed by each carrier to reflect the carrier's experience and are subject to department review and approval.

7.~~6.~~ A small employer carrier rating methodology may include separate rating categories for one dependent child, for two dependent children, and for three or more dependent children for family coverage of employees having a spouse and dependent children or employees having dependent children only. A small employer carrier may have fewer, but not greater, numbers of categories for dependent children than those specified in this subparagraph.

8.~~7.~~ Small employer carriers may not use a composite rating methodology to rate a small employer with fewer than 10 employees. For the purposes of this subparagraph, a "composite rating methodology" means a rating methodology that averages the impact of the rating factors for age and gender in the premiums charged to all of the employees of a small employer.

Section 6. Section 627.9408, Florida Statutes, is amended to read:

627.9408 Rules.—

(1) The department *may* ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to *administer* ~~implement the provisions of~~ this part.

(2) The department may adopt by rule the provisions of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in the second quarter of the year 2000 which are not in conflict with the Florida Insurance Code.

Section 7. Paragraph (b) of subsection (3) of section 641.31, Florida Statutes, is amended, and paragraph (f) is added to said subsection, to read:

641.31 Health maintenance contracts.—

(3)

(b) Any change in the rate is subject to paragraph (d) and requires at least 30 days' advance written notice to the subscriber. In the case of a group member, there may be a contractual agreement with the health maintenance organization to have the employer provide the required notice to the individual members of the group. *This paragraph does not apply to a group contract covering 51 or more persons unless the rate is for any coverage under which the increase in claim costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(f) A health maintenance organization with fewer than 1,000 covered subscribers under all individual or group contracts, at the time of a rate filing, may file for an annual rate increase limited to annual medical trend, as adopted by the department. The filing is in lieu of the actuarial memorandum otherwise required for the rate filing. The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 8. Paragraphs (a) and (b) of subsection (1) of section 641.3155, Florida Statutes, are amended to read:

641.3155 Payment of claims.—

(1)(a) As used in this section, the term "clean claim" for a noninstitutional provider means a claim submitted on a HCFA 1500 form which has no defect or impropriety, including lack of required substantiating documentation for noncontracted providers and suppliers, or particular circumstances requiring special treatment which prevent timely payment from being made on the claim. A claim may not be considered not clean solely because a health maintenance organization refers the claim to a medical specialist within the health

maintenance organization for examination. If additional substantiating documentation, such as the medical record or encounter data, is required from a source outside the health maintenance organization, the claim is considered not clean. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.* This definition of "clean claim" is repealed on the effective date of rules adopted by the department which define the term "clean claim."

(b) Absent a written definition that is agreed upon through contract, the term "clean claim" for an institutional claim is a properly and accurately completed paper or electronic billing instrument that consists of the UB-92 data set or its successor with entries stated as mandatory by the National Uniform Billing Committee. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.*

Section 9. *Health flex plans.—*

(1) INTENT.—The Legislature finds that a significant portion of the residents of this state are not able to obtain affordable health insurance coverage. Therefore, it is the intent of the Legislature to expand the availability of health care options for lower income uninsured state residents by encouraging health insurers, health maintenance organizations, health care provider sponsored organizations, local governments, health care districts, or other public or private community-based organizations to develop alternative approaches to traditional health insurance which emphasize coverage for basic and preventive health care services. To the maximum extent possible, such options should be coordinated with existing governmental or community-based health services programs in a manner that is consistent with the objectives and requirements of such programs.

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Approved plan" means a health flex plan approved under subsection (3) which guarantees payment by the health plan entity for specified health care services provided to the enrollee.

(c) "Enrollee" means an individual who has been determined eligible for and is receiving health benefits under a health flex plan approved under this section.

(d) "Health care coverage" means payment for health care services covered as benefits under an approved plan or that otherwise provides, either directly or through arrangements with other persons, covered health care services on a prepaid per-capita basis or on a prepaid aggregate fixed-sum basis.

(e) "Health plan entity" means a health insurer, health maintenance organization, health care provider sponsored organization, local government, health care districts, or other public or private community-based organization that develops and implements an approved plan and is responsible for financing and paying all claims by enrollees of the plan.

(3) PILOT PROGRAM.—The agency and the Department of Insurance shall jointly approve or disapprove health flex plans which provide health care coverage for eligible participants residing in the three areas of the state having the highest number of uninsured residents as determined by the agency. A plan may limit or exclude benefits otherwise required by law for insurers offering coverage in this state, cap the total amount of claims paid in 1 year per enrollee, or limit the number of enrollees covered. The agency and the Department of Insurance shall not approve or shall withdraw approval of a plan which:

(a) Contains any ambiguous, inconsistent, or misleading provisions, or exceptions or conditions that deceptively affect or limit the benefits purported to be assumed in the general coverage provided by the plan;

(b) Provides benefits that are unreasonable in relation to the premium charged, contains provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation, or result in unfair discrimination in sales practices; or

(c) Cannot demonstrate that the plan is financially sound and the applicant has the ability to underwrite or finance the benefits provided.

(4) LICENSE NOT REQUIRED.—A health flex plan approved under this section shall not be subject to the licensing requirements of the Florida Insurance Code or chapter 641, Florida Statutes, relating to health maintenance organizations, unless expressly made applicable. However, for the purposes of prohibiting unfair trade practices, health flex plans shall be considered insurance subject to the applicable provisions of part IX of chapter 626, Florida Statutes, except as otherwise provided in this section.

(5) ELIGIBILITY.—Eligibility to enroll in an approved health flex plan is limited to residents of this state who:

(a) Are 64 years of age or younger;

(b) Have a family income equal to or less than 200 percent of the federal poverty level;

(c) Are not covered by a private insurance policy and are not eligible for coverage through a public health insurance program such as Medicare or Medicaid, or other public health care program, including, but not limited to, Kidcare, and have not been covered at any time during the past 6 months; and

(d) Have applied for health care benefits through an approved health flex plan and agree to make any payments required for participation, including, but not limited to, periodic payments and payments due at the time health care services are provided.

(6) RECORDS.—Every health flex plan provider shall maintain reasonable records of its loss, expense, and claims experience and shall make such records reasonably available to enable the agency and the Department of Insurance to monitor and determine the financial viability of the plan, as necessary.

(7) NOTICE.—The denial of coverage by the health plan entity shall be accompanied by the specific reasons for denial, nonrenewal, or cancellation. Notice of nonrenewal or cancellation shall be provided at least 45 days in advance of such nonrenewal or cancellation except that 10 days' written notice shall be given for cancellation due to nonpayment of premiums. If the health plan entity fails to give the required notice, the plan shall remain in effect until notice is appropriately given.

(8) NONENTITLEMENT.—Coverage under an approved health flex plan is not an entitlement and no cause of action shall arise against the state, local governmental entity, or other political subdivision of this state or the agency for failure to make coverage available to eligible persons under this section.

(9) CIVIL ACTIONS.—In addition to an administrative action initiated under subsection (4), the agency may seek any remedy provided by law, including, but not limited to, the remedies provided in s. 812.035, Florida Statutes, if the agency finds that a health plan entity has engaged in any act resulting in injury to an enrollee covered by a plan approved under this section.

Section 10. *The Legislature finds that the affordability and availability of health insurance is one of the most important and complex issues in this state and that coverage issued to a state resident under group health insurance policies issued outside the state is an important factor in meeting the needs of the citizens of this state. The Legislature also finds that it is important to ensure that those policies are adequately regulated in order to maintain the quality of the coverage offered to citizens of this state. Therefore, the Workgroup on Out of State Group Policies is hereby created to study the regulatory environment in which these policies are now offered and recommend any statutory changes that may be necessary to maintain the quality of the insurance offered in this state. There shall be four members from the House of Representatives appointed by the Speaker of the House of Representatives and four members from the Senate appointed by the President of the Senate. The group shall begin its meetings by July 1, 2001, and complete its meetings*

by November 15, 2001. Recommendations for suggested legislation shall be delivered to the Speaker of the House of Representatives and the President of the Senate by December 15, 2001. At its first meeting, the group shall elect a chair from among its members.

Section 11. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 9, after the semicolon,

insert: amending s. 627.410, F.S.; exempting group health insurance policies insuring groups of a certain size from rate filing requirements; providing alternative rate filing requirements for insurers with less than a specified number of nationwide policyholders or members; amending s. 627.411, F.S.; revising the grounds for the disapproval of insurance policy forms; amending s. 627.6515, F.S.; providing additional experience requirements and limitations for out-of-state groups; providing construction; amending s. 627.6699, F.S.; revising a definition; allowing carriers to separate the experience of small employer groups with fewer than two employees; revising the rating factors that may be used by small employer carriers; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; amending s. 641.31, F.S.; exempting contracts of group health maintenance organizations covering a specified number of persons from the requirements of filing with the department; providing alternative rate filing requirements for organizations with less than a specified number of subscribers; amending s. 641.3155, F.S.; specifying nonapplication of certain provisions to certain claims; providing for certain health flex plans; providing legislative intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria; exempting approved health flex plans from certain licensing requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan providers to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying that coverage under an approved health flex plan is not an entitlement; providing for civil actions against health plan entities by the Agency for Health Care Administration under certain circumstances; providing legislative findings; creating the Workgroup on Out of State Group Policies; providing for membership; providing purposes; requiring recommendations for proposed legislation; providing an effective date.

Rep. Berfield moved the adoption of the amendment.

On motion by Rep. Harrell, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Harrell offered the following:

(Amendment Bar Code: 942283)

Amendment 1 to Amendment 4 (with title amendment)—On page 1, between lines 17 and 18,

insert:

Section 2. Paragraphs (b) and (f) of subsection (4), and paragraph (b) of subsection (5) and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Agency for Health Care Administration provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(b) Personal injury protection insurance benefits paid pursuant to this section shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery. *This paragraph does not preclude or limit the ability of the insurer to assert that the claim was unrelated, was not medically necessary, or was unreasonable or that the amount of the charge was in excess of that permitted under, or in violation of, subsection (5). Such assertion by the insurer may be made at any time, including after payment of the claim or after the 30-day time period for payment set forth in this paragraph.*

~~(f) Medical payments insurance, if available in a policy of motor vehicle insurance, shall pay the portion of any claim for personal injury protection medical benefits which is otherwise covered but is not payable due to the coinsurance provision of paragraph (1)(a), regardless of whether the full amount of personal injury protection coverage has been exhausted. The benefits shall not be payable for the amount of any deductible which has been selected.~~

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(b) With respect to any treatment or service, other than medical services billed by a hospital *or other provider* for *emergency* services *as defined in s. 395.002 or inpatient services* rendered at a hospital-owned facility, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph. Any agreement requiring the injured person or insured to pay for such charges is unenforceable. *If, however, the insured fails to furnish the provider with the correct name and address of the insured's personal injury protection insurer, the provider has 35 days from the date the provider obtains the correct information to furnish the insurer with a statement of the charges. The insurer is not required to pay for such charges, unless the provider includes with the statement documentary evidence that was provided by the insured during the 35-day period demonstrating that the provider reasonably relied on erroneous information from the insured and either:*

1. A denial letter from the incorrect insurer; or

2. Proof of mailing, which may include an affidavit under penalty of perjury, reflecting timely mailing to the incorrect address or insurer. For emergency services and care as defined in s. 395.002 rendered in a hospital emergency department or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401, the provider is not required to furnish the statement of charges within the time periods established by this paragraph; and the insurer shall not be considered to have been furnished with notice of the amount of covered loss for purposes of paragraph (4)(b) until it receives a

statement complying with paragraph *(e)* ~~(5)(d)~~, or copy thereof, which specifically identifies the place of service to be a hospital emergency department or an ambulance in accordance with billing standards recognized by the Health Care Finance Administration. Each notice of insured's rights under s. 627.7401 must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS.—Florida Statutes provide that with respect to any treatment or services, other than certain hospital and emergency services, the statement of charges furnished to the insurer by the provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a *valid* report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary. *A valid report is one prepared and signed by the physician examining the injured person or reviewing the treatment records of the injured person and is factually supported by the examination or treatment records, if reviewed, and which has not been modified by anyone other than the physician. The physician preparing the report must be in active practice, unless the physician is physically disabled. Active practice means that during the 3 years immediately preceding the date of the physical examination or review of the treatment record, the physician devoted professional time to the active clinical practice of evaluation, diagnosis, or treatment of medical conditions; or the instruction of students in an accredited health professional school or accredited residency, or at a clinical research program or a clinical research program affiliated with an accredited health professional school or teaching hospital, or a clinical research program affiliated with an accredited health professional school or accredited residency, or clinical research program.*

And the title is amended as follows:

On page 15, between lines 11 and 12,

insert: amending s. 627.736, F.S.; relating to required personal injury protection benefits; revising provisions relating to personal injury protection benefits;

Rep. Harrell moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Murman and Berfield offered the following:

(Amendment Bar Code: 333661)

Amendment 2 to Amendment 4—On page 4, lines 22-24,
remove from the amendment: all of said lines

and insert in lieu thereof:
allows adjustments for: claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5.; and administrative and acquisition expenses as permitted under

Rep. Murman moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 4**, as amended, which was adopted.

Representative(s) Rubio offered the following:

(Amendment Bar Code: 845885)

Amendment 5 (with title amendment)—On page 2, line 6,
remove from the bill: all of said line

and insert in lieu thereof: *This provision does not create authority for the Board of Medicine or the Board of Osteopathic Medicine to regulate the organization; however, the Board of Medicine and the Board of Osteopathic Medicine continue to have jurisdiction over licensees of their respective boards.*

Section 2. This act shall take effect January 1, 2002.

And the title is amended as follows:

On page 1, line 7,

after the semicolon insert: clarifying the authority of the Board of Medicine and the Board of Osteopathic Medicine;

Rep. Rubio moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1513—A bill to be entitled An act relating to the State Group Insurance Program; amending ss. 110.123 and 287.022, F.S.; prohibiting the Department of Management Services or the Division of State Group Insurance from prohibiting or limiting competition for certain insurance products or plans on an agent compensation arrangement basis; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

REPRESENTATIVE BALL IN THE CHAIR

HB 465—A bill to be entitled An act relating to determinations of residency for tuition purposes; amending s. 240.1201, F.S.; revising provisions relating to determinations of residency for tuition purposes to classify members of the active Florida National Guard as residents for tuition purposes; providing an effective date.

—was read the second time by title.

Representative(s) Hart offered the following:

(Amendment Bar Code: 933951)

Amendment 1 (with title amendment)—On page 1, between lines 21 and 22,

insert:

Section 2. Section 240.2099, Florida Statutes, is amended to read:

240.2099 Computer-assisted student advising system; plans.—The Board of Regents and State Board of Community Colleges shall develop plans for implementing a single, statewide computer-assisted student

advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation. Plans shall include timelines for the implementation of the system and shall be submitted to the Legislature by October 1, 1996. It is intended that an advising system be the primary advising and tracking tool for students enrolled in community colleges and universities and be accessible to students enrolled in each of the state universities, community colleges, and public secondary schools. The State University System and the community college system shall establish a committee to oversee the development and maintenance of the advising system. The system shall consist of a degree audit and an articulation component that includes the ~~following~~ characteristics *provided in subsections (1), (2), and (3)*:

(1) The system shall constitute an integral part of the process of advising students and assisting them in course selection. The system shall be accessible to students in the following ways:

(a) A student must be able to access the system, at any time, to identify course options that will meet the requirements of a selected path toward a degree.

(b) A status report from the system shall be generated and sent with each grade report to each student with a declared major.

(2) The system shall be an integral part of the registration process. As part of the process, the system shall:

(a) Provide reports that document each student's status toward completion of a degree.

(b) Verify that a student has completed requirements for graduation.

(3) The system must provide management information to decisionmakers, including information relating student enrollment patterns and course demands to plans for corresponding course offerings and information useful in planning the student registration process.

(4) In implementing the single, statewide, computer-assisted student advising system required under section 240.2099, Florida Statutes, the Board of Regents and the State Board of Community Colleges may:

(a) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and enforce their rights with respect thereto;

(b) Enter into binding agreements with organizations, corporations, or government entities to license, lease, assign, or otherwise give written consent to any person, firm, corporation, or agency for the use of the single, statewide, computer-assisted student advising system and collect royalties or any other consideration that the boards find proper; and

(c) Sell or license any such work products and execute all instruments necessary to consummate the sale or license.

(d) Final actions taken by the Board of Regents and the State Board of Community Colleges or their successor, related to the agreement, are subject to the notice review and objection procedure established in s. 216.177, Florida Statutes.

All or a portion of the proceeds derived from activities authorized under this section may be expended for the costs incurred in developing and maintaining the single, statewide, computer-assisted student advising system.

(Renumber subsequent sections)

And the title is amended as follows:

On page 1, line 8, after the semicolon

insert: amending s. 240.2099, F.S.; providing additional authority of the Board of Regents and the State Board of Community Colleges with respect to the implementation of the statewide computer-assisted student advising system; providing for expenditure of specified proceeds;

Rep. Hart moved the adoption of the amendment.

Representative(s) Hart offered the following:

(Amendment Bar Code: 563389)

Substitute Amendment 1 (with title amendment)—On page 1, between lines 21 and 22,

insert:

Section 1. Section 240.2099, Florida Statutes, is amended to read:

240.2099 Computer-assisted student advising system; plans.—The Board of Regents and State Board of Community Colleges shall develop plans for implementing a single, statewide computer-assisted student advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation. Plans shall include timelines for the implementation of the system and shall be submitted to the Legislature by October 1, 1996. It is intended that an advising system be the primary advising and tracking tool for students enrolled in community colleges and universities and be accessible to students enrolled in each of the state universities, community colleges, and public secondary schools. The State University System and the community college system shall establish a committee to oversee the development and maintenance of the advising system. The system shall consist of a degree audit and an articulation component that includes the ~~following~~ characteristics *provided in subsections (1), (2), and (3)*:

(1) The system shall constitute an integral part of the process of advising students and assisting them in course selection. The system shall be accessible to students in the following ways:

(a) A student must be able to access the system, at any time, to identify course options that will meet the requirements of a selected path toward a degree.

(b) A status report from the system shall be generated and sent with each grade report to each student with a declared major.

(2) The system shall be an integral part of the registration process. As part of the process, the system shall:

(a) Provide reports that document each student's status toward completion of a degree.

(b) Verify that a student has completed requirements for graduation.

(3) The system must provide management information to decisionmakers, including information relating student enrollment patterns and course demands to plans for corresponding course offerings and information useful in planning the student registration process.

(4) In implementing the single, statewide, computer-assisted student advising system required under section 240.2099, Florida Statutes, the Board of Regents and the State Board of Community Colleges may:

(a) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and enforce their rights with respect thereto;

(b) Enter into binding agreements with organizations, corporations, or government entities to license, lease, assign, or otherwise give written consent to any person, firm, corporation, or agency for the use of the single, statewide, computer-assisted student advising system and collect royalties or any other consideration that the boards find proper; and

(c) Sell or license any such work products and execute all instruments necessary to consummate the sale or license. Subject to the terms and conditions of any applicable license agreement or similar arrangement, the State shall retain ownership of all intellectual property and all interests therein, and shall have full right to use of such intellectual property. All of the proceeds derived from activities authorized under this section shall be expended for the costs incurred in developing, maintaining, and improving the single, statewide, computer-assisted student advising system.

(d) Final actions taken by the Board of Regents and the State Board of Community Colleges or their successor, related to the agreement, are subject to the notice review and objection procedure established in s. 216.177, Florida Statutes.

(Renumber subsequent sections)

And the title is amended as follows:

On page 1, line 8, after the semicolon

insert: amending s. 240.2099, F.S.; providing additional authority of the Board of Regents and the State Board of Community Colleges with respect to the implementation of the statewide computer-assisted student advising system; providing for expenditure of specified proceeds;

Rep. Hart moved the adoption of the substitute amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 293—A bill to be entitled An act relating to the Certified Capital Company Act; amending s. 288.99, F.S.; revising definitions; defining the terms "Program One" and "Program Two"; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; authorizing the Department of Banking and Finance to levy a fine; providing for distributions under both programs; providing an effective date.

—was read the second time by title.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 920355)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsections (3) and (4), paragraph (a) of subsection (5), paragraph (a) of subsection (6), paragraphs (a), (c), (d), (e), (f), (g), and (h) of subsection (7), paragraph (a) of subsection (8), paragraphs (a) and (b) of subsection (9), and paragraph (f) of subsection (10) of section 288.99, Florida Statutes, are amended and a new paragraph (i) of subsection (7) is added to read:

288.99 Certified Capital Company Act.—

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

(a) "Affiliate of an insurance company" means:

1. Any person directly or indirectly beneficially owning, whether through rights, options, convertible interests, or otherwise, controlling, or holding power to vote 10 percent or more of the outstanding voting securities or other ownership interests of the insurance company;

2. Any person 10 percent or more of whose outstanding voting securities or other ownership interest is directly or indirectly beneficially owned, whether through rights, options, convertible interests, or otherwise, controlled, or held with power to vote by the insurance company;

3. Any person directly or indirectly controlling, controlled by, or under common control with the insurance company;

4. A partnership in which the insurance company is a general partner; or

5. Any person who is a principal, director, employee, or agent of the insurance company or an immediate family member of the principal, director, employee, or agent.

(b) "Certified capital" means an investment of cash by a certified investor in a certified capital company which fully funds the purchase price of either or both its equity interest in the certified capital company or a qualified debt instrument issued by the certified capital company.

(c) "Certified capital company" means a corporation, partnership, or limited liability company which:

1. Is certified by the department in accordance with this act.

2. Receives investments of certified capital *from two or more unaffiliated certified investors*.

3. Makes qualified investments as its primary activity.

(d) "Certified investor" means any insurance company subject to premium tax liability pursuant to s. 624.509 that contributes certified capital.

(e) "Department" means the Department of Banking and Finance.

(f) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(g) "Early stage technology business" means a qualified business that is *either:*

1. Involved, at the time of the certified capital company's initial investment in such business, in activities related to developing initial product or service offerings, such as prototype development or the establishment of initial production or service processes;~~. The term includes a qualified business that is~~

2. Less than 2 years old and has, together with its affiliates, less than $3 million in annual revenues for the fiscal year immediately preceding the initial investment by the certified capital company on a consolidated basis, as determined in accordance with generally accepted accounting principles;~~. The term also includes~~

3. The Florida Black Business Investment Board;~~,~~

4. Any entity *that is majority-owned* ~~majority owned~~ by the Florida Black Business Investment Board;~~,~~ or

5. Any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

(h) "Office" means the Office of Tourism, Trade, and Economic Development.

(i) "Premium tax liability" means any liability incurred by an insurance company under the provisions of s. 624.509.

(j) "Principal" means an executive officer of a corporation, partner of a partnership, manager of a limited liability company, or any other person with equivalent executive functions.

(k) "Qualified business" means a business that meets the following conditions *as evidenced by documentation required by department rule*:

1. The business is headquartered in this state and its principal business operations are located in this state. *For the purpose of this act, the terms "headquartered" and "principal business operations" shall mean that at least 75 percent of the employees are located in the state.*

2. At the time a certified capital company makes an initial investment in a business, the business is a small business concern as defined in 13 C.F.R. s. 121.201, "Size Standards Used to Define Small Business Concerns" of the United States Small Business Administration which is involved in manufacturing, processing or assembling products, conducting research and development, or providing services.

3. At the time a certified capital company makes an initial investment in a business, the business certifies in an affidavit that:

a. The business is unable to obtain conventional financing, which means that the business has failed in an attempt to obtain funding for a loan from a bank or other commercial lender or that the business

cannot reasonably be expected to qualify for such financing under the standards of commercial lending;

b. The business plan for the business projects that the business is reasonably expected to achieve in excess of $25 million in sales revenue within 5 years after the initial investment, or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district;

c. The business will maintain its headquarters in this state for the next 10 years and any new manufacturing facility financed by a qualified investment will remain in this state for the next 10 years, or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district; and

d. The business has fewer than 200 employees and at least 75 percent of the employees are employed in this state. For purposes of this subsection, the term ~~“qualified business”~~ also includes the Florida Black Business Investment Board, any entity majority owned by the Florida Black Business Investment Board, or any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

4. The term does not include:

a. Any business predominantly engaged in retail sales, real estate development, insurance, banking, lending, or oil and gas exploration.

b. Any business predominantly engaged in professional services provided by accountants, lawyers, or physicians.

c. Any company that has no historical revenues and either has no specific business plan or purpose or has indicated that its business plan is solely to engage in a merger or acquisition with any unidentified company or other entity.

d. Any company that has a strategic plan to grow through the acquisition of firms with substantially similar business which would result in the planned net loss of Florida-based jobs over a 12-month period after the acquisition as determined by the department.

~~A business predominantly engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration, or engaged in professional services provided by accountants, lawyers, or physicians does not constitute a qualified business.~~

(l) “Qualified debt instrument” means a debt instrument, or a hybrid of a debt instrument, issued by a certified capital company, at par value or a premium, with an original maturity date of at least 5 years after the date of issuance, a repayment schedule which is no faster than a level principal amortization over a 5-year period, and interest, distribution, or payment features which are not related to the profitability of the certified capital company or the performance of the certified capital company’s investment portfolio.

(m) “Qualified distribution” means any distribution or payment *by* ~~to equity holders of~~ a certified capital company for:

1. *Reasonable* costs and expenses*, including professional fees,* of forming *and*~~,~~ syndicating *the certified capital company*, *if no such costs are paid to a certified investor and the total cash or cash equivalents available to the certified capital company at the time of receipt of certified capital from certified investors, after deducting the costs and expenses of forming and syndicating the certified capital company, including any payments made over time for obligations incurred at the time of receipt of certified capital excluding other future qualified distributions and payments made under s. 288.99(9)(a), are an amount equal to or greater than 50 percent of the total certified capital allocated to the certified capital company pursuant to s. 288.99(7);*

2. Reasonable costs of managing~~,~~ and operating the certified capital company, *not exceeding 5 percent of the certified capital in any 1 year,* including an annual management fee in an amount that does not exceed 2.5 percent of the certified capital of the certified capital company*;*~~, plus~~

3. Reasonable and necessary fees in accordance with industry custom for professional services, including, but not limited to, legal and accounting services, related to the operation of the certified capital company*; or*~~.~~

4.~~2.~~ Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, of the equity owners of a certified capital company resulting from the earnings or other tax liability of the certified capital company to the extent that the increase is related to the ownership, management, or operation of a certified capital company.

(n)*1.* “Qualified investment” means the investment of cash by a certified capital company in a qualified business for the purchase of any debt, equity, or hybrid security ~~of any nature and description whatsoever~~, including a debt instrument or security *that* ~~which~~ has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants.

2. The term does not include:

a. Any investment made after the effective date of this act the contractual terms of which require the repayment of any portion of the principal in instances, other than default as determined by department rule, within 12 months following the initial investment by the certified capital company unless such investment has a repayment schedule no faster than a level principal amortization of at least 2 years;

b. Any “follow-on” or “add-on” investment except for the amount by which the new investment is in addition to the amount of the certified capital company’s initial investment returned to it other than in the form of interest, dividends, or other types of profit participation or distributions; or

c. Any investment in a qualified business or affiliate of a qualified business that exceeds 15 percent of certified capital.

(o) “Program One” means the $150 million in premium tax credits issued under this act in 1999, the allocation of such credits under this act, and the regulation of certified capital companies and investments made by them hereunder.

(p) “Program Two” means the $250 million in premium tax credits to be issued under this act on April 1, 2002, the allocation of such credits under this act, and the regulation of certified capital companies and investments made by them hereunder.

(4) CERTIFICATION; GROUNDS FOR DENIAL OR DECERTIFICATION.—

(a) To operate as a certified capital company, a corporation, partnership, or limited liability company must be certified by the department pursuant to this act.

(b) An applicant for certification as a certified capital company must file a verified application with the department on or before December 1, 1998, *or November 1, 2001, in the case of applicants for Program Two,* in a form which the department may prescribe by rule. The applicant shall submit a nonrefundable application fee of $7,500 to the department. The applicant shall provide:

1. The name of the applicant and the address of its principal office and each office in this state.

2. The applicant’s form and place of organization and the relevant organizational documents, bylaws, and amendments or restatements of such documents, bylaws, or amendments.

3. Evidence from the Department of State that the applicant is registered with the Department of State as required by law, maintains an active status with the Department of State, and has not been dissolved or had its registration revoked, canceled, or withdrawn.

4. The applicant’s proposed method of doing business.

5. The applicant’s financial condition and history, including an audit report on the financial statements prepared in accordance with

generally accepted accounting principles showing net *worth* ~~capital~~ of not less than $500,000 within 90 days *prior to* ~~after~~ the date the application is submitted to the department. If the date of the application is more than 90 days after preparation of the applicant's fiscal year-end financial statements, the applicant may file financial statements reviewed by an independent certified public accountant for the period subsequent to the audit report, together with the audited financial statement for the most recent fiscal year. If the applicant has been in business less than 12 months, and has not prepared an audited financial statement, the applicant may file a financial statement reviewed by an independent certified public accountant.

6. Copies of any offering materials used or proposed to be used by the applicant in soliciting investments of certified capital from certified investors.

(c) On December 31, 1998, *or December 31, 2001, in the case of applicants for Program Two,* the department shall grant or deny certification as a certified capital company. If the department denies certification within the time period specified, the department shall inform the applicant of the grounds for the denial. If the department has not granted or denied certification within the time specified, the application shall be deemed approved. The department shall approve the application if the department finds that:

1. The applicant satisfies the requirements of paragraph (b).

2. No evidence exists that the applicant has committed any act specified in paragraph (d).

3. At least two of the principals have a minimum of 5 years of experience making venture capital investments out of private equity funds, with not less than $20 million being provided by third-party investors for investment in the early stage of operating businesses. At least one full-time manager or principal of the certified capital company who has such experience must be primarily located in an office of the certified capital company which is based in this state.

4. The applicant's proposed method of doing business and raising certified capital as described in its offering materials and other materials submitted to the department conforms with the requirements of this act.

(d) The department may deny certification or decertify a certified capital company if the grounds for decertification are not removed or corrected within 90 days after the notice of such grounds is received by the certified capital company. The department may deny certification or decertify a certified capital company if the certified capital company fails to maintain a net worth of at least $500,000, or if the department determines that the applicant, or any principal or director of the certified capital company, has:

1. Violated any provision of this section;

2. Made a material misrepresentation or false statement or concealed any essential or material fact from any person during the application process or with respect to information and reports required of certified capital companies under this section;

3. Been convicted of, or entered a plea of guilty or nolo contendere to, a crime against the laws of this state or any other state or of the United States or any other country or government, including a fraudulent act in connection with the operation of a certified capital company, or in connection with the performance of fiduciary duties in another capacity;

4. Been adjudicated liable in a civil action on grounds of fraud, embezzlement, misrepresentation, or deceit; or

5.a. Been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or any state or federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association, involving a material violation of any federal or state securities or commodities law or any rule or regulation adopted under such law, or any rule or regulation of any national securities, commodities, or options exchange, or national securities, commodities, or options association; or

b. Been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers, or other related or similar industries.

~~(e) The certified capital company shall file a copy of its certification with the office by January 31, 1999.~~

(e)~~(f)~~ Any offering material involving the sale of securities of the certified capital company shall include the following statement: "By authorizing the formation of a certified capital company, the State of Florida does not endorse the quality of management or the potential for earnings of such company and is not liable for damages or losses to a certified investor in the company. Use of the word 'certified' in an offering does not constitute a recommendation or endorsement of the investment by the State of Florida. Investments in a certified capital company prior to the time such company is certified are not eligible for premium tax credits. If applicable provisions of law are violated, the state may require forfeiture of unused premium tax credits and repayment of used premium tax credits by the certified investor."

(f)~~(g)~~ No insurance company or any affiliate of an insurance company shall, directly or indirectly, *own (whether through rights, options, convertible interests, or otherwise) 10 percent or more of the equity interests of or* manage or control the direction of investments of a certified capital company *or have, through ownership or any agreement or understanding, the right to participate in 10 percent or more of the profits of a certified capital company*. This prohibition does not preclude a certified investor, insurance company, or any other party from exercising its legal rights and remedies, which may include interim management of a certified capital company, if a certified capital company is in default of its obligations under law or its contractual obligations to such certified investor, insurance company, or other party.

(g)~~(h)~~ On or before December 31 of each year, each certified capital company shall pay to the department an annual, nonrefundable renewal certification fee of $5,000. *If a certified capital company fails to pay its renewal fee by the specified deadline, it must pay a late fee of $5,000 in addition to the renewal fee on or by January 31 of each year in order to continue its certification in the program. On or before April 30 of each year, each certified capital company shall file audited financial statements with the department.* No renewal fees shall be required within 6 months after the date of initial certification.

(h)~~(i)~~ The department shall administer and provide for the enforcement of certification requirements for certified capital companies as provided in this act. The department may adopt any rules necessary to carry out its duties, obligations, and powers related to certification, renewal of certification, or decertification of certified capital companies and may perform any other acts necessary for the proper administration and enforcement of such duties, obligations, and powers.

(i)~~(j)~~ Decertification of a certified capital company under this subsection does not affect the ability of certified investors in such certified capital company from claiming future premium tax credits earned as a result of an investment in the certified capital company during the period in which it was duly certified.

(5) INVESTMENTS BY CERTIFIED CAPITAL COMPANIES.—

(a) To remain certified, a certified capital company must make qualified investments according to the following schedule:

1. At least 20 percent of its certified capital must be invested in qualified investments by December 31, 2000*, or in the case of certified capital raised under Program Two, by December 31, 2003*.

2. At least 30 percent of its certified capital must be invested in qualified investments by December 31, 2001*, or in the case of certified capital raised under Program Two, by December 31, 2004*.

3. At least 40 percent of its certified capital must be invested in qualified investments by December 31, 2002*, or in the case of certified capital raised under Program Two, by December 31, 2005*.

4. At least 50 percent of its certified capital must be invested in qualified investments by December 31, 2003*, or in the case of certified capital raised under Program Two, by December 31, 2006*. At least 50 percent of such qualified investments must be invested in early stage technology businesses.

(6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.—

(a) Any certified investor who makes an investment of certified capital shall earn a vested credit against premium tax liability equal to 100 percent of the certified capital invested by the certified investor. Certified investors shall be entitled to use no more than 10 percentage points of the vested premium tax credit *earned under a particular program*, including any carryforward credits *from such program* under this act, per year beginning with premium tax filings for calendar year 2000 *for credits earned under Program One and calendar year 2003 for credits earned under Program Two*. Any premium tax credits not used by certified investors in any single year may be carried forward and applied against the premium tax liabilities of such investors for subsequent calendar years. ~~The carryforward credit may be applied against subsequent premium tax filings through calendar year 2017.~~

(7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION PROCESS.—

(a) The total amount of tax credits which may be allocated by the office shall not exceed $150 million *with respect to Program One and $250 million with respect to Program Two*. The total amount of tax credits which may be used by certified investors under this act shall not exceed $15 million annually *with respect to credits earned under Program One and $25 million annually with respect to credits earned under Program Two*.

(c) Each certified capital company must apply to the office for an allocation of premium tax credits for potential certified investors by March 15, 1999, *or by March 15, 2002, in the case of credits allocable under Program Two,* on a form developed by the office with the cooperation of the Department of Revenue. The form shall be accompanied by an affidavit from each potential certified investor confirming that the potential certified investor has agreed to make an investment of certified capital in a certified capital company up to a specified amount, subject only to the receipt of a premium tax credit allocation pursuant to this subsection. No allocation shall be made to the potential investors of a certified capital company *under Program Two* unless such certified capital company has filed premium tax allocation claims ~~that would result in an allocation to the potential investors in such certified capital company~~ of not less than $15 million in the aggregate.

(d) On or before April 1, 1999, *or April 1, 2002, in the case of Program Two,* the office shall inform each certified capital company of its share of total premium tax credits available for allocation to each of its potential investors.

(e) If a certified capital company does not receive certified capital equaling the amount of premium tax credits allocated to a potential certified investor for which the investor filed a premium tax allocation claim within 10 business days after the investor received a notice of allocation, the certified capital company shall notify the office by overnight common carrier delivery service of the company's failure to receive the capital. That portion of the premium tax credits allocated to the certified capital company shall be forfeited. *The department may levy a fine of not more than $50,000 on any certified investor that does not invest the full amount of certified capital allocated by the department to such investor in accordance with the affidavit filed on its behalf.* If the office must make a pro rata allocation under paragraph (f), the office shall reallocate such available credits among the other certified capital companies on the same pro rata basis as the initial allocation.

(f) If the total amount of capital committed by all certified investors to certified capital companies in premium tax allocation claims *under Program Two* exceeds the aggregate cap on the amount of credits that may be awarded *under Program Two*, the premium tax credits that may be allowed to any one certified investor *under Program Two* shall be allocated using the following ratio:

A/B = X/$250,000,000
~~A/B = X/$150,000,000~~

where the letter "A" represents the total amount of certified capital certified investors have agreed to invest in any one certified capital company *under Program Two*, the letter "B" represents the aggregate amount of certified capital that all certified investors have agreed to invest in all certified capital companies *under Program Two*, the letter "X" is the numerator and represents the total amount of premium tax credits and certified capital that may be allocated to a certified capital company *on April 1, 2002* ~~in calendar year 1999~~, and *$250* ~~$150~~ million is the denominator and represents the total amount of premium tax credits and certified capital that may be allocated to all certified investors in calendar year *2002* ~~1999~~. Any such premium tax credits are not first available for utilization until annual filings are made in 2001 for calendar year 2000 *in the case of Program One, and until annual filings are made in 2004 for calendar year 2003 in the case of Program Two*, and the tax credits may be used at a rate not to exceed 10 percent annually *per program*.

(g) The maximum amount of certified capital for which premium tax allocation claims may be filed on behalf of any certified investor and its affiliates by one or more certified *capital* companies may not exceed $15 million *with respect to Program One and $25 million with respect to Program Two*.

(h) To the extent that less than *$250* ~~$150~~ million in certified capital is raised in connection with the procedure set forth in paragraphs (c)-(g), the department may adopt rules to allow a subsequent allocation of the remaining premium tax credits authorized under this section.

(i) The Office shall issue a certification letter for each certified investor, showing the amount invested in the certified capital company under each program. The applicable certified capital company shall attest to the validity of the certification letter.

(8) ANNUAL TAX CREDIT; CLAIM PROCESS.—

(a) On an annual basis, on or before *January* ~~December~~ 31, each certified capital company shall file with the department and the office, in consultation with the department, on a form prescribed by the office, for each calendar year:

1. The total dollar amount the certified capital company received from certified investors, the identity of the certified investors, and the amount received from each certified investor during the *immediately preceding* calendar year.

2. The total dollar amount the certified capital company invested and the amount invested in qualified businesses, together with the identity and location of those businesses and the amount invested in each qualified business *during the immediately preceding calendar year*.

3. For informational purposes only, the total number of permanent, full-time jobs either created or retained by the qualified business during the *immediately preceding* calendar year, the average wage of the jobs created or retained, the industry sectors in which the qualified businesses operate, and any additional capital invested in qualified businesses from sources other than certified capital companies.

(9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE PARTICIPATION.—

(a) A certified capital company may make qualified distributions at any time. In order to make a distribution to its equity holders, other than a qualified distribution *out of funds related to a particular program*, a certified capital company must have invested an amount cumulatively equal to 100 percent of its certified capital *raised under*

such program in qualified investments. Payments to debt holders of a certified capital company, however, may be made without restriction with respect to repayments of principal and interest on indebtedness owed to them by a certified capital company, including indebtedness of the certified capital company on which certified investors earned premium tax credits. A debt holder that is also a certified investor or equity holder of a certified capital company may receive payments with respect to such debt without restrictions.

(b) Cumulative distributions from a certified capital company *out of funds related to a particular program* to its certified investors and equity holders *under such program*, other than qualified distributions, in excess of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program* may be audited by a nationally recognized certified public accounting firm acceptable to the department, at the expense of the certified capital company, if the department directs such audit be conducted. The audit shall determine whether aggregate cumulative distributions from the *funds related to a particular program made by the* certified capital company to all certified investors and equity holders *under such program*, other than qualified distributions, have equaled the sum of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program*. If at the time of any such distribution made by the certified capital company, such distribution taken together with all other such distributions *from the funds related to such program* made by the certified capital company, other than qualified distributions, exceeds in the aggregate the sum of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program*, as determined by the audit, the certified capital company shall pay to the Department of Revenue 10 percent of the portion of such distribution in excess of such amount. Payments to the Department of Revenue by a certified capital company pursuant to this paragraph shall not exceed the aggregate amount of tax credits used by all certified investors in such certified capital company *for such program*.

(10) DECERTIFICATION.—

(f) Decertification of a certified capital company for failure to meet all requirements for continued certification under paragraph (5)(a) *with respect to the certified capital raised under a particular program* may cause the recapture of premium tax credits previously claimed by such company *under such program* and the forfeiture of future premium tax credits to be claimed by certified investors *under such program* with respect to such certified capital company, as follows:

1. Decertification of a certified capital company within 3 years after its certification date *with respect to a particular program* shall cause the recapture of all premium tax credits *earned under such program and* previously claimed by such company and the forfeiture of all future premium tax credits *earned under such program which are* to be claimed by certified investors with respect to such company.

2. When a certified capital company meets all requirements for continued certification under subparagraph (5)(a)1. *with respect to certified capital raised under a particular program* and subsequently fails to meet the requirements for continued certification under the provisions of subparagraph (5)(a)2. *with respect to certified capital raised under such program*, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 3 years after the certification date of the certified capital company *with respect to such program* shall not be subject to recapture or forfeiture; however, all premium tax credits *earned under such program* that have been or will be taken by certified investors after the third anniversary of the certification date of the certified capital company *for such program* shall be subject to recapture or forfeiture.

3. When a certified capital company meets all requirements for continued certification under subparagraphs (5)(a)1. and 2. *with respect to a particular program* and subsequently fails to meet the requirements for continued certification under the subparagraph (5)(a)3. *with respect to such program*, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 4 years after the certification date of the certified capital company *with respect to such program* shall not be subject to recapture or forfeiture; however, all premium tax credits *earned under such program* that have been or will be taken by certified investors after the fourth anniversary of the certification date of the certified capital company *with respect to such program* shall be subject to recapture and forfeiture.

4. If a certified capital company has met all requirements for continued certification under paragraph (5)(a) *with respect to certified capital raised under a particular program*, but such company is subsequently decertified, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 5 years after the certification date of such company *with respect to such program* shall not be subject to recapture or forfeiture. Those premium tax credits *earned under such program and* to be taken subsequent to the 5th year of certification *with respect to such program* shall be subject to forfeiture only if the certified capital company is decertified within 5 years after its certification date *with respect to such program*.

5. If a certified capital company has invested an amount cumulatively equal to 100 percent of its certified capital *raised under a particular program* in qualified investments, all premium tax credits claimed or to be claimed by its certified investors *under such program* shall not be subject to recapture or forfeiture.

Section 2. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, lines 3-12,
remove from the title of the bill:

and insert in lieu thereof: Company Act; amending s. 288.99, F.S.; redefining the terms "early stage technology business" and "qualified distribution"; defining the terms "Program One" and "Program Two"; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; authorizing the Department of Banking and Finance to levy a fine; providing for distributions under both programs;

Rep. Bense moved the adoption of the amendment.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 093641)

Amendment 1 to Amendment 1—On page 1, line 30,
remove from the amendment: 10

and insert in lieu thereof: *15* ~~10~~

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 594801)

Amendment 2 to Amendment 1—On page 2, line 1,
remove from the amendment: 10

and insert in lieu thereof: *15* ~~10~~

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 832451)

Amendment 3 to Amendment 1—On page 6, line 20 through page 7, line 2
remove from the amendment: all of said lines

and insert in lieu thereof:

1. *Reasonable* costs and expenses*, including professional fees,* of forming *and*, syndicating *the certified capital company, if no such costs are paid to a certified investor and the total cash, cash equivalents and other current assets permitted by s. 288.99(5)(b)3.g. that can be converted into cash within 5 business days available to the certified capital company at the time of receipt of certified capital from certified investors, after deducting the costs and expenses of forming and syndicating the certified capital company, including any payments made over time for obligations incurred at the time of receipt of certified capital excluding other future qualified distributions and payments made under s. 288.99(9)(a), are an amount equal to or greater than 50 percent of the total certified capital allocated to the certified capital pursuant to s. 288.99(7);*,

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 510575)

Amendment 4 to Amendment 1—On page 12, line 24,
remove from the amendment: *10*

and insert in lieu thereof: *15*

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 650433)

Amendment 5 to Amendment 1—On page 12, lines 26-28,
remove from the amendment: all of said lines

and insert in lieu thereof: company. This

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 785173)

Amendment 6 to Amendment 1 (with directory language amendment)—On page 14, between lines 21&22 of the amendment

insert:

(b) All capital not invested in qualified investments by the certified capital company:

1. Must be held in a financial institution as defined by s. 655.005(1)(h) or held by a broker-dealer registered under s. 517.12*, except as set forth in s. 288.99(5)(b)3.g.*

2. Must not be invested in a certified investor of the certified capital company or any affiliate of the certified investor of the certified capital company*, except for an investment permitted by s. 288.99(5)(b)3.g., provided repayment terms do not permit the obligor to directly or indirectly manage or control the investment decisions of the certified capital company*.

3. Must be invested only in:

a. Any United States Treasury obligations;

b. Certificates of deposit or other obligations, maturing within 3 years after acquisition of such certificates or obligations, issued by any financial institution or trust company incorporated under the laws of the United States;

c. Marketable obligations, maturing within 5 years or less after the acquisition of such obligations, which are rated "A" or better by any nationally recognized credit rating agency;

d. Mortgage-backed securities, with an average life of 5 years or less, after the acquisition of such securities, which are rated "A" or better by any nationally recognized credit rating agency;

e. Collateralized mortgage obligations and real estate mortgage investment conduits that are direct obligations of an agency of the United States Government; are not private-label issues; are in book-entry form; and do not include the classes of interest only, principal only, residual, or zero; ~~or~~

f. Interests in money market funds, the portfolio of which is limited to cash and obligations described in sub-subparagraphs a.-d.;*or*

g. Obligations that are issued by an insurance company that is not a certified investor of the certified capital company making the investment, that has provided a guarantee indemnity bond, insurance policy, or other payment undertaking in favor of the certified capital company's certified investors as permitted by s. 288.99(3)(m)1. or an affiliate of such insurance company as defined by s. 288.99(3)(a)3. that is not a certified investor of the certified capital company making the investment, provided that such obligations are:

(I) Issued or guaranteed as to principal by an entity whose senior debt is rated "AA" or better by Standard & Poor's Ratings Group or such other nationally recognized credit rating agency as the Department may by rule determine;

(II) Not subordinated to other unsecured indebtedness of the issuer or the guarantor;

(III) Invested by such issuing entity in accordance with s. 288.99(5)(b)3.a.-f.; and

(IV) Readily convertible into cash within 5 business days for the purpose of making a Qualified Investment unless such obligations are held to provide a guarantee, indemnity bond, insurance policy, or other payment undertaking in favor of the certified capital company's certified investors as permitted by s. 288.99(3)(m)1.

And the directory language is amended as follows:

On page 1, line 17,

after (a) insert: and (b)

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 725935)

Amendment 7 to Amendment 1—On page 15, line 18 through page 16, line 3,
remove from the amendment: all of said lines

and insert in lieu thereof:

(c) Each certified capital company must apply to the office for an allocation of premium tax credits for potential certified investors by March 15, 1999, on a form developed by the office with the cooperation of the Department of Revenue. The form shall be accompanied by an affidavit from each potential certified investor confirming that the potential certified investor has agreed to make an investment of certified capital in a certified capital company up to a specified amount, subject only to the receipt of a premium tax credit allocation pursuant to this subsection. *No certified capital company shall submit premium tax allocation claims on behalf of certified investors that in the aggregate would exceed the total dollar amount appropriated by the Legislature for the specific program.* No allocation shall be made to the potential investors of a certified capital company unless such certified capital company has filed premium tax allocation claims that would result in an allocation to the potential investors in such certified capital company of not less than $15 million in the aggregate.

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 333297)

Amendment 8 to Amendment 1—On page 17, line 29,
remove from the amendment: *$25*

and insert in lieu thereof: *$37.5*

Rep. Bense moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 979—A bill to be entitled An act relating to Okaloosa County; creating and establishing an independent special district in said county to be known as the North Okaloosa Fire District; creating a charter; describing the district; prescribing its powers; providing for a board of fire commissioners; providing for compensation; requiring a bond; providing for terms of office and for filling vacancies in office; providing for meetings, minutes of meetings, and public access; providing for financial matters; authorizing non-ad valorem assessments; authorizing the district to accept gifts and donations; providing the district's fiscal year; providing for collection of taxes; providing limits and guidelines for indebtedness of the district; prescribing authorized uses of district funds; providing a penalty; ratifying actions previously taken; requiring certain notice of legal action; providing for a district expansion and merger; providing severability; providing for a referendum; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1265—A bill to be entitled An act creating the Phosphogypsum Stack System Safety Assurance Trust Fund; providing for its purpose and source of moneys; providing for review and termination or re-creation of the trust fund; providing a contingent effective date.

—was read the second time by title.

On motion by Rep. Kyle, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Kyle, Byrd, and Greenstein offered the following:

(Amendment Bar Code: 924587)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 723.06115, Florida Statutes, is created to read:

723.06115 Florida Mobile Home Relocation Trust Fund.—

(1) There is established within the Department of Business and Professional Regulation the Florida Mobile Home Relocation Trust Fund, to be used by the department for the purpose of funding the administration and operations of the Florida Mobile Home Relocation Corporation. All interest earned from the investment or deposit of moneys in the trust fund shall be deposited in the trust fund. The trust fund shall be funded from the moneys collected by the department under s. 723.06116 from mobile home park owners who change the use of their mobile home parks and by other appropriated funds.

(2) Moneys in the Florida Mobile Home Relocation Trust Fund may be expended only:

(a) To pay the administration costs of the Florida Mobile Home Relocation Corporation; and

(b) To carry out the purposes and objectives of the Florida Mobile Home Relocation Corporation by making payments to mobile home owners under the relocation program.

Section 2. *In accordance with Section 19(f)(2), Article III of the State Constitution, the Florida Mobile Home Relocation Trust Fund shall, unless terminated sooner, be terminated on July 1, 2005. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), Florida Statutes.*

Section 3. Section 723.06116, Florida Statutes, is created to read:

723.06116 Payments to the Florida Mobile Home Relocation Trust Fund.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising a mobile home park as set forth in s. 723.061(1)(d), the mobile home park owner shall, upon such change in use, pay to the department for deposit in the Florida Mobile Home Relocation Trust Fund $2,000 for each single-section mobile home and $2,500 for each multisection mobile home for which a mobile home owner has made application for payment of moving expenses.

(2) A mobile home park owner is not required to make the payment prescribed in subsection (1), nor is the mobile home owner entitled to compensation under s. 723.0612, when:

(a) The mobile home park owner moves a mobile home owner to another space in the mobile home park or to another mobile home park at the park owner's expense;

(b) A mobile home owner is vacating the premises and has informed the mobile home park owner or manager before the change in use notice has been given; or

(c) A mobile home owner abandons the mobile home as set forth in s. 723.0612(8).

Section 4. *There is hereby appropriated to the Florida Mobile Home Relocation Trust Fund the sum of $500,000 of nonrecurring revenues from the General Revenue Fund.*

Section 5. This act shall take effect on the effective date of Committee Substitute for Committee Substitute for Senate Bill 442, but it shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Florida Mobile Home Relocation Trust Fund; creating s. 723.06115, F.S.; creating the Florida Mobile Home Relocation Trust Fund within the Department of Business and Professional Regulation; providing purposes; providing funding; providing for legislative review and termination or re-creation of the trust fund; creating s. 723.06116, F.S.; requiring that a mobile home park owner make specified payments to the trust fund upon a change in use of the mobile home park which requires a mobile home owner to move; providing exceptions; providing an appropriation; providing a contingent effective date.

Rep. Kyle moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 509—A bill to be entitled An act for the relief of Towanna Denise Hopkins, incompetent, by and through Willie Lee Hopkins, her father and legally appointed guardian, Robert Keith Bowman, Jr., son of Towanna Denise Hopkins, and Willie Lee Hopkins, individually; authorizing and directing the Florida Board of Regents, the University of South Florida, and the USF Health Sciences Center Insurance Company to compensate them for injuries and damages sustained as a result of the negligence of agents of the Florida Board of Regents by and through the University of South Florida College of Medicine; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1545—A bill to be entitled An act relating to school district performance; providing a short title; amending s. 229.57, F.S.; requiring the designation and publication of district performance grades; amending s. 236.02, F.S.; revising minimum requirements of the Florida Education Finance Program to include minimum classroom expenditure requirements and associated reporting; creating s. 236.08102, F.S.; authorizing the Legislature to require a school district that fails to meet minimum academic performance standards to meet district minimum classroom expenditure requirements; providing for monitoring; requiring reports; amending s. 237.041, F.S.; requiring a district's annual budget to include provision for required minimum classroom expenditure requirements; amending s. 237.081, F.S.; requiring the advertisement of the tentative school district budget to include notice of minimum classroom expenditure requirements; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 625—A bill to be entitled An act relating to security for public deposits; amending ss. 280.02, 280.04, 280.041, 280.05, 280.051, 280.054, 280.055, 280.07, 280.08, 280.09, 280.10, 280.11, 280.13, and 280.16, F.S.; revising definitions; revising provisions requiring collateral for public deposits; providing for use of certain letters of credit; requiring additional collateral under certain circumstances; providing penalties; specifying certain agreements for use as collateral; prohibiting a qualified public depository from acting as its own custodian; authorizing use of certain letters of credit; providing requirements; revising triggering events for certain actions by the Treasurer; revising powers and duties of the Treasurer; clarifying grounds for suspension or disqualification of a qualified public depository; revising conditions for imposition of an administrative penalty; clarifying criteria for the Treasurer to issue certain orders; providing for contingent liability; clarifying procedures for payment of losses; providing for deposit of draws on letters of credit into the Public Deposits Trust Fund; revising procedures and requirements relating to effect of mergers, acquisitions, or consolidations; providing conditions for eligibility of certain letters of credit as collateral; clarifying requirements of qualified public depositories; creating s. 280.071, F.S.; creating the Qualified Public Depository Oversight Board; providing purposes; requiring the Treasurer to initiate selection of board members; providing for selection of board members by certain qualified public depositories; providing qualifications; providing powers and duties of the board; authorizing the Treasurer to adopt rules for certain purposes; providing an effective date.

—was read the second time by title.

The Committee on State Administration offered the following:

(Amendment Bar Code: 320171)

Amendment 1 (with title amendment)—
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Section 280.02, Florida Statutes, is amended to read:

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

(1) "Affiliate" means an entity that is related through a parent corporation's controlling interest. The term also includes any financial institution holding company or any subsidiary or service corporation of such holding company.

(2) "Alternative participation agreement" means an agreement of restrictions that a qualified public depository completes as an alternative to immediately withdrawing from the public deposits program due to financial condition.

(3)~~(2)~~ "Average daily balance" means the average daily balance of public deposits held during the reported month. The average daily balance must be determined by totaling, by account, the daily balances held by the depositor and then dividing the total by the number of calendar days in the month. Deposit insurance is then deducted from each account balance and the resulting amounts are totaled to obtain the average daily balance.

(4)~~(3)~~ "Average monthly balance" means the average monthly balance of public deposits held, before deducting deposit insurance, by the depository during any 12 calendar months. The average monthly balance of the previous 12 calendar months must be determined by adding the average daily balance before deducting deposit insurance for the reported month and the average daily balances before deducting deposit insurance for the 11 months preceding that month and dividing the total by 12.

(5)~~(4)~~ "Book-entry form" means that securities are not represented by a paper certificate but represented by an account entry on the records of a depository trust clearing system or, in the case of United States Government securities, a Federal Reserve Bank.

(6)~~(5)~~ "Capital account" means total equity capital, as defined on the balance-sheet portion of the Consolidated Reports of Condition and Income (call report) or the Thrift Financial Report, less intangible assets, as submitted to the regulatory banking authority.

(7)~~(6)~~ "Collateral-pledging level," for qualified public depositories, means the percentage of collateral required to be pledged as provided in s. 280.04 by a financial institution.

(8)~~(7)~~ "Current month" means the month immediately following the month for which the monthly report is due from qualified public depositories.

(9)~~(8)~~ "Custodian" means the Treasurer or any bank, savings association, or trust company that:

(a) Is organized and existing under the laws of this state, any other state, or the United States;

(b) Has executed all forms required under this chapter or any rule adopted hereunder;

(c) Agrees to be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter; and

(d) Has been approved by the Treasurer to act as a custodian.

(10)~~(9)~~ "Default or insolvency" includes, without limitation, the failure or refusal of a qualified public depository to pay any check or warrant drawn upon sufficient and collected funds by any public depositor or to return any deposit on demand or at maturity together with interest as agreed; the issuance of an order by any supervisory authority restraining such depository from making payments of deposit liabilities; or the appointment of a receiver for such depository.

(11)~~(10)~~ "Effective date of notice of withdrawal or order of discontinuance" pursuant to s. 280.11(3) means that date which is set out as such in any notice of withdrawal or order of discontinuance from the Treasurer.

(12)~~(11)~~ "Eligible collateral" means securities, *Federal Home Loan Bank letters of credit, and cash,* as designated in s. 280.13.

(13)~~(12)~~ "Financial institution" means, including, but not limited to, an association, bank, brokerage firm, credit union, industrial savings bank, savings and loan association, trust company, or other type of financial institution organized under the laws of this state or any other state of the United States and doing business in this state or any other state, in the general nature of the business conducted by banks and savings associations.

(14)~~(13)~~ "Governmental unit" means the state or any county, school district, community college district, special district, metropolitan

government, or municipality, including any agency, board, bureau, commission, and institution of any of such entities, or any court.

(15)~~(14)~~ "Loss to public depositors" means loss of all principal and all interest or other earnings on the principal accrued or accruing as of the date the qualified public depository was declared in default or insolvent.

(16) "Market value" means the value of collateral calculated pursuant to s. 280.04.

(17)~~(15)~~ "Operating subsidiary" means the qualified public depository's 100-percent owned corporation that has ownership of pledged collateral. The operating subsidiary may have no powers beyond those that its parent qualified public depository may itself exercise. The use of an operating subsidiary is at the discretion of the qualified public depository and must meet the Treasurer's requirements.

(18) "Oversight board" means the qualified public depository oversight board created in s. 280.071 for the purpose of safeguarding the integrity of the public deposits program and preventing the realization of loss assessments through standards, policies, and recommendations for actions to the Treasurer.

(19)~~(16)~~ "Pledged collateral" means securities or cash held separately and distinctly by an eligible custodian for the benefit of the Treasurer to be used as security for Florida public deposits. This includes maturity and call proceeds.

(20)~~(17)~~ "Pledgor" means the qualified public depository and, if one is used, operating subsidiary.

(21)~~(18)~~ "Pool figure" means the total average monthly balances of public deposits held by all qualified public depositories during the immediately preceding 12-month period.

(22)~~(19)~~ "Previous month" means the month or months immediately preceding the month for which a monthly report is due from qualified public depositories.

(23)~~(20)~~ "Public deposit" means the moneys of the state or of any county, school district, community college district, special district, metropolitan government, or municipality, including agencies, boards, bureaus, commissions, and institutions of any of the foregoing, or of any court, and includes the moneys of all county officers, including constitutional officers, that are placed on deposit in a bank, savings bank, or savings association and for which the bank, savings bank, or savings association is required to maintain reserves. This includes, but is not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit. Moneys in deposit notes and in other nondeposit accounts such as repurchase or reverse repurchase operations are not public deposits. Securities, mutual funds, and similar types of investments are not considered public deposits and shall not be subject to the provisions of this chapter.

(24)~~(21)~~ "Public depositor" means the Treasurer or other chief financial officer or designee responsible for handling public deposits.

(25)~~(22)~~ "Public deposits program" means the *Florida Security for Public Deposits Act contained in* ~~administration of~~ this chapter *and any rule adopted under this chapter* ~~by or on behalf of the Treasurer~~.

(26)~~(23)~~ "Qualified public depository" means any bank, savings bank, or savings association that:

(a) Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States.

(b) Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.

(c) Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq.

(d) Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.

(e) Meets all the requirements of this chapter.

(f) Has been designated by the Treasurer as a qualified public depository.

(27)~~(24)~~ "Reported month" means the month for which a monthly report is due from qualified public depositories.

(28)~~(25)~~ "Required collateral" of a qualified public depository means eligible collateral having a market value equal to or in excess of the amount required ~~to be pledged~~ pursuant to s. 280.04 ~~as computed and reported monthly or when requested by the Treasurer~~.

(29)~~(26)~~ "Treasurer" means the Treasurer of the State of Florida.

(30)~~(27)~~ "Treasurer's custody" is a collateral arrangement governed by a contract between a designated Treasurer's custodian and the Treasurer. This arrangement requires collateral to be in the Treasurer's name in order to perfect the security interest.

(31)~~(28)~~ "Triggering events" are events set out in *section* ~~subsection~~ 280.041~~(4)~~ which give the Treasurer~~, as pledgee,~~ the right to*:*

(a) Instruct the custodian to transfer securities pledged, interest payments, and other proceeds of pledged collateral not previously credited to the pledgor.

(b) Demand payment under letters of credit.

Section 2. Section 280.04, Florida Statutes, is amended to read:

280.04 Collateral for public deposits; general provisions.—

(1) The Treasurer shall determine the collateral requirements and collateral pledging level for each qualified public depository following procedures established by rule. These procedures shall include numerical parameters for 25-percent, 50-percent, 125-percent, and 200-percent pledge levels based on nationally recognized financial rating services information and established financial performance guidelines.

(2) A qualified public depository may not accept or retain any public deposit which is required to be secured unless it has deposited with the Treasurer eligible collateral at least equal to the greater of:

(a) The average daily balance of public deposits that does not exceed the lesser of its capital account or 20 percent of the pool figure multiplied by the depository's collateral-pledging level, plus the greater of:

1. One hundred twenty-five percent of the average daily balance of public deposits in excess of capital accounts; or

2. One hundred twenty-five percent of the average daily balance of public deposits in excess of 20 percent of the pool figure.

(b) Twenty-five percent of the average monthly balance of public deposits.

(c) One hundred twenty-five percent of the average daily balance of public deposits if the qualified public depository:

1. Has been established for less than 3 years;

2. Has experienced material decreases in its capital accounts; or

3. Has an overall financial condition that is materially deteriorating.

(d) Two hundred percent of an established maximum amount of public deposits that has been mutually agreed upon by and between the Treasurer and the qualified public depository.

(e) Minimum required collateral of $100,000.

(f) An amount as required in special instructions from the Treasurer to protect the integrity of the public deposits program.

(3) Each qualified public depository shall report its required collateral on the monthly report required in s. 280.16 and simultaneously pledge, deposit, or issue eligible collateral needed.

(4)~~(3)~~ Additional collateral is required within *2 business days* ~~48 hours~~ if public deposits are accepted that would increase the qualified public depository's average daily balance for the current month by 25 percent over the average daily balance of the previously reported month.

(5)~~(4)~~ Additional collateral of 20 percent of required collateral is necessary if a valuation date other than the close of business as described below has been approved for the qualified public depository and the required collateral is found to be insufficient based on the Treasurer's valuation.

(6)~~(5)~~ Each qualified public depository shall value its collateral in the following manner; it must:

(a) Use a nationally recognized source.

(b) Use market price, quality ratings, and pay-down factors as of the close of business on the last banking day in the reported month, or as of a date approved by the Treasurer.

(c) Report any material decline in value that occurs before the date of mailing the monthly report*, required in s. 280.16,* to the Treasurer.

(d) Use 100 percent of the maximum amount available under Federal Home Loan Bank letters of credit as market value.

(7) A qualified public depository shall pledge, deposit, or issue additional eligible collateral between filing periods of the monthly report required in s. 280.16 when notified by the Treasurer that current market value of collateral does not meet required collateral. The pledge, deposit, or issuance of such additional collateral shall be made within 2 business days after the Treasurer's notification.

(8) A qualified public depository may be required to return public deposits to governmental units and be suspended or disqualified or subjected to administrative penalty as provided in s. 280.051 or s. 280.054 for failure to meet required collateral.

(9) The Treasurer shall adopt rules for the establishment of collateral requirements, collateral pledging levels, required collateral calculations, and market value and clarifying terms.

Section 3. Effective July 1, 2001, section 280.041, Florida Statutes, is amended to read:

280.041 Collateral arrangements; agreements, provisions, and triggering events.—

(1) Eligible collateral listed in s. 280.13 may be pledged, deposited, or issued using the following collateral arrangements as approved by the Treasurer for a qualified public depository or operating subsidiary, if one is used, to meet required collateral:

(a) Regular custody arrangement for collateral pledged to the Treasurer pursuant to subsection (2).

(b) Federal Reserve Bank custody arrangement for collateral pledged to the Treasurer pursuant to subsection (3).

(c) Treasurer's custody arrangement for collateral deposited in the Treasurer's name pursuant to subsection (4).

(d) Federal Home Loan Bank letter of credit arrangement for collateral issued with the Treasurer as beneficiary pursuant to subsection (5).

(e) Cash arrangement for collateral held by the Treasurer or a custodian.

(2)~~(1)~~ With the approval of the Treasurer, a qualified public depository or operating subsidiary, as pledgor, may deposit eligible collateral with a custodian. *A qualified public depository shall not act as its own custodian.* Except in the case of using a Federal Reserve Bank as custodian, ~~which may require other collateral agreement provisions,~~ the following are necessary for the Treasurer's approval:

(a) A completed collateral agreement in a form prescribed by the Treasurer in which the pledgor agrees to the following provisions:

1. The pledgor shall own the pledged collateral *and acknowledge that the Treasurer has a perfected security interest*. The pledged collateral shall be eligible collateral and shall be at least equal to the amount of required collateral.

2. The pledgor shall grant to the Treasurer an interest in pledged collateral for the purposes of this section. The pledgor shall not enter into or execute any other agreement related to the pledged collateral that would create an interest in or lien on that collateral in any manner in favor of any third party without the written consent of the Treasurer.

3. The pledgor shall not grant the custodian any lien that attaches to the collateral in favor of the custodian that is superior or equal to the security interest of the Treasurer.

4. The pledgor shall agree that the Treasurer may, without notice to or consent by the pledgor, require the custodian to comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting the proceeds directly to the Treasurer in the name of the Treasurer only or transferring all collateral into an account designated solely by the Treasurer.

5. The pledgor shall acknowledge that the Treasurer may, without notice to or consent by the pledgor, require the custodian to hold principal payments and income for the benefit of the Treasurer.

6. The pledgor shall initiate collateral transactions on forms prescribed by the Treasurer in the following manner:

a. A deposit transaction of eligible collateral may be made without prior approval from the Treasurer provided: security types that have restrictions have been approved in advance of the transaction by the Treasurer and simultaneous notification is given to the Treasurer; and the custodian has not received notice from the Treasurer prohibiting deposits without prior approval.

b. A substitution transaction of eligible collateral may be made without prior approval from the Treasurer provided: security types that have restrictions have been approved in advance of the transaction by the Treasurer; the market value of the securities to be substituted is at least equal to the amount withdrawn; simultaneous notification is given to the Treasurer; and the custodian has not received notice from the Treasurer prohibiting substitution.

c. A transfer of collateral between accounts at a custodian requires the Treasurer's prior approval. The collateral shall be released subject to redeposit in the new account with a pledge to the Treasurer intact.

d. A transfer of collateral from a custodian to another custodian requires the Treasurer's prior approval and a valid collateral agreement with the new custodian. The collateral shall be released subject to redeposit at the new custodian with a pledge to the Treasurer intact.

e. A withdrawal transaction requires the Treasurer's prior approval. The market value of eligible collateral remaining after the withdrawal shall be at least equal to the amount of required collateral. A withdrawal transaction shall be executed for any release of collateral including maturity or call proceeds.

f. Written notice shall be sent to the Treasurer to remove from the inventory of pledged collateral a pay-down security that has paid out with zero principal remaining.

7. If pledged collateral includes definitive (physical) securities in registered form which are in the name of the pledgor or a nominee, the pledgor shall deliver the following documents when requested by the Treasurer:

a. A separate certified power of attorney in a form prescribed by the Treasurer for each issue of securities.

b. Separate bond assignment forms as required by the bond agent or trustee.

c. Certified copies of resolutions adopted by the pledgor's governing body authorizing execution of these documents.

8. The pledgor shall be responsible for all costs necessary to the functioning of the collateral agreement or associated with confirmation of pledged collateral to the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer or his or her interests in the pledged collateral.

9. The pledgor, if notified by the Treasurer, shall not be allowed to use a custodian if that custodian fails to complete the collateral agreement, releases pledged collateral without the Treasurer's approval, fails to properly complete confirmations of pledged collateral, fails to honor a request for examination of definitive pledged collateral and records of book-entry securities, or fails to provide requested documents on definitive securities. *The period for disallowing the use of a custodian shall be 1 year.*

10. The pledgor shall be subject to the jurisdiction of the courts of the State of Florida, or of courts of the United States located within the State of Florida, for the purpose of any litigation arising out of the act.

11. The pledgor is responsible and liable to the Treasurer for any action of agents the pledgor uses to execute collateral transactions or submit reports to the Treasurer.

12. The pledgor shall agree that any information, forms, or reports electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

13. The pledgor shall submit proof that authorized individuals executed the collateral agreement on behalf of the pledgor.

14. The pledgor shall agree by resolution of the board of directors that collateral agreements entered into for purposes of this section have been formally accepted and constitute official records of the pledgor.

15. The pledgor shall be bound by any other provisions found necessary for a perfected security interest in collateral under the Uniform Commercial Code.

(b) A completed collateral agreement in a form prescribed by the Treasurer in which the custodian agrees to the following provisions:

1. The custodian shall have no responsibility to ascertain whether the pledged securities are at least equal to the amount of required collateral nor whether the pledged securities are eligible collateral.

2. The custodian shall hold pledged collateral in a custody account for the Treasurer for purposes of this section. The custodian shall not enter into or execute any other agreement related to the collateral that would create an interest in or lien on that collateral in any manner in favor of any third party without the written consent of the Treasurer.

3. The custodian shall agree that any lien that attaches to the collateral in favor of the custodian shall not be superior or equal to the security interest of the Treasurer.

4. The custodian shall, without notice to or consent by the pledgor, comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting the proceeds directly to the Treasurer in the name of the Treasurer only or transferring all collateral into an account designated solely by the Treasurer.

5. The custodian shall consider principal payments on pay-down securities and income paid on pledged collateral as the property of the pledgor and shall pay thereto provided the custodian has not received written notice from the Treasurer to hold such principal payments and income for the benefit of the Treasurer.

6. The custodian shall process collateral transactions on forms prescribed by the Treasurer in the following manner:

a. A deposit transaction of eligible collateral may be made without prior approval from the Treasurer unless the custodian has received notice from the Treasurer requiring the Treasurer's prior approval.

b. A substitution transaction of eligible collateral may be made without prior approval from the Treasurer provided the pledgor certifies the market value of the securities to be substituted is at least equal to the market value amount of the securities to be withdrawn and the custodian has not received notice from the Treasurer prohibiting substitution.

c. A transfer of collateral between accounts at a custodian requires the Treasurer's prior approval. The collateral shall be released subject to redeposit in the new account with a pledge to the Treasurer intact. Confirmation from the custodian to the Treasurer must be received within 5 business days of the redeposit.

d. A transfer of collateral from a custodian to another custodian requires the Treasurer's prior approval. The collateral shall be released subject to redeposit at the new custodian with a pledge to the Treasurer intact. Confirmation from the new custodian to the Treasurer must be received within 5 business days of the redeposit.

e. A withdrawal transaction requires the Treasurer's prior approval. A withdrawal transaction shall be executed for the release of any pledged collateral including maturity or call proceeds.

7. If pledged collateral includes definitive (physical) securities in registered form, which are in the name of the custodian or a nominee, the custodian shall deliver the following documents when requested by the Treasurer:

a. A separate certified power of attorney in a form prescribed by the Treasurer for each issue of securities.

b. Separate bond assignment forms as required by the bond agent or trustee.

c. Certified copies of resolutions adopted by the custodian's governing body authorizing execution of these documents.

8. The custodian shall acknowledge that the pledgor is responsible for all costs necessary to the functioning of the collateral agreement or associated with confirmation of securities pledged to the Treasurer and that these costs shall not be a charge against the Treasurer or his or her interests in the pledged collateral.

9. The custodian shall agree to provide confirmation of pledged collateral upon request from the Treasurer. This confirmation shall be provided within 15 working days after the request, in a format prescribed by the Treasurer, and shall require no identification other than the pledgor name and location, unless the special identification is provided in the collateral agreement.

10. The custodian shall be subject to the jurisdiction of the courts of the State of Florida, or of courts of the United States located within the State of Florida, for the purpose of any litigation arising out of the act.

11. The custodian shall be responsible and liable to the Treasurer for any action of agents the custodian uses to hold and service collateral pledged to the Treasurer.

12. The custodian shall agree that any information, forms, or reports electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

13. The Treasurer shall have the right to examine definitive pledged collateral and records of book-entry securities during the regular business hours of the custodian without cost to the Treasurer.

14. The responsibilities of the custodian for the safekeeping of the pledged collateral shall be limited to the diligence and care usually exercised by a banking or trust institution toward its own property.

15. *If there is any change in the Uniform Commercial Code, as adopted by law in this state, which affects the requirements for a perfected security interest in collateral, the Treasurer shall notify the custodian of such change. The custodian shall have a period of 180 calendar days after such notice to withdraw as custodian if the custodian cannot provide the required custodial services.* ~~The custodian shall be~~

~~bound by any other provisions found necessary for the Treasurer to have a perfected security interest in collateral under the Uniform Commercial Code.~~

(3)~~(2)~~ With the approval of the Treasurer, a pledgor may deposit eligible collateral pursuant to an agreement with a Federal Reserve Bank. The Federal Reserve Bank agreement may require terms not consistent with subsection *(2) but may not subject the Treasurer to any costs or indemnification requirements* ~~(1)~~.

(4)~~(3)~~ The Treasurer may require deposit or transfer of collateral into a custodial account established in the Treasurer's name at a designated custodian. This requirement for Treasurer's custody shall have the following characteristics:

(a) One or more triggering events must have occurred.

(b) The custodian used must be a Treasurer's approved custodian that must:

1. Meet the definition of custodian.

2. Not be an affiliate of the qualified public depository.

3. Be bound under a distinct Treasurer's custodial contract.

(c) All deposit transactions require the approval of the Treasurer.

(d) All collateral must be in book-entry form.

(e) The qualified public depository shall be responsible for all costs necessary to the functioning of the contract or associated with the confirmation of securities in the name of the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer and may be deducted from the collateral or income earned if unpaid.

(5) With the approval of the Treasurer, a qualified public depository may use Federal Home Loan Bank letters of credit to meet collateral requirements. A completed agreement that includes the following provisions is necessary for the Treasurer's approval:

(a) The letter of credit shall meet the definition of eligible collateral.

(b) The qualified public depository shall agree that the Treasurer, as beneficiary, may, without notice to or consent by the qualified public depository, demand payment under the letter of credit if any of the triggering events listed in s. 280.041 occur.

(c) The qualified public depository shall agree that funds received by the Treasurer due to the occurrence of one or more triggering events may be deposited in the Treasury Cash Deposit Trust Fund for purposes of eligible collateral.

(d) The qualified public depository shall arrange for the issue of letters of credit which meet the requirements of s. 280.13 and delivery to the Treasurer. All transactions involving letters of credit require the Treasurer's approval.

(e) The qualified public depository shall be responsible for all costs necessary in the use or confirmation of letters of credit issued on behalf of the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer.

(f) The qualified public depository shall be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising out of the act.

(g) The qualified public depository shall agree that any information, form, or report electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

(h) The qualified public depository shall submit proof that authorized individuals executed the letters of credit agreement on its behalf.

(i) The qualified public depository shall agree by resolution of the board of directors that the letters of credit agreements entered into for purposes of this section have been formally accepted and constitute official records of the qualified public depository.

(6)~~(4)~~ The Treasurer may *demand payment under a letter of credit or* direct a custodian to deposit or transfer collateral and proceeds of securities not previously credited upon the occurrence of one or more triggering events provided that, to the extent not incompatible with the protection of public deposits, as determined in the Treasurer's sole and absolute discretion, the Treasurer shall provide a custodian *and the qualified public depository* with 48 hours' advance notice before directing such deposit or transfer. These events include:

(a) The Treasurer determines that an immediate danger to the public health, safety, or welfare exists.

(b) The qualified public depository fails to have adequate procedures and practices for the accurate identification, classification, reporting, and collateralization of public deposits.

(c) The custodian fails to provide or allow inspection and verification of documents, reports, records, or other information dealing with the pledged collateral or financial information.

(d) The qualified public depository or its operating subsidiary fails to provide or allow inspection and verification of documents, reports, records, or other information dealing with Florida public deposits, pledged collateral, or financial information.

(e) The custodian fails to hold income and principal payments made on securities held as collateral or fails to deposit or transfer such payments pursuant to the Treasurer's instructions.

(f) The qualified public depository defaults or becomes insolvent.

(g) The qualified public depository fails to pay an assessment.

(h) The qualified public depository fails to pay an administrative penalty.

(i) The qualified public depository fails to meet financial condition standards.

(j) The qualified public depository charges a withdrawal penalty to public depositors when the qualified public depository is suspended, disqualified, or withdrawn from the public deposits program.

(k) The qualified public depository does not provide, as required, the public depositor with annual confirmation information on all open Florida public deposit accounts.

(l) The qualified public depository pledges*, deposits, or has issued* insufficient or unacceptable collateral to *meet required collateral within the required time* ~~cover public deposits~~.

(m) ~~Pledged~~ Collateral, other than a proper substitution, is released without the prior approval of the Treasurer.

(n) The qualified public depository, custodian, operating subsidiary, or agent violates any provision of the act and the Treasurer determines that such violation may be remedied by a move of collateral.

(o) The qualified public depository, custodian, operating subsidiary, or agent fails to timely cooperate in resolving problems by the date established in written communication from the Treasurer.

(p) The custodian fails to provide sufficient confirmation information.

(q) The Federal Home Loan Bank or the qualified public depository gives notification that a letter of credit will not be extended or renewed and other eligible collateral equal to required collateral has not been deposited within 30 days after the notice or 30 days before expiration of the letter of credit.

(r) The qualified public depository, if involved in a merger, acquisition, consolidation, or other organizational change, fails to notify

the Treasurer or ensure that required collateral is properly maintained by the depository holding the Florida public deposits.

(s)~~(q)~~ Events that would bring about an administrative or legal action by the Treasurer.

(7)~~(5)~~ The Treasurer shall adopt rules to identify forms and establish procedures for collateral agreements and transactions, furnish confirmation requirements, establish procedures for using an operating subsidiary and agents, and clarify terms.

Section 4. Section 280.05, Florida Statutes, is amended to read:

280.05 Powers and duties of the Treasurer.—In fulfilling the requirements of this act, the Treasurer has the power to *take the following actions he or she deems necessary to protect the integrity of the public deposits program*:

(1) *Identify representative qualified public depositories and furnish notification for the qualified public depository oversight board selection pursuant to s. 280.071.* ~~Establish criteria, based on the overall financial condition of the participant and applicants, as may be necessary, to protect the integrity of the public deposits program, to:~~

~~(a) Refuse entry into the program by an applicant;~~

~~(b) Order discontinuance of participation in the program by a qualified public depository;~~

~~(c) Restrict the total amount of public deposits a depository may hold;~~

~~(d) Establish collateral-pledging levels based on qualitative and quantitative standards; and~~

~~(e) Restrict substitutions of collateral subject to the approval of the Treasurer.~~

~~(2) Appoint a six-member advisory committee to review and recommend criteria to be used by the Treasurer for purposes stated in subsection (1) in order to protect public deposits and the depositories in the program. Each member selected to serve on the advisory committee must be a representative of his or her industry. Advisory committee members must represent active qualified public depositories, not in the process of withdrawing from the public deposits program, in compliance with all applicable rules, regulations, and reporting requirements of this chapter. Members must possess knowledge, skill, and experience in one or more of the following areas:~~

~~(a) Financial analysis;~~

~~(b) Trend analysis;~~

~~(c) Accounting;~~

~~(d) Banking;~~

~~(e) Risk management; or~~

~~(f) Investment management.~~

~~Members' terms shall be for 4 years. Any person appointed to fill a vacancy on the advisory committee may serve only for the remainder of the unexpired term. Any member is eligible for reappointment and shall serve until a successor qualifies. The advisory committee shall elect a chair and vice chair and shall also designate a secretary who need not be a member of the advisory committee. The secretary shall keep a record of the proceedings of the advisory committee and shall be the custodian of all printed materials filed with or by the advisory committee. Notwithstanding the existence of vacancies on the advisory committee, a majority of the members constitutes a quorum. The advisory committee shall not take official action in the absence of a quorum. Each member may name a designee to serve on the advisory committee on behalf of the member. However, any designee so named must meet the qualifications required of the selected member and be approved by the Treasurer. The advisory committee shall convene as needed.~~

(2)~~(3)~~ ~~Establish goals and objectives and~~ Provide ~~other~~ data *for the qualified public depository oversight board duties pursuant to s. 280.071 regarding:*

(a) Establishing standards for qualified public depositories and custodians.

(b) Evaluating requests for exceptions to standards and alternative participation agreements.

(c) Reviewing and recommending action for qualified public depository or custodian violations ~~as may be necessary to assist the advisory committee established under subsection (2) in developing standards for the program~~.

(3)~~(4)~~ Review, implement, monitor, evaluate, and modify~~, as needed,~~ all or any part of the standards*,* ~~and~~ policies*, or recommendations of the qualified public depository oversight board* ~~recommended by an advisory committee~~.

(4)~~(5)~~ Perform financial analysis of any qualified public *depositories* ~~depository as needed~~.

(5)~~(6)~~ Require ~~such~~ collateral, or increase the collateral-pledging level, of any qualified public depository ~~as may be necessary to administer the provisions of this chapter and to protect the integrity of the public deposits program~~.

~~(7) Establish a minimum amount of required collateral as the Treasurer deems necessary to provide for the contingent liability pool.~~

(6)~~(8)~~ Decline to accept, or reduce the reported value of, collateral ~~as circumstances may require~~ in order to ensure the pledging *or depositing* of sufficient marketable collateral *and acceptable letters of credit* ~~to meet the purposes of this chapter~~.

(7)~~(9)~~ Maintain perpetual inventory of ~~pledged~~ collateral and perform monthly market valuations and quality ratings.

(8)~~(10)~~ Monitor and confirm~~, as often as deemed necessary by the Treasurer, the pledged~~ collateral *with* ~~held by third party~~ custodians *and letter of credit issuers*.

(9)~~(11)~~ *Move* ~~Perfect interest in pledged~~ collateral ~~by having pledged securities moved~~ into an account established in the Treasurer's name *upon the occurrence of one or more triggering events*. ~~This action shall be taken at the discretion of the Treasurer.~~

(10) Issue notice to a qualified public depository that use of a custodian will be disallowed when the custodian has failed to follow collateral agreement terms.

(11)~~(12)~~ Furnish written notice to custodians of collateral to hold interest and principal payments made on securities held as collateral and to deposit or transfer such payments pursuant to the Treasurer's instructions.

(12)~~(13)~~ Release collateral held in the Treasurer's name, subject to sale and transfer of funds directly from the custodian to public depositors of a withdrawing depository.

(13) Demand payment under letters of credit for any of the triggering events listed in s. 280.041 and deposit the funds in:

(a) The Public Deposits Trust Fund for purposes of paying losses to public depositors.

(b) The Treasurer's Administrative and Investment Trust Fund for receiving payment of administrative penalties.

(c) The Treasury Cash Deposit Trust Fund for purposes of eligible collateral.

(14) Sell securities for the purpose of paying losses to public depositors not covered by deposit insurance.

(15) Transfer funds directly from the custodian to public depositors or the receiver in order to facilitate prompt payment of claims.

(16) Require the filing of the following reports which the Treasurer shall process as provided:

(a) Qualified public depository monthly reports and schedules. The Treasurer shall review the reports of each qualified public depository for material changes in capital accounts or changes in name, address, or type of institution; record the average daily balances of public deposits held; and monitor the collateral-pledging levels and required collateral.

(b) Quarterly regulatory reports from qualified public depositories. The Treasurer shall analyze qualified public depositories ranked in the lowest category based on established financial condition criteria.

(c) Qualified public depository annual reports and public depositor annual reports. The Treasurer shall compare public deposit information reported by qualified public depositories and public depositors. Such comparison shall be conducted for qualified public depositories which are ranked in the lowest category based on established financial condition criteria of record on September 30. Additional comparison processes may be performed as public deposits program resources permit.

(d) Any related documents, reports, records, or other information deemed necessary by the Treasurer in order to ascertain compliance with this chapter.

(17) Verify the reports of any qualified public depository relating to public deposits it holds when necessary to protect the integrity of the public deposits program.

(18) Confirm public deposits, to the extent possible under current law, when needed.

(19) Require at his or her discretion the filing of any information or forms required under this chapter to be by electronic data transmission. Such filings of information or forms shall have the same enforceability as a signed writing.

(20) Suspend or disqualify or disqualify after suspension any qualified public depository that has violated any of the provisions of this chapter or of rules adopted hereunder.

(a) Any qualified public depository that is suspended or disqualified pursuant to this subsection is subject to the provisions of s. 280.11(2) governing withdrawal from the public deposits program and return of pledged collateral. Any suspension shall not exceed a period of 6 months. Any qualified public depository which has been disqualified may not reapply for qualification until after the expiration of 1 year from the date of the final order of disqualification or the final disposition of any appeal taken therefrom.

(b) In lieu of suspension or disqualification, impose an administrative penalty upon the qualified public depository as provided in s. 280.054.

(c) If the Treasurer has reason to believe that any qualified public depository or any other financial institution holding public deposits is or has been violating any of the provisions of this chapter or of rules adopted hereunder, he or she may issue to the qualified public depository or other financial institution an order to cease and desist from the violation or to correct the condition giving rise to or resulting from the violation. If any qualified public depository or other financial institution violates a cease-and-desist or corrective order, the Treasurer may impose an administrative penalty upon the qualified public depository or other financial institution as provided in s. 280.054 or s. 280.055. In addition to the administrative penalty, the Treasurer may suspend or disqualify any qualified public depository for violation of any order issued pursuant to this paragraph.

Section 5. Subsections (2) and (3) of section 280.051, Florida Statutes, are amended to read:

280.051 Grounds for suspension or disqualification of a qualified public depository.—A qualified public depository may be suspended or disqualified or both if the Treasurer determines that the qualified public depository has:

(2) Submitted reports containing inaccurate or incomplete information regarding public deposits or ~~the securities pledged as~~ collateral for such deposits, capital accounts, or the calculation of required collateral.

(3) Failed to *maintain required* ~~pledge sufficient~~ collateral ~~to cover public deposits~~.

Section 6. Subsection (3) of section 280.054, Florida Statutes, is amended to read:

280.054 Administrative penalty in lieu of suspension or disqualification.—

(3) A qualified public depository ~~that violates s. 280.04(5) or a custodian that violates s. 280.04(6)~~ is subject to an administrative penalty in an amount not exceeding the greater of $1,000 or 10 percent of the amount of withdrawal, not exceeding $10,000*, if the depository fails to provide required collateral using eligible collateral and prescribed collateral agreements or withdraws collateral without the Treasurer's approval*.

Section 7. Paragraph (c) of subsection (1) of section 280.055, Florida Statutes, is amended to read:

280.055 Cease and desist order; corrective order; administrative penalty.—

(1) The Treasurer may issue a cease and desist order and a corrective order upon determining that:

(c) A qualified public depository pledges*, deposits, or arranges for the issuance of* unacceptable collateral;

Section 8. Section 280.07, Florida Statutes, is amended to read:

280.07 Mutual responsibility *and contingent liability*.—Any bank or savings association that is designated as a qualified public depository and that is not insolvent shall guarantee public depositors against loss caused by the default or insolvency of other qualified public depositories. Each qualified public depository shall execute a form prescribed by the Treasurer for such guarantee which shall be approved by the board of directors and shall become an official record of the institution.

Section 9. Section 280.071, Florida Statutes, is created to read:

280.071 Qualified Public Depository Oversight Board; purpose; identifying representative qualified public depositories; member selection; responsibilities.—A Qualified Public Depository Oversight Board is created comprised of six members and six alternate members who represent the interests of all qualified public depositories in safeguarding the integrity of the public deposits program and preventing the realization of loss assessments.

(1) On July 31 of each year and as vacancies occur, the Treasurer shall initiate the selection of oversight board representation in the following manner:

(a) Categorize eligible qualified public depositories into three groups according to average asset size. Eligible qualified public depositories must be in compliance with all requirements and shall not be suspended, disqualified, withdrawing, or under an alternative participation agreement in the public deposits program.

(b) Identify the two qualified public depositories in each of the three groups that have the greatest shares of contingent liability based on the average monthly balances of public deposits reported pursuant to s. 280.16.

(c) Send notification to the six qualified public depositories that have been identified.

(2) Each of the six representative qualified public depositories shall select a member and alternate member for the oversight board and give the Treasurer written information on the selections within 30 calendar days of the Treasurer's notice.

(3) If an identified qualified public depository declines to select a member, does not respond within 30 calendar days, or becomes ineligible, the Treasurer shall furnish notice to the Florida Bankers Association which shall select a member and alternate member to represent that average asset category within 30 calendar days.

(4) Each member and alternate member selected must:

(a) Have resources available for review of qualified public depository issues.

(b) Possess knowledge, skill, and experience in one or more of the following areas:

1. Financial analysis;

2. Trend analysis;

3. Accounting;

4. Banking;

5. Risk management; or

6. Investment management.

(5) The oversight board members and alternate members shall be subject to the Treasurer's approval.

(6) The alternate member shall act on the member's behalf if the member is unable to perform oversight board functions and shall have the same rights, duties, and responsibilities as the member.

(7) Each member shall serve until a successor is selected.

(8) Expenses incurred by a member in carrying out duties of the oversight board shall be paid by his or her representative qualified public depository.

(9) The oversight board shall organize, communicate, and conduct meetings as follows:

(a) Elect a chair and vice chair.

(b) Designate a secretary who need not be a member of the oversight board. The secretary shall:

1. Keep a record of communications and meeting proceedings.

2. Act as custodian of all printed materials filed with or by the oversight board.

(c) Communicate through electronic means and express delivery services when possible.

(d) Meet upon call of the chair or any three members.

(e) Take no official action in the absence of a quorum.

1. A quorum shall consist of the majority of voting members of the oversight board.

2. Each member shall have one vote.

3. A member shall not vote on issues directly related to the qualified public depository he or she represents.

4. The Treasurer or his or her representative shall vote as a member of the oversight board in the absence of a quorum.

(10) The oversight board has the power and responsibility to safeguard the integrity of the public deposits program and prevent the realization of loss assessments by:

(a) Establishing standards in the following areas:

1. Financial institution entry requirements;

2. Qualified public depository reporting requirements;

3. Qualitative and quantitative financial condition requirements;

4. Custodian characteristic requirements and adherence to collateral agreement terms;

5. Collateral-pledging levels and adequacy of required collateral;

6. Collateral eligibility and restrictions;

7. Operating subsidiary and agent requirements;

8. Merger, acquisition, and name change requirements;

9. Participation restrictions;

10. Participation status and conditions for suspension, disqualification, and mandatory withdrawal;

11. Penalties and fines; and

12. Corrective actions and administrative orders.

(b) Recommending approval or rejection to the Treasurer for exceptions that do not meet established standards. These requests for exceptions may be:

1. Referred by the Treasurer; or

2. Submitted directly by the qualified public depository seeking exception.

(c) Issuing approvals or rejections for alternative participation agreements referred by the Treasurer.

(d) Reviewing program violations and recommending that the Treasurer impose penalties and fines or issue corrective actions and administrative orders.

(e) Studying public deposit program areas referred by the Treasurer.

(f) Assessing qualified public depositories, as provided in s. 280.08, to pay for the implementation of standards established by the oversight board which exceed the resources of the public deposits program.

(11) Official actions of the oversight board regarding the establishment of standards, exception and alternate participation agreement decisions, and recommendations concerning violations shall be:

(a) Communicated to the Treasurer in writing.

(b) Subject to approval of the Treasurer.

(c) Implemented as public deposits program resources or payment described in subsection (10) above permit.

(12) The Treasurer may adopt rules to establish procedures and forms for oversight board member and alternate member selection and oversight board functions.

Section 10. Paragraph (a) of subsection (3) and subsections (4) and (7) of section 280.08, Florida Statutes, are amended to read:

280.08 Procedure for payment of losses.—When the Treasurer determines that a default or insolvency has occurred, he or she shall provide notice as required in s. 280.085~~(1)~~ and implement the following procedures:

(3)(a) The loss to public depositors shall be satisfied, insofar as possible, first through any applicable deposit insurance and then through *demanding payment under letters of credit or* the sale of *collateral* ~~securities~~ pledged or deposited by the defaulting depository. The Treasurer may assess qualified public depositories as provided in paragraph (b) for the total loss if the *demand for payment or* sale of *collateral* ~~securities~~ cannot be accomplished within 7 business days.

(4) Each qualified public depository shall pay its assessment to the Treasurer within 7 business days after it receives notice of the assessment. If a depository fails to pay its assessment when due, the Treasurer shall satisfy the assessment by *demanding payment under letters of credit or* selling *collateral* ~~securities~~ pledged *or deposited* by that depository.

(7) Expenses incurred by the Treasurer in connection with a default or insolvency which are not normally incurred by the Treasurer in the administration of this act must be paid out of the *amount paid under letters of credit or* proceeds from the sale of ~~pledged~~ collateral.

Section 11. Section 280.09, Florida Statutes, is amended to read:

280.09 Public Deposits Trust Fund.—

(1) In order to facilitate the administration of this chapter, there is created the Public Deposits Trust Fund, hereafter in this section designated "the fund." The proceeds from the sale of securities *or draw on letters of credit held* ~~pledged~~ as collateral or from any assessment pursuant to s. 280.08 shall be deposited into the fund. Any administrative penalty collected pursuant to this chapter shall be deposited into the Treasurer's Administrative and Investment Trust Fund.

(2) The Treasurer is authorized to pay any losses to public depositors from the fund, and there are hereby appropriated from the fund such sums as may be necessary from time to time to pay the losses. The term "losses," for purposes of this chapter, shall also include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal required by Depository Institution Deregulatory Commission Regulations or applicable successor federal laws or regulations because of suspension or disqualification of a qualified public depository by the Treasurer pursuant to s. 280.05~~(20)~~ or because of withdrawal from the public deposits program pursuant to s. 280.11. In that event, the Treasurer is authorized to assess against the suspended, disqualified, or withdrawing public depository, in addition to any amount authorized by any other provision of this chapter, an administrative penalty equal to the amount of the early withdrawal penalty and to pay that amount over to the public depositor as reimbursement for such loss. Any money in the fund estimated not to be needed for immediate cash requirements shall be invested pursuant to s. 18.125.

Section 12. Section 280.10, Florida Statutes, is amended to read:

280.10 Effect of merger*,* ~~or~~ acquisition*, or consolidation*; change of name or address.—

(1) *When* ~~In the event~~ a qualified public depository is merged into, acquired by, or consolidated with a bank*, savings bank,* or savings association that is not a qualified public depository*:*~~,~~

(a) The resulting institution shall *automatically* become a qualified public depository *subject to the requirements of the public deposits program.*~~, and~~

(b) The contingent liability of the former institution shall be a liability of the resulting institution.

(c) The public deposits and associated collateral of the former institution shall be public deposits and collateral of the resulting institution.

(d) The resulting institution shall, within *90 calendar* ~~30~~ days after the effective date of the merger, acquisition, or consolidation, *deliver to the Treasurer:* ~~the resulting institution shall~~

1. Documentation ~~execute~~ in its ~~own~~ name ~~and deliver to the Treasurer the contingent liability agreement required by s. 280.07, and all information and documentation~~ as ~~may be~~ required for participation in the public deposits program*; or*~~.~~

2. Written notice of intent to withdraw ~~If the resulting institution chooses not to remain a qualified public depository, or does not meet the requirements to become a qualified public depository, such institution shall comply with the procedures for withdrawal~~ from the program as provided in s. 280.11 *and a proposed effective date of withdrawal which shall be within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution*.

(e) If the resulting institution does not meet qualifications to become a qualified public depository or does not submit required documentation within 90 calendar days after the effective date of the merger, acquisition, or consolidation, the Treasurer shall initiate mandatory withdrawal actions as provided in s. 280.11 and shall set an effective date of withdrawal that is within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution.

(2) *When* a qualified public depository ~~which sells or~~ disposes of *any of* its *Florida public deposits or collateral securing such deposits in a manner not covered by subsection (1), the qualified public depository originally holding the public deposits* ~~branches to an institution that is not a qualified public depository, and such branches continue to hold public deposits,~~ shall be responsible for*:*

(a) Ensuring the institution receiving such public deposits becomes a qualified public depository and meets collateral requirements with the Treasurer as part of the transaction.

(b) Notifying the Treasurer within 30 calendar days after the final approval by the appropriate regulator.

A qualified public depository that fails to meet such responsibilities shall ~~and~~ continue to collateralize and report such public deposits until the *receiving* ~~purchasing~~ institution becomes a qualified public depository *and collateralizes the deposits* or the deposits are returned to the *governmental* ~~public~~ unit. ~~The qualified public depository shall notify the Treasurer of any acquisition of its branches on its next monthly report after the final approval by the appropriate regulator if the acquisition includes public deposits.~~

(3) The qualified public depository shall notify the Treasurer of any acquisition or merger *within 30 calendar days* ~~on its next monthly report~~ after the final approval of the acquisition or merger by its appropriate regulator.

(4) Collateral subject to a *collateral* ~~depository pledge~~ agreement may not be released by the Treasurer or the custodian until the assumed liability is evidenced by the deposit of collateral pursuant to the *collateral* ~~depository pledge~~ agreement of the successor entity. The reporting requirement and pledge of collateral will remain in force until the Treasurer determines that the liability no longer exists. The surviving or new qualified public depository shall be responsible and liable for all of the liabilities and obligations of each qualified public depository merged with or acquired by it.

(5) Each qualified public depository shall report any change of name and address to the Treasurer on a form provided by the Treasurer regardless of whether the name change is a result of an acquisition*,* ~~or~~ merger*, or consolidation*. Notification of such change must be made *within 30 calendar days after the effective date of the change* ~~on its next monthly report~~.

(6) The Treasurer shall adopt rules establishing procedures for mergers, acquisitions, consolidations, and changes in name and address, providing forms, and clarifying terms.

Section 13. Subsection (1) of section 280.11, Florida Statutes, is amended to read:

280.11 Withdrawal from public deposits program; return of pledged collateral.—

(1) A qualified public depository may withdraw from the public deposits program by giving written notice to the Treasurer. The contingent liability, required collateral, and reporting requirements of the depository withdrawing from the program shall continue for a period of 12 months after the effective date of the withdrawal, except that the filing of reports may no longer be required when the average monthly balance of public deposits is equal to zero. Notice of withdrawal shall be mailed or delivered in sufficient time to be received by the Treasurer at least 30 days before the effective date of withdrawal. The Treasurer shall timely publish the withdrawal notice in the Florida Administrative Weekly which shall constitute notice to all depositors. The withdrawing depository shall not receive or retain public deposits after the effective date of the withdrawal until such time as it again becomes a qualified

public depository. The Treasurer shall, upon request, return to the depository that portion of the collateral pledged that is in excess of the required collateral as reported on the current public depository monthly report. Losses of interest or other accumulations, if any, because of withdrawal under this section shall be assessed and paid as provided in s. 280.09~~(2)~~.

Section 14. Section 280.13, Florida Statutes, is amended to read:

280.13 *Eligible* collateral ~~eligible for pledge by banks and savings associations~~.—

(1) Securities eligible to be pledged as collateral by banks and savings associations shall be limited to:

(a) Direct obligations of the United States Government.

(b) Obligations of any federal agency that are fully guaranteed as to payment of principal and interest by the United States Government.

(c) Obligations of the following federal agencies:

1. Farm credit banks.

2. Federal land banks.

3. The Federal Home Loan Bank and its district banks.

4. Federal intermediate credit banks.

5. The Federal Home Loan Mortgage Corporation.

6. The Federal National Mortgage Association.

7. Obligations guaranteed by the Government National Mortgage Association.

(d) General obligations of a state of the United States, or of Puerto Rico, or of a political subdivision or municipality thereof.

(e) Obligations issued by the Florida State Board of Education under authority of the State Constitution or applicable statutes.

(f) Tax anticipation certificates or warrants of counties or municipalities having maturities not exceeding 1 year.

(g) Public housing authority obligations.

(h) Revenue bonds or certificates of a state of the United States or of a political subdivision or municipality thereof.

(i) Corporate bonds of any corporation that is not an affiliate or subsidiary of the qualified public depository.

(2) In addition to the securities listed in subsection (1), the Treasurer may, in his or her discretion, allow the pledge of the following types of securities. The Treasurer shall, by rule, define any restrictions, specific criteria, or circumstances for which these instruments will be acceptable.

(a) Securities of, or other interests in, any open-end management investment company registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided the portfolio of such investment company is limited to direct obligations of the United States Government and to repurchase agreements fully collateralized by such direct obligations of the United States Government and provided such investment company takes delivery of such collateral either directly or through an authorized custodian.

(b) Collateralized Mortgage Obligations.

(c) Real Estate Mortgage Investment Conduits.

(3) Except as to obligations issued by or with respect to which payment of interest and principal is guaranteed by the United States Government or obligations of federal agencies listed in subsection (1), the debt obligations mentioned in this section shall be rated in one of the four highest classifications by an established, nationally recognized investment rating service.

(4) To be eligible as collateral under this section, all debt obligations shall be interest bearing or accruing.

(5) Letters of credit issued by a Federal Home Loan Bank are eligible as collateral under this section provided that:

(a) The letter of credit has been delivered to the Treasurer in the standard format approved by the Treasurer.

(b) The letter of credit meets required conditions of:

1. Being irrevocable.

2. Being clean and unconditional and containing a statement that it is not subject to any agreement, condition, or qualification outside of the letter of credit and providing that a beneficiary need only present the original letter of credit with any amendments and the demand form to promptly obtain funds, and that no other document need be presented.

3. Being issued, presentable, and payable at a Federal Home Loan Bank in U.S. dollars. Presentation may be made by the beneficiary submitting the original letter of credit, including any amendments, and the demand in writing, by overnight delivery.

4. Containing a statement that identifies and defines the Treasurer as beneficiary.

5. Containing an issue date and a date of expiration.

6. Containing a term of at least 1 year and an evergreen clause that provides at least 60 days written notice to the beneficiary prior to expiration date for nonrenewal.

7. Containing a statement that it is subject to and governed by the laws of the State of Florida and that, in the event of any conflict with other laws, the laws of the State of Florida will control.

8. Containing a statement that the letter of credit is an obligation of the Federal Home Loan Bank and is in no way contingent upon reimbursement.

9. Any other provision found necessary under the Uniform Commercial Code—Letters of Credit.

(c) Obligations issued by the Federal Home Loan Bank remain triple A rated by a nationally recognized source.

(d) The Federal Home Loan Bank issuing the letter of credit agrees to provide confirmation upon request from the Treasurer. Such confirmation shall be provided within 15 working days after the request, in a format prescribed by the Treasurer, and shall require no identification other than the qualified public depository's name and location.

(e) The qualified public depository completes an agreement covering the use of the letters of credit as eligible collateral, as described in s. 280.041(5).

(f) The qualified public depository, if notified by the Treasurer, shall not be allowed to use letters of credit if the Federal Home Loan Bank fails to pay a draw request as provided for in the letters of credit or fails to properly complete a confirmation of such letters of credit.

(6) Cash held by the Treasurer in the Treasury Cash Deposit Trust Fund or by a custodian is eligible as collateral under this section. Interest earned on cash deposits that is in excess of required collateral shall be paid to the qualified public depository upon request.

(7)~~(5)~~ The Treasurer may disapprove any security *or letter of credit* that does not meet the requirements of this section or any rule adopted pursuant to this section or any security for which no current market price can be obtained from a nationally recognized source deemed acceptable to the Treasurer *or cannot be converted to cash*.

(8) The Treasurer shall adopt rules defining restrictions and special requirements for eligible collateral and clarifying terms.

Section 15. Paragraph (a) of subsection (1), paragraph (b) of subsection (2), and subsection (3) of section 280.16, Florida Statutes, are amended to read:

280.16 Requirements of qualified public depositories; confidentiality.—

(1) In addition to any other requirements specified in this chapter, qualified public depositories shall:

(a) ~~Beginning July 1, 1998,~~ Take the following actions for each public deposit account:

1. Identify the account as a "Florida public deposit" on the deposit account record with the name of the public depositor or provide a unique code for the account for such designation.

2. When the form prescribed by the Treasurer for acknowledgment of receipt of each public deposit account is presented to the qualified public depository by the public depositor opening an account, the qualified public depository shall execute and return the completed form to the public depositor.

3. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor due to a change of account name, account number, or qualified public depository name on an existing public deposit account, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

4. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor on an account existing before July 1, 1998, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

(2) The following forms must be made under oath:

(b) *Collateral control agreements and letter of credit agreements* ~~The public depository pledge agreement~~.

(3) Any information contained in a report of a qualified public depository required under this chapter or any rule adopted under this chapter, together with any information required of a financial institution that is not a qualified public depository, shall, if made confidential by any law of the United States or of this state, be considered confidential and exempt from the provisions of s. 119.07(1) and not subject to dissemination to anyone other than the Treasurer under the provisions of this chapter; however, it is the responsibility of each qualified public depository and each financial institution from which information is required to inform the Treasurer of information that is confidential and the law providing for the confidentiality of that information, and the Treasurer does not have a duty to inquire into whether information is confidential.

Section 16. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 14, through page 2, line 10,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: custodian; authorizing a custodian to withdraw as custodian under certain circumstances; authorizing use of certain letters of credit; providing requirements; revising triggering events for certain actions by the Treasurer; revising powers and duties of the Treasurer; clarifying grounds for suspension or disqualification of a qualified public depository; revising conditions for imposition of an administrative penalty; clarifying criteria for the Treasurer to issue certain orders; providing for contingent liability; clarifying procedures for payment of losses; providing for deposit of draws on letters of credit into the Public Deposits Trust Fund; revising procedures and requirements relating to effect of mergers, acquisitions, or consolidations; providing conditions for eligibility of certain letters of credit as collateral; clarifying requirements of qualified public depositories; creating s. 280.071, F.S.; creating the Qualified Public Depository Oversight Board; providing purposes; requiring the Treasurer to initiate selection of board members; providing for selection of board members by certain qualified public depositories; providing qualifications; providing powers and duties of the board; authorizing the Treasurer to adopt rules for certain purposes; providing effective dates.

Rep. Bean moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1465 was taken up. On motion by Rep. Wiles, the rules were waived and SB 676 was substituted for HB 1465. Under Rule 5.15, the House bill was laid on the table and—

SB 676—A bill to be entitled An act relating to sentencing; amending s. 775.082, F.S.; redefining the term "prison releasee reoffender" to include a defendant who commits certain felonies within a specified period after being released from a correctional institution outside the state or while escaped from a correctional institution outside the state; providing requirements for sentencing a defendant if the state attorney proves by a preponderance of the evidence that the defendant is a prison releasee reoffender; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1203 was taken up. On motion by Rep. Mealor, the rules were waived and CS for SB 1274 was substituted for HB 1203. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1274—A bill to be entitled An act relating to motor vehicles; amending s. 322.09, F.S.; providing that a foster parent or a group-home representative who signs an application for a learner's driver's license for a minor who is in foster care is not, by reason of having signed the application, assuming any obligation or liability for any damages caused by the minor; creating s. 627.746, F.S.; prohibiting insurers that issue insurance policies for private passenger automobiles from charging an additional premium for a minor who operates his or her parent's vehicle, during the time that the minor has a learner's driver's license; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HJR 1451—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to exemption from ad valorem taxation of certain tangible personal property.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1469 was taken up. On motion by Rep. Rich, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 1986 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Sanderson—

SB 1986—A bill to be entitled An act relating to group insurance for public officers, employees, and volunteers; amending s. 112.08, F.S.; prescribing procedure for a local governmental unit to replace health insurance when the contracting provider becomes financially impaired or fails or refuses to provide coverage; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 1469. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Rich, the rules were waived and SB 1986 was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Special Orders

Special Order Calendar

CS/HB 1701—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; expanding the exemption from public records requirements for identifying information relating to code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 137—A bill to be entitled An act relating to probate; amending s. 63.172, F.S.; providing for the right of inheritance with respect to adoption; amending s. 409.9101, F.S.; revising language with respect to recovery of payments made on behalf of certain Medicaid-eligible persons; amending s. 655.936, F.S., relating to the opening of a decedent's safe-deposit box; amending s. 731.005, F.S., relating to the Florida Probate Code; amending s. 731.011, F.S.; providing reference to the Florida Probate Rules with respect to the determination of substantive rights under the Florida Probate Code; amending s. 731.104, F.S.; revising language with respect to the verification of documents; amending s. 731.106, F.S., relating to the assets of nondomiciliaries; repealing s. 731.107, F.S., relating to adversary proceedings; amending s. 731.110, F.S.; revising language with respect to proceedings concerning caveat; repealing s. 731.111, F.S., relating to notice to creditors; amending s. 731.201, F.S.; revising general definitions with respect to the Florida Probate Code; amending s. 731.301, F.S.; revising language with respect to notice; amending s. 731.303, F.S., relating to representation; amending s. 732.101, F.S., relating to intestate estates; amending s. 732.102, F.S.; revising language with respect to the share of the spouse; increasing the monetary amount of certain shares; amending s. 732.103, F.S., relating to the share of certain heirs; amending s. 732.107, F.S.; clarifying provisions; revising a filing date; revising certain provisions regarding owner's representation; amending s. 732.1101, F.S.; providing that aliens shall have the same right of inheritance as citizens; amending s. 732.2025, F.S.; redefining the term "qualifying special needs trust" or "supplemental needs trust"; amending s. 732.2035, F.S.; redefining the term "decedent's ownership interest"; amending s. 732.2045, F.S.; adding an exclusion to the elective share for property that is part of the protected homestead; amending s. 732.2055, F.S.; redefining "value" for purposes of calculating the elective estate; amending s. 732.2075, F.S.; revising the formula for payment of the elective share; amending s. 732.2085, F.S.; adding a cross reference; amending s. 732.2095, F.S.; correcting a cross reference; modifying the formula for determining the fair market value of assets regarding the elective share; amending s. 732.2105, F.S.; revising the effect of an elective share election on other estate interests; amending s. 732.2125, F.S.; revising language with respect to the right of election; amending s. 732.2135, F.S.; revising language with respect to time of election, extensions, and withdrawal; amending s. 732.2145, F.S.; revising language with respect to the order of contribution; amending s. 732.2155, F.S.; revising language with respect to the effective date of certain trusts; amending s. 732.218, F.S.; revising language with respect to rebuttable presumptions; amending s. 732.219, F.S., relating to disposition upon death; amending s. 732.221, F.S.; revising language with respect to perfection of title of personal representative or beneficiary; amending s. 732.222, F.S., relating to the purchaser for value or lender; amending s. 732.223, F.S.; revising language with respect to perfection of title of surviving spouse; amending s. 732.302, F.S.; revising language with respect to pretermitted children; amending s. 732.401, F.S.; revising language with respect to descent of homestead; amending s. 732.4015, F.S.; revising language with respect to the definition of "owner" and "devise" concerning homestead; amending s. 732.402, F.S.; revising language with respect to exempt property; amending s. 732.403, F.S.; revising language with respect to family allowance; amending s. 732.501, F.S.; revising language with respect to who may make a will; amending s. 732.502, F.S.; revising language with respect to execution of wills; amending s. 732.503, F.S.; revising language with respect to self-proof of will; amending s. 732.505, F.S.; revising language with respect to revocation by writing; amending s. 732.507, F.S.; revising language with respect to effect of subsequent marriage, birth, or dissolution of marriage; amending s. 732.513, F.S.; revising language with respect to devises to trustees; amending s. 732.514, F.S., relating to vesting of devises; amending s. 732.515, F.S.; revising language with respect to separate writing identifying devises of tangible property; amending s. 732.6005, F.S., relating to rules of construction and intention; amending s. 732.601, F.S.; revising language with respect to the Simultaneous Death Law; amending s. 732.603, F.S.; revising language with respect to antilapse, deceased devises, and class gifts; amending s. 732.604, F.S., relating to the failure of a testamentary provision; amending s. 732.605, F.S., relating to change in securities, accessions, and nonademption; amending s. 732.606, F.S., relating to nonademption of specific devises in certain cases; amending s. 732.701, F.S.; providing for agreements concerning succession executed by a nonresident under certain circumstances; amending s. 732.702, F.S.; revising language with respect to waiver of spousal rights; amending s. 732.801, F.S.; revising language with respect to disclaimer of interests in property passing by will or intestate succession or under certain powers of appointment; amending s. 732.804, F.S.; providing for provisions relating to disposition of the body; amending s. 732.901, F.S., relating to production of wills; eliminating language with respect to willful failure to deposit the will; transferring, amending, and renumbering ss. 732.910, 732.911, 732.912, 732.913, 732.914, 732.915, 732.916, 732.917, 732.918, 732.9185, 732.919, 732.921, 732.9215, 732.92155, 732.9216, and 732.922, F.S.; correcting cross references; amending ss. 381.004 and 381.0041, F.S.; correcting cross references; amending s. 733.101, F.S., relating to the venue of probate proceedings; amending s. 733.103, F.S., relating to the effect of probate; amending s. 733.104, F.S.; revising language with respect to the suspension of the statute of limitations in favor of the personal representative; amending s. 733.105, F.S.; revising language with respect to the determination of beneficiaries; amending s. 733.106, F.S.; revising language with respect to costs and attorney fees; amending s. 733.107, F.S., relating to the burden of proof in contests; amending s. 733.109, F.S.; revising language with respect to the revocation of probate; amending s. 733.201, F.S., relating to proof of wills; amending s. 733.202, F.S.; providing that any interested person may petition for administration; repealing s. 733.203, F.S., relating to when notice is required; amending s. 733.204, F.S.; revising language with respect to the probate of a will written in a foreign language; amending s. 733.205, F.S., relating to the probate of a notarial will; amending s. 733.206, F.S., relating to the probate of a resident after foreign probate; amending s. 733.207, F.S.; revising requirements with respect to the establishment and probate of a lost or destroyed will; amending s. 733.208, F.S.; revising language with respect to the discovery of a later will; amending s. 733.209, F.S.; providing requirements with respect to the estates of missing persons; amending s. 733.212, F.S.; revising language with respect to the notice of administration and filing of objections; creating s. 733.2121, F.S.; providing for notice to creditors and the filing of claims; amending s. 733.2123, F.S., relating to adjudication before issuance of letters; amending s. 733.213, F.S.; providing that a will may not be construed until after it has been admitted to probate; amending s. 733.301, F.S.; revising language with respect to preference in the appointment of the personal representative; amending s. 733.302, F.S.; revising language with respect to who may be appointed personal representative; amending s. 733.305, F.S., relating to trust companies and other corporations and associations; amending s. 733.306, F.S.; revising language with respect to the effect of the appointment of a debtor; amending s. 733.307, F.S., relating to succession of administration; amending s. 733.308, F.S., relating to the administrator ad litem; amending s. 733.309, F.S., relating to the executor de son tort; creating s. 733.310, F.S.; providing for when a personal representative is not qualified; repealing s. 733.401, F.S., relating to the issuance of letters; amending s. 733.402, F.S.; revising language with respect to the bond of a fiduciary; amending s. 733.403, F.S.; revising language with respect to the amount of the bond; amending s. 733.404, F.S., relating to the liability of the surety; amending s. 733.405, F.S.; revising language with

respect to the release of surety; amending s. 733.406, F.S.; revising language with respect to bond premium allowable as an expense of administration; amending s. 733.501, F.S.; revising language with respect to curators; amending s. 733.502, F.S.; revising language with respect to the resignation of the personal representative; amending s. 733.503, F.S.; providing for the appointment of a successor upon the resignation of the personal representative; creating s. 733.5035, F.S.; providing for the surrender of assets after resignation; creating s. 733.5036, F.S.; providing for accounting and discharge following resignation; amending s. 733.504, F.S.; revising language with respect to the removal of the personal representative; amending s. 733.505, F.S.; providing that a petition for removal shall be filed in the court having jurisdiction of the administration; amending s. 733.506, F.S.; revising language with respect to proceedings for removal; creating s. 733.5061, F.S.; providing for the appointment of a successor upon removal of the personal representative; repealing s. 733.507, F.S., relating to administration following resignation or removal; amending s. 733.508, F.S.; providing for accounting and discharge upon removal; amending s. 733.509, F.S.; revising language with respect to surrender of assets upon removal; amending s. 733.601, F.S.; revising language with respect to time of accrual of duties and powers; amending s. 733.602, F.S., relating to the general duties of a personal representative; amending s. 733.603, F.S., relating to when a personal representative may proceed without court order; amending s. 733.604, F.S.; revising language with respect to inventory; repealing s. 733.605, F.S., relating to appraisers; creating s. 733.6065, F.S.; providing for the opening of a safe-deposit box; amending s. 733.607, F.S.; revising language with respect to the possession of the estate; amending s. 733.608, F.S.; revising language with respect to the general power of the personal representative; amending s. 733.609, F.S.; revising language with respect to improper exercise of power and the breech of fiduciary duty; amending s. 733.610, F.S., relating to the sale, encumbrance, or transaction involving a conflict of interest; amending s. 733.611, F.S.; revising language with respect to persons dealing with the personal representative; amending s. 733.612, F.S.; revising language with respect to transactions authorized for the personal representatives and exceptions thereto; amending s. 733.6121, F.S., relating to powers of the personal representative with respect to environmental or human health laws affecting property subject to administration; amending s. 733.613, F.S.; revising language with respect to the personal representatives' right to sell real property; amending s. 733.614, F.S., relating to the powers and duties of a successor personal representative; amending s. 733.615, F.S.; revising language with respect to joint personal representatives; amending s. 733.616, F.S.; revising language with respect to the powers of the surviving personal representatives; amending s. 733.617, F.S.; revising language with respect to compensation of the personal representative; amending s. 733.6171, F.S.; revising language with respect to compensation of the attorney for the personal representative; amending s. 733.6175, F.S.; revising language with respect to proceedings for review of employment of agents and compensation of personal representatives and employees of the estate; amending s. 733.619, F.S., relating to the individual liability of the personal representative; amending s. 733.701, F.S.; revising language with respect to notifying creditors; correcting cross references; amending s. 733.702, F.S.; revising language with respect to limitations on presentation of claims; amending s. 733.703, F.S.; revising language with respect to the form and manner of presenting a claim; amending s. 733.704, F.S., relating to amendment of claims; amending s. 733.705, F.S.; revising language with respect to payment of and objection to claims; amending s. 733.707, F.S.; revising language with respect to the order of payment of expenses and obligations; amending s. 733.708, F.S.; revising language with respect to compromise; amending s. 733.710, F.S., relating to claims against estates; amending s. 733.801, F.S.; providing that the personal representative shall pay as an expense of administration certain costs; amending s. 733.802, F.S.; revising language with respect to proceedings for compulsory payment of devises or distributive interest; amending s. 733.803, F.S., relating to encumbered property; amending s. 733.805, F.S.; revising language with respect to the order in which assets are appropriated; amending s. 733.806, F.S., relating to advancement; amending s. 733.808, F.S.; revising language with respect to death benefits and disposition of proceeds; amending s. 733.809, F.S., relating to right of retainer; amending s. 733.810, F.S.; revising language with respect to distribution in kind and valuation; amending s. 733.811, F.S.; revising language with respect to the right or title of distributee; amending s. 733.812, F.S.; providing for improper distribution or payment and liability of distributee; amending s. 733.813, F.S., relating to protection of the purchaser from the distributee; amending s. 733.814, F.S.; revising language with respect to partition for the purpose of distribution; amending s. 733.815, F.S.; providing for private contracts among certain interested persons; amending s. 733.816, F.S., relating to the distribution of unclaimed property held by the personal representative; amending s. 733.817, F.S.; revising language with respect to apportionment of estate taxes; amending s. 733.901, F.S.; providing requirements with respect to final discharge; amending s. 733.903, F.S.; revising language with respect to subsequent administration; amending s. 734.101, F.S., relating to the foreign personal representative; amending s. 734.102, F.S.; revising language with respect to ancillary administration; amending s. 734.1025, F.S.; revising language with respect to the nonresident decedent's testate estate with property not exceeding a certain value in this state; providing for the determination of claims; amending s. 734.104, F.S., relating to foreign wills; amending s. 734.201, F.S., relating to jurisdiction by act of a foreign personal representative; amending s. 734.202, F.S., relating to jurisdiction by act of decedent; repealing s. 735.101, F.S., relating to family administration and the nature of the proceedings; repealing s. 735.103, F.S., relating to petition for family administration; repealing s. 735.107, F.S., relating to family administration distribution; amending s. 735.201, F.S.; increasing a monetary amount with respect to summary administration; amending s. 735.203, F.S.; revising language with respect to the petition for summary administration; amending s. 735.206, F.S.; revising language with respect to summary administration distribution; amending s. 735.2063, F.S.; revising language with respect to notice to creditors; repealing s. 735.209, F.S., relating to joinder of heirs, devisees, or surviving spouse in summary administration; amending s. 735.301, F.S., relating to disposition without administration; amending s. 735.302, F.S.; revising language with respect to income tax refunds in certain circumstances; creating s. 737.208, F.S.; prohibiting distribution pending outcome of contest; providing exceptions; amending s. 737.3054, F.S.; revising language with respect to trustee's duty to pay expenses and obligations of grantor's estate; amending s. 737.306, F.S.; revising language with respect to personal liability of trustee; creating s. 737.3061, F.S.; providing for limitation on actions against certain trusts; amending s. 737.308, F.S.; revising language with respect to notice of trust; amending ss. 215.965, 660.46, and 737.111, F.S.; correcting cross references; directing the Division of Statutory Revision and Indexing to change the title of certain parts of the Probate Code; providing an effective date.

—was read the second time by title.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 073405)

Amendment 1—On page 37, line 9, through page 46, line 9
remove from the bill: all of said lines

and insert in lieu thereof:

Section 19. Effective October 1, 2001, subsection (8) of section 732.2025, Florida Statutes, is amended to read:

732.2025 Definitions.—As used in ss. 732.2025-732.2155, the term:

(8) "Qualifying special needs trust" or "supplemental needs trust" means a trust established for *a* ~~an ill or~~ disabled surviving spouse with court approval before or after a decedent's death ~~for such incapacitated surviving spouse~~, if, commencing on the decedent's death:

(a) The income and principal are distributable to or for the benefit of the spouse for life in the discretion of one or more trustees less than half of whom are ineligible family trustees. For purposes of this

paragraph, ineligible family trustees include the decedent's grandparents and any descendants of the decedent's grandparents who are not also descendants of the surviving spouse; and

(b) During the spouse's life, no person other than the spouse has the power to distribute income or principal to anyone other than the spouse.

~~(c)~~ The requirement for court approval ~~and the limitation on ineligible family trustees~~ shall not apply if the aggregate *value* of *all* ~~the trust~~ property ~~as of the applicable valuation date~~ in *all* ~~a~~ qualifying special needs *trusts for the spouse* ~~trust~~ is less than $100,000. *For purposes of this subsection, value is determined on the "applicable valuation date" as defined in s. 732.2095(1)(a).*

Section 20. Effective October 1, 2001, subsection (2) and paragraph (a) of subsection (5) of section 732.2035, Florida Statutes, are amended to read:

732.2035 Property entering into elective estate.—Except as provided in s. 732.2045, the elective estate consists of the sum of the values as determined under s. 732.2055 of the following property interests:

(2) The decedent's ownership interest in accounts or securities registered in "Pay On Death," "Transfer On Death," "In Trust For," or coownership with right of survivorship form. For this purpose, "decedent's ownership interest" means*, in the case of accounts or securities held in tenancy by the entirety, one-half of the value of the account or security, and in all other cases,* that portion of the accounts or securities which the decedent had, immediately before death, the right to withdraw or use without the duty to account to any person.

(5)(a) That portion of property, other than property described in subsection (3), subsection (4), or subsection (7), transferred by the decedent to the extent that at the time of the decedent's death:

1. The decedent possessed the right to, or in fact enjoyed the possession or use of, the income or principal of the property; or

2. The principal of the property could, in the discretion of any person other than the spouse of the decedent, be distributed or appointed to or for the benefit of the decedent.

In the application of this subsection, a right to payments *under a commercial or private* ~~from an~~ annuity*, an annuity trust, a unitrust,* or ~~under~~ a similar ~~contractual~~ arrangement shall be treated as a right to that portion of the income of the property necessary to equal the annuity*, unitrust,* or other ~~contractual~~ payment.

Section 21. Effective October 1, 2001, subsection (1) of section 732.2045, Florida Statutes, is amended to read:

732.2045 Exclusions and overlapping application.—

(1) EXCLUSIONS.—Section 732.2035 does not apply to:

(a) Except as provided in s. 732.2155(4), any transfer of property by the decedent to the extent the transfer is irrevocable before the effective date of this subsection or after that date but before the date of the decedent's marriage to the surviving spouse.

(b) Any transfer of property by the decedent to the extent the decedent received adequate consideration in money or money's worth for the transfer.

(c) Any transfer of property by the decedent made with the written consent of the decedent's spouse. For this purpose, spousal consent to split-gift treatment under the United States gift tax laws does not constitute written consent to the transfer by the decedent.

(d) The proceeds of any policy of insurance on the decedent's life in excess of the net cash surrender value of the policy whether payable to the decedent's estate, a trust, or in any other manner.

(e) Any policy of insurance on the decedent's life maintained pursuant to a court order.

(f) The decedent's one-half of the property to which ss. 732.216-732.228 apply and real property that is community property under the laws of the jurisdiction where it is located.

(g) Property held in a qualifying special needs trust on the date of the decedent's death.

(h) Property included in the gross estate of the decedent for federal estate tax purposes solely because the decedent possessed a general power of appointment.

(i) Property which constitutes the protected homestead of the decedent whether held by the decedent or by a trust at the decedent's death.

Section 22. Effective October 1, 2001, paragraph (a) of subsection (5) of section 732.2055, Florida Statutes, is amended to read:

732.2055 Valuation of the elective estate.—For purposes of s. 732.2035, "value" means:

(5) In the case of all other property, the fair market value of the property on the date of the decedent's death, computed after deducting from the total value of the property:

(a) All claims~~, other than claims for funeral expenses,~~ paid or payable from the elective estate; and

Section 23. Effective October 1, 2001, subsection (2) of section 732.2075, Florida Statutes, is amended to read:

732.2075 Sources from which elective share payable; abatement.—

(2) If, after the application of subsection (1), the elective share is not fully satisfied, the unsatisfied balance shall be apportioned among the direct recipients of the remaining elective estate in the following order of priority:

(a) Class 1.—The decedent's probate estate and revocable trusts.

(b) Class 2.—Recipients of property interests*, other than protected charitable interests,* included in the elective estate under s. 732.2035(2), (3), or (6) and, to the extent the decedent had at the time of death the power to designate the recipient of the property, property interests*, other than protected charitable interests,* included under s. 732.2035(5) and (7).

(c) Class 3.—Recipients of all other property interests*, other than protected charitable interests,* included in the elective estate ~~except interests for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws~~.

(d) Class 4.—Recipients of protected charitable lead interests, but only to the extent and at such times that contribution is permitted without disqualifying the charitable interest in that property for a deduction under the United States gift tax laws.

For purposes of this subsection, a protected charitable interest is any interest for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws. A protected charitable lead interest is a protected charitable interest where one or more deductible interests in charity precede some other nondeductible interest or interests in the property.

Section 24. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 732.2085, Florida Statutes, are amended to read:

732.2085 Liability of direct recipients and beneficiaries.—

(1) Only direct recipients of property included in the elective estate and the beneficiaries of the decedent's probate estate or of any trust that is a direct recipient, are liable to contribute toward satisfaction of the elective share.

(a) Within each of the classes described in s. 732.2075(2)(b)*,* ~~and~~ (c), *and (d),* each direct recipient is liable in an amount equal to the value,

as determined under s. 732.2055, of the proportional part of the liability for all members of the class.

(3) If a person pays the value of the property on the date of a sale or exchange or contributes all of the property received, as provided in paragraph (2)(b):

(a) No further contribution toward satisfaction of the elective share shall be required with respect to *that* ~~such~~ property.

Section 25. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (d) of subsection (2) of section 732.2095, Florida Statutes, are amended to read:

732.2095 Valuation of property used to satisfy elective share.—

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

(a) "Applicable valuation date" means:

1. In the case of transfers in satisfaction of the elective share, the date of the decedent's death.

2. In the case of property held in a qualifying special needs trust on the date of the decedent's death, the date of the decedent's death.

3. In the case of other property irrevocably transferred to or for the benefit of the surviving spouse during the decedent's life, the date of the transfer.

4. In the case of property distributed to the surviving spouse by the personal representative, the date of distribution.

5. Except as provided in subparagraphs 1., 2., and 3., in the case of property passing in trust for the surviving spouse, the date or dates the trust is funded in satisfaction of the elective share.

6. In the case of property described in s. 732.2035*(2) or* (3) ~~or (4)~~, the date of the decedent's death.

7. In the case of proceeds of any policy of insurance payable to the surviving spouse, the date of the decedent's death.

8. In the case of amounts payable to the surviving spouse under any plan or arrangement described in s. 732.2035(7), the date of the decedent's death.

9. In all other cases, the date of the decedent's death or the date the surviving spouse first comes into possession of the property, whichever occurs later.

(2) Except as provided in this subsection, the value of property for purposes of s. 732.2075 is the fair market value of the property on the applicable valuation date.

(d) If the surviving spouse has an interest in a trust that does not meet the requirements of *either* an elective share trust *or a qualifying special needs trust*, the value of the spouse's interest is the transfer tax value of the interest on the applicable valuation date; however, the aggregate value of all of the spouse's interests in the trust shall not exceed one-half of the value of the trust principal on the applicable valuation date.

Section 26. Effective October 1, 2001, section 732.2105, Florida Statutes, is amended to read:

732.2105 Effect of election on other interests.—

~~(1)~~ The elective share shall be in addition to homestead, exempt property, and allowances as provided in part IV.

~~(2) If an election is filed, the balance of the elective estate, after the application of s. 732.2145(1), shall be administered as though the surviving spouse had predeceased the decedent.~~

Section 27. Effective October 1, 2001, subsection (2) of section 732.2125, Florida Statutes, is amended to read:

732.2125 Right of election; by whom exercisable.—The right of election may be exercised:

(2) *With approval of the court having jurisdiction of the probate proceeding* by an attorney in fact or a guardian of the property of the surviving spouse~~, with approval of the court having jurisdiction of the probate proceeding~~. The court shall determine the election as the best interests of the surviving spouse, during the spouse's probable lifetime, require.

Section 28. Effective October 1, 2001, section 732.2135, Florida Statutes, is amended to read:

732.2135 Time of election; extensions; withdrawal.—

(1) Except as provided in subsection (2), the election must be filed within the earlier of 6 months of the date of *service of a copy of* the ~~first publication of~~ notice of administration *on the surviving spouse, or an attorney in fact or guardian of the property of the surviving spouse,* or 2 years after the date of the decedent's death.

(2) Within the period provided in subsection (1), the surviving spouse or an attorney in fact or guardian of the property of the surviving spouse may petition the court for an extension of time for making an election. ~~After notice and hearing, the court~~ For good cause shown *the court* may extend the time for election. If the court grants the petition for an extension, the election must be filed within the time allowed by the extension.

(3) The surviving spouse or an attorney in fact, guardian of the property, or personal representative of the surviving spouse may withdraw an election at any time within 8 months of the decedent's death and before the court's order of contribution. If an election is withdrawn, the court may assess attorney's fees and costs against the surviving spouse or the *surviving* spouse's estate.

(4) A petition for an extension of the time for making the election or for approval to make the election shall toll the time for making the election.

Section 29. Effective October 1, 2001, subsections (1) and (4) of section 732.2145, Florida Statutes, are amended to read:

732.2145 Order of contribution; personal representative's duty to collect contribution.—

(1) The court shall determine the elective share and ~~shall order~~ contribution. ~~All~~ Contributions *shall* ~~are to~~ bear interest at the statutory rate ~~provided in s. 55.03(1)~~ beginning 90 days *after* ~~from~~ the ~~date of the~~ order *of contribution*. The order ~~of contribution~~ is prima facie correct in proceedings in any court or jurisdiction.

(4) Nothing in this section limits the independent right of the surviving spouse to collect the elective share as provided in the order of contribution, and that right is hereby conferred. If the surviving spouse brings an action to enforce *the* ~~an~~ order ~~of contribution~~, the judgment shall include the surviving spouse's costs and reasonable attorney's fees.

Section 30. Effective October 1, 2001, subsection (4) of section 732.2155, Florida Statutes, is amended to read:

Rep. Goodlette moved the adoption of the amendment, which was adopted.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 685411)

Amendment 2—On page 37, line 9, through page 46, line 18
remove from the bill: all of said lines

and insert in lieu thereof:

Section 19. Effective October 1, 2001, subsection (8) of section 732.2025, Florida Statutes, is amended to read:

732.2025 Definitions.—As used in ss. 732.2025-732.2155, the term:

(8) "Qualifying special needs trust" or "supplemental needs trust" means a trust established for *a* ~~an ill or~~ disabled surviving spouse with court approval before or after a decedent's death ~~for such incapacitated surviving spouse~~, if, commencing on the decedent's death:

(a) The income and principal are distributable to or for the benefit of the spouse for life in the discretion of one or more trustees less than half of whom are ineligible family trustees. For purposes of this paragraph, ineligible family trustees include the decedent's grandparents and any descendants of the decedent's grandparents who are not also descendants of the surviving spouse; and

(b) During the spouse's life, no person other than the spouse has the power to distribute income or principal to anyone other than the spouse.

~~(c)~~ The requirement for court approval ~~and the limitation on ineligible family trustees~~ shall not apply if the aggregate *value* of *all* ~~the trust~~ property ~~as of the applicable valuation date~~ in *all* ~~a~~ qualifying special needs *trusts for the spouse* ~~trust~~ is less than $100,000. *For purposes of this subsection, value is determined on the "applicable valuation date" as defined in s. 732.2095(1)(a).*

Section 20. Effective October 1, 2001, subsection (2) and paragraph (a) of subsection (5) of section 732.2035, Florida Statutes, are amended to read:

732.2035 Property entering into elective estate.—Except as provided in s. 732.2045, the elective estate consists of the sum of the values as determined under s. 732.2055 of the following property interests:

(2) The decedent's ownership interest in accounts or securities registered in "Pay On Death," "Transfer On Death," "In Trust For," or coownership with right of survivorship form. For this purpose, "decedent's ownership interest" means*, in the case of accounts or securities held in tenancy by the entirety, one-half of the value of the account or security, and in all other cases,* that portion of the accounts or securities which the decedent had, immediately before death, the right to withdraw or use without the duty to account to any person.

(5)(a) That portion of property, other than property described in subsection (3), subsection (4), or subsection (7), transferred by the decedent to the extent that at the time of the decedent's death:

1. The decedent possessed the right to, or in fact enjoyed the possession or use of, the income or principal of the property; or

2. The principal of the property could, in the discretion of any person other than the spouse of the decedent, be distributed or appointed to or for the benefit of the decedent.

In the application of this subsection, a right to payments *under a commercial or private* ~~from an~~ annuity*, an annuity trust, a unitrust,* or ~~under~~ a similar ~~contractual~~ arrangement shall be treated as a right to that portion of the income of the property necessary to equal the annuity*, unitrust,* or other ~~contractual~~ payment.

Section 21. Effective October 1, 2001, subsection (1) of section 732.2045, Florida Statutes, is amended to read:

732.2045 Exclusions and overlapping application.—

(1) EXCLUSIONS.—Section 732.2035 does not apply to:

(a) Except as provided in s. 732.2155(4), any transfer of property by the decedent to the extent the transfer is irrevocable before the effective date of this subsection or after that date but before the date of the decedent's marriage to the surviving spouse.

(b) Any transfer of property by the decedent to the extent the decedent received adequate consideration in money or money's worth for the transfer.

(c) Any transfer of property by the decedent made with the written consent of the decedent's spouse. For this purpose, spousal consent to split-gift treatment under the United States gift tax laws does not constitute written consent to the transfer by the decedent.

(d) The proceeds of any policy of insurance on the decedent's life in excess of the net cash surrender value of the policy whether payable to the decedent's estate, a trust, or in any other manner.

(e) Any policy of insurance on the decedent's life maintained pursuant to a court order.

(f) The decedent's one-half of the property to which ss. 732.216-732.228 apply and real property that is community property under the laws of the jurisdiction where it is located.

(g) Property held in a qualifying special needs trust on the date of the decedent's death.

(h) Property included in the gross estate of the decedent for federal estate tax purposes solely because the decedent possessed a general power of appointment.

(i) Property which constitutes the protected homestead of the decedent whether held by the decedent or by a trust at the decedent's death.

Section 22. Effective October 1, 2001, paragraph (a) of subsection (5) of section 732.2055, Florida Statutes, is amended to read:

732.2055 Valuation of the elective estate.—For purposes of s. 732.2035, "value" means:

(5) In the case of all other property, the fair market value of the property on the date of the decedent's death, computed after deducting from the total value of the property:

(a) All claims~~, other than claims for funeral expenses,~~ paid or payable from the elective estate; and

Section 23. Effective October 1, 2001, subsection (2) of section 732.2075, Florida Statutes, is amended to read:

732.2075 Sources from which elective share payable; abatement.—

(2) If, after the application of subsection (1), the elective share is not fully satisfied, the unsatisfied balance shall be apportioned among the direct recipients of the remaining elective estate in the following order of priority:

(a) Class 1.—The decedent's probate estate and revocable trusts.

(b) Class 2.—Recipients of property interests*, other than protected charitable interests,* included in the elective estate under s. 732.2035(2), (3), or (6) and, to the extent the decedent had at the time of death the power to designate the recipient of the property, property interests*, other than protected charitable interests,* included under s. 732.2035(5) and (7).

(c) Class 3.—Recipients of all other property interests*, other than protected charitable interests,* included in the elective estate ~~except interests for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws~~.

(d) Class 4.—Recipients of protected charitable lead interests, but only to the extent and at such times that contribution is permitted without disqualifying the charitable interest in that property for a deduction under the United States gift tax laws.

For purposes of this subsection, a protected charitable interest is any interest for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws. A protected charitable lead interest is a protected charitable interest where one or more deductible interests in charity precede some other nondeductible interest or interests in the property.

Section 24. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 732.2085, Florida Statutes, are amended to read:

732.2085 Liability of direct recipients and beneficiaries.—

(1) Only direct recipients of property included in the elective estate and the beneficiaries of the decedent's probate estate or of any trust that is a direct recipient, are liable to contribute toward satisfaction of the elective share.

(a) Within each of the classes described in s. 732.2075(2)(b)*,* ~~and~~ (c), *and (d),* each direct recipient is liable in an amount equal to the value, as determined under s. 732.2055, of the proportional part of the liability for all members of the class.

(3) If a person pays the value of the property on the date of a sale or exchange or contributes all of the property received, as provided in paragraph (2)(b):

(a) No further contribution toward satisfaction of the elective share shall be required with respect to *that* ~~such~~ property.

Section 25. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (d) of subsection (2) of section 732.2095, Florida Statutes, are amended to read:

732.2095 Valuation of property used to satisfy elective share.—

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

(a) "Applicable valuation date" means:

1. In the case of transfers in satisfaction of the elective share, the date of the decedent's death.

2. In the case of property held in a qualifying special needs trust on the date of the decedent's death, the date of the decedent's death.

3. In the case of other property irrevocably transferred to or for the benefit of the surviving spouse during the decedent's life, the date of the transfer.

4. In the case of property distributed to the surviving spouse by the personal representative, the date of distribution.

5. Except as provided in subparagraphs 1., 2., and 3., in the case of property passing in trust for the surviving spouse, the date or dates the trust is funded in satisfaction of the elective share.

6. In the case of property described in s. 732.2035*(2) or* (3) ~~or (4)~~, the date of the decedent's death.

7. In the case of proceeds of any policy of insurance payable to the surviving spouse, the date of the decedent's death.

8. In the case of amounts payable to the surviving spouse under any plan or arrangement described in s. 732.2035(7), the date of the decedent's death.

9. In all other cases, the date of the decedent's death or the date the surviving spouse first comes into possession of the property, whichever occurs later.

(2) Except as provided in this subsection, the value of property for purposes of s. 732.2075 is the fair market value of the property on the applicable valuation date.

(d) If the surviving spouse has an interest in a trust that does not meet the requirements of *either* an elective share trust *or a qualifying special needs trust*, the value of the spouse's interest is the transfer tax value of the interest on the applicable valuation date; however, the aggregate value of all of the spouse's interests in the trust shall not exceed one-half of the value of the trust principal on the applicable valuation date.

Section 26. Effective October 1, 2001, section 732.2105, Florida Statutes, is amended to read:

732.2105 Effect of election on other interests.—

~~(1)~~ The elective share shall be in addition to homestead, exempt property, and allowances as provided in part IV.

~~(2) If an election is filed, the balance of the elective estate, after the application of s. 732.2145(1), shall be administered as though the surviving spouse had predeceased the decedent.~~

Section 27. Effective October 1, 2001, subsection (2) of section 732.2125, Florida Statutes, is amended to read:

732.2125 Right of election; by whom exercisable.—The right of election may be exercised:

(2) *With approval of the court having jurisdiction of the probate proceeding* by an attorney in fact or a guardian of the property of the surviving spouse~~, with approval of the court having jurisdiction of the probate proceeding~~. The court shall determine the election as the best interests of the surviving spouse, during the spouse's probable lifetime, require.

Section 28. Effective October 1, 2001, section 732.2135, Florida Statutes, is amended to read:

732.2135 Time of election; extensions; withdrawal.—

(1) Except as provided in subsection (2), the election must be filed within the earlier of 6 months of the date of *service of a copy of* the ~~first publication of~~ notice of administration *on the surviving spouse, or an attorney in fact or guardian of the property of the surviving spouse,* or 2 years after the date of the decedent's death.

(2) Within the period provided in subsection (1), the surviving spouse or an attorney in fact or guardian of the property of the surviving spouse may petition the court for an extension of time for making an election. ~~After notice and hearing, the court~~ For good cause shown *the court* may extend the time for election. If the court grants the petition for an extension, the election must be filed within the time allowed by the extension.

(3) The surviving spouse or an attorney in fact, guardian of the property, or personal representative of the surviving spouse may withdraw an election at any time within 8 months of the decedent's death and before the court's order of contribution. If an election is withdrawn, the court may assess attorney's fees and costs against the surviving spouse or the *surviving* spouse's estate.

(4) A petition for an extension of the time for making the election or for approval to make the election shall toll the time for making the election.

Section 29. Effective October 1, 2001, subsections (1) and (4) of section 732.2145, Florida Statutes, are amended to read:

732.2145 Order of contribution; personal representative's duty to collect contribution.—

(1) The court shall determine the elective share and ~~shall order~~ contribution. ~~All~~ Contributions *shall* ~~are to~~ bear interest at the statutory rate ~~provided in s. 55.03(1)~~ beginning 90 days *after* ~~from~~ the ~~date of the~~ order *of contribution*. The order ~~of contribution~~ is prima facie correct in proceedings in any court or jurisdiction.

(4) Nothing in this section limits the independent right of the surviving spouse to collect the elective share as provided in the order of contribution, and that right is hereby conferred. If the surviving spouse brings an action to enforce *the* ~~an~~ order ~~of contribution~~, the judgment shall include the surviving spouse's costs and reasonable attorney's fees.

Section 30. Effective October 1, 2001, subsection (4) of section 732.2155, Florida Statutes, is amended and subsection (6) of section 732.2155, Florida Statutes, is created to read:

732.2155 Effective date; effect of prior waivers; transition rules.

(4) Notwithstanding anything in s. 732.2045(1)(a) to the contrary, any trust created by the decedent before the effective date of *ss. 732.201-732.2145* ~~this section~~ that meets the requirements of an elective share trust is treated as if the decedent created the trust after the effective date of *these sections* ~~this subsection~~ and in satisfaction of the elective share.

(6) Sections 732.201-732.2155 do not affect any interest in property held, as of the decedent's death, in a trust, whether revocable or irrevocable, if:

(a) the property was an asset of the trust at all times between October 1, 1999 and the date of the decedent's death;

(b) the decedent was not married to the decedent's surviving spouse when the property was transferred to the trust; and

(c) the property was a nonmarital asset as defined in s. 61.075 immediately prior to the decedent's death.

Rep. Goodlette moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

THE SPEAKER IN THE CHAIR

CS/HB 1189—A bill to be entitled An act relating to brownfield redevelopment economic incentives; amending s. 376.84, F.S.; providing definitions; providing that a county that constructs, renovates, or expands a significant new facility on a qualifying brownfield site is entitled to a sales tax increment rebate if the facility is leased to, licensed to, or operated by a private entity for the operation of a professional sports franchise; providing requirements with respect thereto; providing that, if the franchise is relocated or sold, a portion of the proceeds of the sale shall be remitted to the state; requiring such county to submit certain information to the Department of Revenue; providing for certification of the county by the department; providing for rules; providing for use of the rebate funds; providing requirements with respect to certain excess funds; providing for computation of the amount of the rebate; requiring repayment of rebate proceeds to the state if the county sells or otherwise conveys the facility or the real property on which it is located to a private entity; providing conditions under which eligibility for the rebate terminates; amending s. 212.20, F.S.; providing for distribution of the sales tax increment rebate to such counties; creating s. 186.5053, F.S.; authorizing the South Florida Regional Planning Council to undertake certain responsibilities and activities; providing effective dates.

—was read the second time by title.

Under Rule 11.10, Rep. Kosmas moved to temporarily postpone further consideration of CS/HB 1189, which was not agreed to. The vote was:

Session Vote Sequence: 208

Yeas—40

Alexander	Carassas	Jennings	Negron
Allen	Cusack	Joyner	Pickens
Argenziano	Diaz de la Portilla	Kallinger	Rich
Ausley	Farkas	Kosmas	Richardson
Baker	Fields	Lee	Romeo
Bendross-Mindingall	Frankel	Lerner	Slosberg
Betancourt	Gannon	Machek	Sobel
Brutus	Gibson	McGriff	Wallace
Bucher	Harrington	Meadows	Weissman
Bullard	Holloway	Melvin	Wishner

Nays—64

The Chair	Bennett	Davis	Goodlette
Andrews	Benson	Detert	Gottlieb
Arza	Berfield	Diaz-Balart	Green
Attkisson	Bilirakis	Dockery	Greenstein
Atwater	Bowen	Fasano	Haridopolos
Ball	Brummer	Fiorentino	Harper
Barreiro	Byrd	Flanagan	Harrell
Baxley	Cantens	Garcia	Henriquez
Bean	Clarke	Gardiner	Heyman
Johnson	Lacasa	Miller	Seiler
Jordan	Lynn	Murman	Simmons
Kendrick	Mack	Paul	Siplin
Kilmer	Mahon	Ritter	Smith
Kottkamp	Mayfield	Ross	Sorensen
Kravitz	Maygarden	Rubio	Stansel
Kyle	Mealor	Ryan	Waters

Motion

Rep. Rubio moved the previous question on the bill, which was agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1603 was taken up. On motion by Rep. Mayfield, the rules were waived and CS for SB 1524 was substituted for HB 1603. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1524—A bill to be entitled An act relating to water management; creating s. 373.1502, F.S.; creating the Comprehensive Everglades Restoration Plan Regulation Act; providing an expedited permitting program for project components as part of the comprehensive plan; amending s. 373.026, F.S.; providing that state funds for land purchases are authorized if contained within the Florida Forever Water Management District Work Plan; amending s. 373.470, F.S.; revising the due date for the annual comprehensive plan report; amending s. 403.088, F.S.; providing standards for the permitting of construction, operation, and maintenance of facilities in the South Florida ecosystem; providing an effective date.

—was read the second time by title.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 265983)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraphs (b) and (c) of subsection (8) of section 373.026, Florida Statutes, are amended to read:

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

(8)

(b) To ensure to the greatest extent possible that project components will go forward as planned, the department shall collaborate with the *South Florida Water Management* District in *implementing* the *comprehensive plan as defined in s. 373.470(2)(a)* ~~restudy~~. Before any project component is submitted to Congress for authorization or receives an ~~additional~~ appropriation of state funds, the department must approve, or approve with amendments, each project component within 60 days following formal submittal of the project component to the department. Department approval shall be based upon a determination of the *South Florida Water Management* District's compliance with s. 373.1501(5). Once a project component is approved, *the South Florida Water Management District shall provide to the Joint Legislative Committee on Everglades Oversight a schedule for implementing the project component, the estimated total cost of the project component, any existing federal or nonfederal credits, the estimated remaining federal and nonfederal share of costs, and an estimate of the amount of state funds that will be needed to implement the project component.* All

requests for an ~~additional~~ appropriation of state funds needed to implement the project component shall be submitted to the department and such requests shall be included in the department's annual request to the Governor.

(c) Notwithstanding paragraph (b), the use of state funds for land purchases from willing sellers is authorized for projects within the *South Florida Water Management* District's approved 5-year plan of acquisition pursuant to s. 373.59 *or within the South Florida Water Management District's approved Florida Forever water management district work plan pursuant to s. 373.199*.

Section 2. Section 373.1502, Florida Statutes, is created to read:

373.1502 Regulation of comprehensive plan project components.—

(1) SHORT TITLE.—This section may be cited as the "Comprehensive Everglades Restoration Plan Regulation Act."

(2) FINDINGS; INTENT.—

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

(b) The Legislature intends to provide efficient and effective permitting of project components, taking into account all other statutory responsibilities the department and the South Florida Water Management District are required to consider.

(3) REGULATION OF COMPREHENSIVE PLAN STRUCTURES AND FACILITIES.—

(a) This subsection applies to all project components, as defined in s. 373.1501, identified in the comprehensive plan unless the project component is otherwise subject to s. 373.4592, s. 373.4595, or the department's rules on reuse of reclaimed water. Permits issued under this subsection are in lieu of all other permits required under this chapter or chapter 403, except for permits issued under any delegated or approved federal program.

(b) The department shall issue a permit for a term of 5 years for the construction, operation, modification, or maintenance of a project component based on the criteria set forth in this section. If the department is the entity responsible for the construction, operation, modification, or maintenance of any individual project component, the district shall issue a permit for a term of 5 years based on the criteria set forth in this section. The permit application must provide reasonable assurances that:

1. The project component will achieve the design objectives set forth in the detailed design documents submitted as part of the application.

2. State water quality standards will be met to the maximum extent practicable. Under no circumstances shall the project component cause or contribute to violation of state water quality standards.

3. Discharges from the project component will not pose a serious danger to public health, safety, or welfare.

4. Any impacts to wetlands or threatened or endangered species resulting from implementation of the project component will be avoided, minimized, and mitigated, as appropriate.

(c) Construction activities for comprehensive plan project components may be initiated upon submission of a permit application and completion of the department's approval under s. 373.1501, but before final agency action or notice of intended agency action. However, a permit must be obtained before the commencement or modification of operation.

(d) Permits issued under this subsection must contain reasonable conditions to ensure that water quality resulting from construction and operation of project components is adequately and accurately monitored.

(e) Permits issued under this subsection may:

1. Authorize construction, operation, modification, and maintenance of individual or multiple project components under a single permit;

2. Include any standard conditions provided by department rule which are appropriate and consistent with this subsection; or

3. Establish reporting requirements that are consolidated with other reports if all reporting requirements are met.

(f) The permitting entity shall require a processing fee in an amount sufficient to cover the costs of reviewing and acting upon any application for a permit under this section and to cover the costs of surveillance associated with any permit issued under this section.

(g) At least 60 days before the expiration of any permit issued under this subsection, the permittee may apply for a renewal for a term of 5 years. Such submittals are considered timely and sufficient under s. 120.60(4). Permits issued under this subsection may be modified upon review and approval by the department or district, as appropriate.

Section 3. Subsection (3) of section 373.4149, Florida Statutes, is amended to read:

373.4149 Miami-Dade County Lake Belt Plan.—

(3) The Miami-Dade County Lake Belt Area is that area bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East less those portions of *section 3, south of Krome Avenue and west of U.S. Highway 27,* section 10, except the west one-half, section 11, except the northeast one-quarter and the east one-half of the northwest one-quarter, and tracts 38 through 41, and tracts 49 through 64 inclusive, section 13, except tracts 17 through 35 and tracts 46 through 48, of Florida Fruit Lands Company Subdivision No. 1 according to the plat thereof as recorded in plat book 2, page 17, public records of Miami-Dade County, and section 14, except the west three quarters, Township 52 South, Range 39 East, lying north of the Miami Canal, sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

Section 4. Paragraphs (b) and (d) of subsection (4) of section 373.4595, Florida Statutes, are amended to read:

373.4595 Lake Okeechobee Protection Program.—

(4) LAKE OKEECHOBEE PROTECTION PERMITS.—

(b) Permits obtained pursuant to this section are in lieu of all other permits under chapter 373 or chapter 403, except those issued under s. 403.0885, if applicable. No additional permits are required for the Lake Okeechobee Construction Project or structures discharging into or from Lake Okeechobee*, if permitted under this section*. Construction activities related to implementation of the Lake Okeechobee Construction Project may be initiated prior to final agency action, or notice of intended agency action, on any permit from the department under this section.

(d) The department shall require permits for Lake Okeechobee Construction Project facilities. *However, projects identified in sub-subparagraph (3)(b)1.b. that qualify as exempt pursuant to s. 373.406 shall not need permits under this section.* Such permits shall be issued for a term of 5 years upon the demonstration of reasonable assurances that:

1. The Lake Okeechobee Construction Project facility, based upon the conceptual design documents and any subsequent detailed design

documents developed by the district, will achieve the design objectives for phosphorus required in paragraph (3)(b);

2. For water quality standards other than phosphorus, the quality of water discharged from the facility is of equal or better quality than the inflows;

3. Discharges from the facility do not pose a serious danger to public health, safety, or welfare; and

4. Any impacts on wetlands or state-listed species resulting from implementation of that facility of the Lake Okeechobee Construction Project are minimized and mitigated, as appropriate.

Section 5. Subsection (7) of section 373.470, Florida Statutes, is amended to read:

373.470 Everglades restoration.—

(7) ANNUAL REPORT.—To provide enhanced oversight of and accountability for the financial commitments established under this section and the progress made in the implementation of the comprehensive plan, the following information must be prepared annually:

(a) The district, in cooperation with the department, shall provide the following information as it relates to implementation of the comprehensive plan:

1. An identification of funds, by source and amount, received by the state and by each local sponsor during the fiscal year.

2. An itemization of expenditures, by source and amount, made by the state and by each local sponsor during the fiscal year.

3. A description of the purpose for which the funds were expended.

4. The unencumbered balance of funds remaining in trust funds or other accounts designated for implementation of the comprehensive plan.

5. A schedule of anticipated expenditures for the next fiscal year.

(b) The department shall prepare a detailed report on all funds expended by the state and credited toward the state's share of funding for implementation of the comprehensive plan. The report shall include:

1. A description of all expenditures, by source and amount, from the Conservation and Recreation Lands Trust Fund, the Land Acquisition Trust Fund, the Preservation 2000 Trust Fund, the Florida Forever Trust Fund, the Save Our Everglades Trust Fund, and other named funds or accounts for the acquisition or construction of project components or other features or facilities that benefit the comprehensive plan.

2. A description of the purposes for which the funds were expended.

3. The unencumbered fiscal-year-end balance that remains in each trust fund or account identified in subparagraph 1.

(c) The district, in cooperation with the department, shall provide a detailed report on progress made in the implementation of the comprehensive plan, including the status of all project components initiated after the effective date of this act or the date of the last report prepared under this subsection, whichever is later.

The information required in paragraphs (a), (b), and (c) shall be provided annually in a single report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and copies of the report must be made available to the public. The initial report is due by November 30, 2000, and each annual report thereafter is due by *January 31* ~~November 30~~.

Section 6. Paragraph (g) of subsection (2) of section 403.088, Florida Statutes, is amended to read:

403.088 Water pollution operation permits; conditions.—

(2)

(g) The Legislature finds that the restoration of the *South Florida ecosystem* ~~Everglades Protection Area, including the construction, operation, and maintenance of stormwater treatment areas (STAs)~~ is in the public interest. Accordingly, whenever a facility to be constructed, operated, or maintained in accordance with *s. 373.1501, s. 373.1502, s. 373.4595, or* s. 373.4592 is subjected to permitting requirements pursuant to chapter 373 or this chapter, and the issuance of the initial permit for a new source, a new discharger, or a recommencing discharger is subjected to a request for hearing pursuant to s. 120.569, the administrative law judge may, upon motion by the permittee, issue a recommended order to the secretary who, within 5 days, shall issue an order authorizing the interim construction, operation, and maintenance of the facility if it complies with all uncontested conditions of the proposed permit and all other conditions recommended by the administrative law judge during the period until the final agency action on the permit.

1. An order authorizing such interim construction, operation, and maintenance shall be granted if requested by motion and no party opposes it.

2. If a party to the administrative hearing pursuant to ss. 120.569 and 120.57 opposes the motion, the administrative law judge shall issue a recommended order granting the motion if the administrative law judge finds that:

a. The facility is likely to receive the permit; and

b. The environment will not be irreparably harmed by the construction, operation, or maintenance of the facility pending final agency action on the permit.

3. Prior to granting a contested motion for interim construction, operation, or maintenance of a facility *regulated or otherwise permitted* ~~authorized~~ by *s. 373.1501, s. 373.1502, s. 373.4595, or* s. 373.4592, the administrative law judge shall conduct a hearing using the summary hearing process defined in s. 120.574, which shall be mandatory for motions made pursuant to this paragraph. Notwithstanding the provisions of s. 120.574(1), summary hearing proceedings for these facilities shall begin within 30 days of the motion made by the permittee. Within 15 days of the conclusion of the summary proceeding, the administrative law judge shall issue a recommended order either denying or approving interim construction, operation, or maintenance of the facility, which shall be submitted to the secretary who shall within 5 days thereafter, enter an order granting or denying interim construction operation or maintenance of the facility. The order shall remain in effect until final agency action is taken on the permit.

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:
Remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the comprehensive Everglades restoration plan; amending s. 373.026, F.S.; requiring the South Florida Water Management District to submit certain information to the Joint Legislative Committee on Everglades Oversight; requiring the committee to provide certain review of appropriation requests and make recommendations to the Legislature; providing that state funds for land purchases are authorized if contained within the district's Florida Forever 5-year work plan; creating s. 373.1502, F.S.; creating the Comprehensive Everglades Restoration Plan Regulation Act; providing for regulation of comprehensive plan project components; providing findings and intent; providing an expedited permit process; providing a fee; providing for renewal; amending s. 373.4149, F.S.; clarifying boundaries of the Miami-Dade County Lake Belt Area; amending s. 373.4595, F.S.; revising Lake Okeechobee protection permit requirements and related exemptions; amending s. 373.470, F.S.; revising due date of the annual report on implementation of the comprehensive plan; amending s. 403.088, F.S.; providing application of water pollution operation permitting procedures to facilities constructed, operated, or maintained

in the South Florida ecosystem, including the components of the comprehensive Everglades restoration plan; providing an effective date.

Rep. Mayfield moved the adoption of the amendment.

On motion by Rep. Diaz-Balart, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 275597)

Amendment 1 to Amendment 1 (with title amendment)—On page 5, line 22 through page 6, line 15 of the amendment

insert:

Section 3. Section 373.4149, Florida Statutes, is amended to read:

373.4149 Miami-Dade County Lake Belt Plan.—

(1) The Legislature hereby accepts and adopts the recommendations contained in the Phase I Lake Belt Report and Plan, ~~known as the "Miami-Dade County Lake Plan,"~~ dated February 1997 and *hereby accepts the Phase II Plan,* submitted *on February 9, 2001 to the Legislature* by the Miami-Dade County Lake Belt Plan Implementation Committee. *These plans shall collectively be known as the Miami-Dade County Lake Belt Plan. This plan was developed to enhance the water supply for Miami-Dade County and the Everglades, including appropriate wellfield protection measures; to maximize efficient recovery of limestone while promoting the social and economic welfare of the community and protecting the environment; and to educate various groups and the general public of the benefits of the plan.*

(2)(a) The Legislature recognizes that deposits of limestone and sand suitable for production of construction aggregates, cement, and road base materials are located in limited areas of the state.

(b) The Legislature recognizes that the deposit of limestone available in South Florida is limited due to urbanization to the east and the Everglades to the west.

(3) The Miami-Dade County Lake Belt Area is that area bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East less those portions of *section 3, south of Krome Avenue and west of U.S. Highway 27,* section 10, except the west one-half, section 11, except the northeast one-quarter and the east one-half of the northwest one-quarter, and tracts 38 through 41, and tracts 49 through 64 inclusive, section 13, except tracts 17 through 35 and tracts 46 through 48, of Florida Fruit Lands Company Subdivision No. 1 according to the plat thereof as recorded in plat book 2, page 17, public records of Miami-Dade County, and section 14, except the west three quarters, Township 52 South, Range 39 East, lying north of the Miami Canal, sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

(4) The identification of the Miami-Dade County Lake Belt Area shall not preempt local land use jurisdiction, planning, or regulatory authority in regard to the use of land by private land owners. When amending local comprehensive plans, or implementing zoning regulations, development regulations, or other local regulations, Miami-Dade County shall strongly consider limestone mining activities and ancillary operations, such as lake excavation, including use of explosives, rock processing, cement, concrete and asphalt products manufacturing, and ancillary activities, within the rock mining supported and allowable areas of the Miami-Dade County Lake Plan adopted by subsection (1); provided, however, that limerock mining activities are consistent with wellfield protection. Rezonings or amendments to local comprehensive plans concerning properties that are located within 1 mile of the Miami-Dade Lake Belt Area shall be compatible with limestone mining activities. No rezonings, variances, or amendments to local comprehensive plans for any residential purpose may be approved for any property located in sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East until such time as there is no active mining within 2 miles of the property. This section does not preclude residential development that complies with current regulations.

~~(5) The Miami-Dade County Lake Belt Plan Implementation Committee shall be appointed by the governing board of the South Florida Water Management District to develop a strategy for the design and implementation of the Miami-Dade County Lake Belt Plan. The committee shall consist of the chair of the governing board of the South Florida Water Management District, who shall serve as chair of the committee, the policy director of Environmental and Growth Management in the office of the Governor, the secretary of the Department of Environmental Protection, the director of the Division of Water Facilities or its successor division within the Department of Environmental Protection, the director of the Office of Tourism, Trade, and Economic Development within the office of the Governor, the secretary of the Department of Community Affairs, the executive director of the Fish and Wildlife Conservation Commission, the director of the Department of Environmental Resource Management of Miami-Dade County, the director of the Miami-Dade County Water and Sewer Department, the Director of Planning in Miami-Dade County, a representative of the Friends of the Everglades, a representative of the Florida Audubon Society, a representative of the Florida chapter of the Sierra Club, four representatives of the nonmining private landowners within the Miami-Dade County Lake Belt Area, and four representatives from the limestone mining industry to be appointed by the governing board of the South Florida Water Management District. Two ex officio seats on the committee will be filled by one member of the Florida House of Representatives to be selected by the Speaker of the House of Representatives from among representatives whose districts, or some portion of whose districts, are included within the geographical scope of the committee as described in subsection (3), and one member of the Florida Senate to be selected by the President of the Senate from among senators whose districts, or some portion of whose districts, are included within the geographical scope of the committee as described in subsection (3). The committee may appoint other ex officio members, as needed, by a majority vote of all committee members. A committee member may designate in writing an alternate member who, in the member's absence, may participate and vote in committee meetings.~~

~~(6) The committee shall develop Phase II of the Lake Belt Plan which shall:~~

~~(a) Include a detailed master plan to further implementation;~~

~~(b) Consider the feasibility of a common mitigation plan for nonrock mining uses, including a nonrock mining mitigation fee. Any mitigation fee shall be for the limited purpose of offsetting the loss of wetland functions and values and not as a revenue source for other purposes.~~

~~(c) Further address compatible land uses, opportunities, and potential conflicts;~~

~~(d) Provide for additional wellfield protection;~~

~~(e) Provide measures to prevent the reclassification of the Northwest Miami-Dade County wells as groundwater under the direct influence of surface water;~~

~~(f) Secure additional funding sources;~~

~~(g) Consider the need to establish a land authority; and~~

~~(h) Analyze the hydrological impacts resulting from the future mining included in the Lake Belt Plan and recommend appropriate mitigation measures, if needed, to be incorporated into the Lake Belt Mitigation Plan.~~

~~(7) The committee shall remain in effect until January 1, 2002, and shall meet as deemed necessary by the chair. The committee shall~~

~~monitor and direct progress toward developing and implementing the plan. The committee shall submit progress reports to the governing board of the South Florida Water Management District and the Legislature by December 31 of each year. These reports shall include a summary of the activities of the committee, updates on all ongoing studies, any other relevant information gathered during the calendar year, and the committee recommendations for legislative and regulatory revisions. The committee shall submit a Phase II report and plan to the governing board of the South Florida Water Management District and the Legislature by December 31, 2000, to supplement the Phase I report submitted on February 28, 1997. The Phase II report must include the detailed master plan for the Miami-Dade County Lake Belt Area together with the final reports on all studies, the final recommendations of the committee, the status of implementation of Phase I recommendations and other relevant information, and the committee's recommendation for legislative and regulatory revisions.~~

~~(8) The committee shall report to the governing board of the South Florida Water Management District semiannually.~~

~~(9) In carrying out its work, the committee shall solicit comments from scientific and economic advisors and governmental, public, and private interests. The committee shall provide meeting notes, reports, and the strategy document in a timely manner for public comment.~~

~~(10) The committee is authorized to seek from the agencies or entities represented on the committee any grants or funds necessary to enable it to carry out its charge.~~

(5)~~(11)~~ The secretary of the Department of Environmental Protection, the secretary of the Department of Community Affairs, the secretary of the Department of Transportation, the Commissioner of Agriculture, the executive director of the Fish and Wildlife Conservation Commission, and the executive director of the South Florida Water Management District may enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as necessary to effectuate the *Miami-Dade Lake Belt Plan and the* provisions of this section.

(6)~~(12)~~(a) All agencies of the state shall review the status of their landholdings within the boundaries of the Miami-Dade County Lake Belt. Those lands for which no present or future use is identified must be made available, together with other suitable lands, to the *Department of Environmental Protection* ~~committee~~ for its use in carrying out the objectives of this act.

(b) It is the intent of the Legislature that lands provided to the *Department of Environmental Protection* ~~committee~~ be used for land exchanges to further the objectives of this act.

Section 4. Section 373.4415, Florida Statutes, is amended to read:

373.4415 Role of Miami-Dade County in processing permits for limerock mining in Miami-Dade County Lake Belt.—The department and Miami-Dade County shall cooperate to establish and fulfill reasonable requirements for the departmental delegation to the Miami-Dade County Department of Environmental Resource Management of authority to implement the permitting program under ss. 373.403-373.439 for limerock mining activities within the geographic area of the Miami-Dade County Lake Belt which was recommended for mining in the report submitted to the Legislature in February 1997 ~~by the Miami-Dade County Lake Belt Plan Implementation Committee~~ under s. 373.4149. The delegation of authority must be consistent with s. 373.441 and chapter 62-344, Florida Administrative Code. To further streamline permitting within the Miami-Dade County Lake Belt, the department and Miami-Dade County are encouraged to work with the United States Army Corps of Engineers to establish a general permit under s. 404 of the Clean Water Act for limerock mining activities within the geographic area of the Miami-Dade County Lake Belt consistent with the report submitted in February 1997. Miami-Dade County is further encouraged to seek delegation from the United States Army Corps of Engineers for the implementation of any such general permit. This section does not limit the authority of the department to delegate other responsibilities to Miami-Dade County under this part.

Section 5. Section 378.4115, Florida Statutes, is amended to read:

378.4115 County certification for limerock mining in the Miami-Dade County Lake Belt.—The department and Miami-Dade County shall cooperate to establish and fulfill reasonable requirements for the departmental certification of the Miami-Dade County Department of Environmental Resource Management to implement the reclamation program under ss. 378.401-378.503 for limerock mining activities within the geographic area of the Miami-Dade County Lake Belt which was recommended for mining in the report submitted to the Legislature in February 1997 ~~by the Miami-Dade County Lake Belt Plan Implementation Committee~~ under s. 373.4149. The delegation of implementing authority must be consistent with s. 378.411 and chapter 62C-36, Florida Administrative Code. Further, the reclamation program shall maximize the efficient mining of limestone, and the littoral area surrounding the lake excavations shall not be required to be greater than 100 feet average in width.

And the title is amended as follows:

On page 11, line 30 through 31 of the amendment
remove: all of said lines

and insert in lieu thereof: F.S.; providing for acceptance of the Phase II Lake Belt Plan; clarifying boundaries of the Miami-Dade County Lake Belt Area; eliminating the Miami-Dade Lake Belt Plan Implementation Committee; providing for certain lands to be made available to the Department of Environmental Protection to be used for land exchanges; amending s. 373.4415, F.S.; deleting an obsolete reference; amending s. 378.4115, F.S.; deleting an obsolete reference; amending s. 373.4595,

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 793—A bill to be entitled An act relating to elderly persons and disabled adults; amending s. 825.101, F.S.; defining the term "position of trust and confidence"; amending s. 772.11, F.S.; prescribing civil remedies for theft and other offenses in which the victim is an elderly person or disabled adult; providing that a violation of patient rights is not a cause of action under the act; providing for continuation of a cause of action upon the death of the elderly person or disabled adult; authorizing the court to advance a trial on the docket which involves a victim who is an elderly person or disabled adult; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 947—A bill to be entitled An act relating to medical malpractice presuit investigations; amending s. 766.104, F.S.; authorizing the release of certain records relating to medical care and treatment of a decedent upon the request of certain persons; providing exemption from liability and discipline for health care practitioners complying in good faith; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 812627)

Amendment 1—On page 2, lines 28 through 30
remove from the bill: all of said lines

and insert in lieu thereof: *made available, upon request, to the spouse, parent, child who has reached majority, guardian pursuant to chapter 744, surrogate or proxy pursuant to chapter 765, or attorney in fact of the deceased pursuant to chapter 709. A*

Rep. Seiler moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/CS/HB 719—A bill to be entitled An act relating to damage or destruction of agricultural products; creating s. 604.60, F.S.; providing that certain agricultural growers or producers shall have a right to recover damages as a result of willful and knowing damage or destruction of specified agricultural products; providing considerations and limits in award of damages; providing for costs and attorney's fees; amending s. 810.09, F.S.; prohibiting trespass upon specified legally posted agricultural sites; providing a penalty; reenacting ss. 260.0125(5)(b) and 810.011(5)(b), F.S., to incorporate the amendment to s. 810.09, F.S., in references thereto; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1215—A bill to be entitled An act relating to a corporate income tax credit to promote new product development; providing a short title; creating s. 288.907, F.S.; providing definitions; providing for licensing of certain products or technologies by donor companies to receiving companies for production and marketing; providing duties of such companies and of Enterprise Florida, Inc.; providing requirements for product development agreements; creating s. 220.115, F.S.; requiring receiving companies to file a corporate tax return and remit to the state certain fees in addition to any corporate income tax due; providing for application of administrative and penalty provisions of ch. 220, F.S.; creating s. 220.1825, F.S.; providing for a credit against the corporate income tax for donor companies; providing for determination of the amount of the credit by Enterprise Florida, Inc., and notification to the Department of Revenue; providing for carryover of the credit; amending s. 220.02, F.S.; providing order of credits against the tax; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 592097)

Amendment 1—On page 3, line 29, after the word "equal" and on

Page 4, line 3, after the word "exceed" and on

Page 5, line 5, after the word "to" of the bill

insert: *94.5 percent of*

Rep. Andrews moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 740033)

Amendment 2—On page 4, line 29, of the bill

after the period insert:
The Department of Revenue may adopt rules requiring the information that it considers necessary to ensure that the funds due under this section are properly reported and paid, including, but not limited to rules relating to the methods, forms (including the filing of returns by the receiving companies), deadlines, and penalties for providing the information required under this section.

Rep. Andrews moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 542989)

Amendment 3—On page 5, line 10 of the bill

after the period insert:
The Department of Revenue may adopt rules relating to the method of reporting and claiming this credit.

Rep. Andrews moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 337—A bill to be entitled An act relating to public libraries; amending s. 257.17, F.S.; providing additional conditions for receipt of operating grants; providing conditions for potential loss of eligibility to receive an operating grant; requiring a report to the Division of Library and Information Services of the Department of State; requiring a report to the Legislature; revising a repeal date with respect to authorizing certain municipalities to receive operating grants for libraries; providing an effective date.

—was read the second time by title.

Further consideration of **CS/HB 337** was temporarily postponed under Rule 11.10.

HB 635—A bill to be entitled An act relating to drivers' licenses; creating s. 322.0515, F.S.; providing for compliance with federal requirements by certain applicants for drivers' licenses or identification cards; directing the Department of Highway Safety and Motor Vehicles to forward certain information to the federal Selective Service System with respect to certain applicants; providing described notice to applicants; directing the department to include a described statement on certain applications for drivers' licenses or identification cards; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 345—A bill to be entitled An act relating to sports industry economic development projects; amending s. 212.20, F.S.; providing for the Department of Revenue to distribute sales tax reimbursements to certified sports industry economic development projects under certain circumstances; amending s. 213.053, F.S.; extending the current information sharing with the Office of Tourism, Trade, and Economic Development to include the sales tax reimbursement program for certified sports industry economic development projects; creating s. 288.113, F.S.; creating a tax reimbursement program for certified sports industry economic development projects; providing legislative findings and declarations; providing definitions; providing eligibility criteria for amateur sports businesses; prescribing the terms and amounts of tax reimbursements; providing a certification procedure, to be established and administered by the Office of Tourism, Trade, and Economic Development; providing for periodic recertification; abating or reducing funding in specified circumstances; providing a maximum number of years for which an amateur sports business may be certified; providing for decertification; providing a penalty for falsifying an application; providing for a tax reimbursement agreement and prescribing terms of the agreement; providing for annual claims for reimbursement; providing duties of the Department of Revenue; providing for administration of the program; providing for recordkeeping and submission of an annual report to the Legislature; amending s. 288.1229, F.S.; providing an additional purpose for which the Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office; providing for the creation of new jobs in this state; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 823345)

Amendment 1—On page 6, lines 4-10, and on page 10, lines 14-20, remove from the bill: all of said lines,

and insert in lieu thereof:

e. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as a certified sports industry economic development project pursuant to s. 288.113, and has generated new sales tax revenues

that have been remitted to the state during the prior twelve months, a monthly sales tax reimbursement payment in the amount set forth in the notice by the Office of Tourism, Trade and Economic Development, based on actual sales tax generated over a 12-month period, shall be distributed to the

Rep. Johnson moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1973—A bill to be entitled An act relating to state debt; creating s. 215.98, F.S.; providing a declaration of public policy; requiring the Division of Bond Finance of the State Board of Administration to conduct an annual debt affordability analysis; requiring a report; specifying report requirements; amending s. 11.90, F.S.; providing additional powers and duties of the Legislative Budget Commission relating to the state's debt; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1961—A bill to be entitled An act relating to tax on sales, use, and other transactions; creating s. 212.213, F.S.; providing that it is the policy of this state that only those items, services, and other transactions deemed to be subject to said tax on July 1, 2001, shall be taxed under ch. 212, F.S., unless made subject to said tax by act of the Legislature; providing an effective date.

—was read the second time by title.

Representative(s) Wallace offered the following:

(Amendment Bar Code: 494845)

Amendment 1 (with title amendment)—On page 1, between lines 25 and 26 of the bill

insert:

Section 2. Paragraph (b) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment ~~used to increase productive output~~.—

1. Industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities as defined by s. 212.02 or for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2.a. Industrial machinery and equipment purchased for exclusive use by *a* ~~an expanding~~ facility *that* ~~which~~ is engaged in spaceport activities as defined by s. 212.02 or for use in ~~expanding~~ manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from *the* ~~any amount of~~ tax imposed by this chapter in excess of *$40,000* ~~$50,000~~ per calendar year ~~upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded facility or business by not less than 10 percent~~.

b. Notwithstanding any other provision of this section, industrial machinery and equipment purchased for use in expanding printing manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such an expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph *2.b.* ~~2.~~, a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph *2.b.* ~~2.~~, the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph *2.b.* ~~2.~~, the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph *2.b.* ~~2.~~ did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph *2.b.* ~~2.~~ through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph *2.b.* ~~2.~~ have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property or which does not use such machinery and equipment in spaceport activities as required by this paragraph. The exemptions provided in subparagraphs 1. and 2. shall apply to machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations only by way of a prospective credit against taxes due under chapter 211 for taxes paid under this chapter on such machinery and equipment.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of spaceport activities or of the manufacturing, processing, compounding, or producing for sale

of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

And the title is amended as follows:

On page 1, line 9, after the semicolon

insert: amending s. 212.08, F.S.; revising the exemption for industrial machinery and equipment; broadening the application of the exemption; reducing the maximum amount of the tax which is imposed on such machinery and equipment;

Rep. Wallace moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 1983—A bill to be entitled An act relating to ad valorem tax administration; amending s. 193.155, F.S.; revising provisions relating to the correction of errors in the assessment of homestead property due to a material mistake of fact; amending s. 195.096, F.S.; requiring the Department of Revenue to document and retain records used in the review of assessment rolls; requiring the department, effective for 2003 and subsequent tax rolls, to study assessment roll strata by value groups or market areas to ensure the representativeness of ratio study samples; amending s. 197.212, F.S., which allows the board of county commissioners to instruct the tax collector not to mail a tax notice when the amount of taxes is less than a specified amount; increasing such minimum amount; amending s. 197.343, F.S.; revising the deadline for mailing an additional tax notice to a taxpayer whose payment has not been received; amending s. 197.502, F.S.; authorizing the tax collector to contract with a title or abstract company to provide information concerning property described in a tax certificate and providing requirements with respect thereto; authorizing the tax collector to pay a reasonable fee for this information; providing that the amount of such fee shall be added to the opening bid for a tax deed for the property; amending s. 200.069, F.S., which provides requirements for the form of the notice of proposed property taxes and non-ad valorem assessments; removing provisions which specify that a separate line entry for each independent special taxing district is optional; revising requirements for entries relating to voted levies for debt service; amending s. 192.0105, F.S.; correcting a reference; creating a Property Tax Administration Task Force and providing its duties; providing effective dates.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Garcia, the House moved to the consideration of CS/HB 337 on Special Orders.

CS/HB 337—A bill to be entitled An act relating to public libraries; amending s. 257.17, F.S.; providing additional conditions for receipt of operating grants; providing conditions for potential loss of eligibility to receive an operating grant; requiring a report to the Division of Library and Information Services of the Department of State; requiring a report to the Legislature; revising a repeal date with respect to authorizing certain municipalities to receive operating grants for libraries; providing an effective date.

—was taken up, having been read the second time earlier today.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 743565)

Amendment 1 (with title amendment)—On page 1, line 25, through page 3, line 5,
remove from the bill: all of said lines

and insert in lieu thereof:

(4)(a) A municipality with a population of 200,000 or more that establishes or maintains a library is eligible to receive from the state an annual operating grant of not more than 25 percent of all local funds expended by that municipality during the second preceding fiscal year for the operation and maintenance of a library, under the following conditions:

1. The municipal library is operated under a single administrative head and expends its funds centrally;

2. The municipal library has an operating budget of at least $20,000 per year from local sources; and

3. The municipal library provides free library service to all residents of the municipality.

(b) This subsection is repealed on July 1, *2002* ~~2001~~.

Section 2. *(1) The Division of Library and Information Services of the Department of State shall encourage and facilitate the exploration of the feasibility of forming public library cooperatives by municipalities and county-designated single administrative units through interlocal agreement in order to extend library service to residents of both legal service areas. A municipality and county-designated single administrative unit that explores the feasibility of extending library service to residents of both service areas shall submit recommendations on the progress made toward forming a cooperative to the Division of Library and Information Services by December 1, 2001. By January 2, 2002, the division shall submit a report to the President of the Senate and the Speaker of the House of Representatives which shall include a status report on the progress of extending library services by these entities and shall make recommendations for any changes in law or funding as a result of the report. The report shall also include a review of the State Aid to Libraries program to determine what revisions, if any, need to be made to that program to encourage and improve the delivery of free library service to all residents of the state. Finally, the report shall provide recommendations for statutory and funding changes based upon the review.*

(2) This section expires July 1, 2002.

And the title is amended as follows:

On page 1, lines 3-13,
remove from the title of the bill: all of said lines

and insert in lieu thereof: s. 257.17, F.S.; extending the repeal date of a provision authorizing operating grants; requiring the Division of Library and Information Services to facilitate the extension of free library services through interlocal agreement; requiring reports; providing an effective date.

Rep. Garcia moved the adoption of the amendment, which was adopted.

Rep. Diaz de la Portilla moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 113 was taken up. On motion by Rep. Trovillion, the rules were waived and CS for CS for SB 870 was substituted for CS/HB 113. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 870—A bill to be entitled An act relating to construction; amending s. 218.72, F.S.; redefining the terms “proper invoice,” “local government entity,” “purchase,” and “construction services” and defining the terms “payment request” and “agent” for the purpose of the Florida Prompt Payment Act; amending s. 218.73, F.S.; providing for timely payment for nonconstruction services; amending s. 218.735, F.S.; revising provisions with respect to timely payment for purchases of construction services; providing for disputed payment requests; providing for payment of undisputed amounts; amending s. 218.74, F.S.; revising provisions with respect to procedures for calculation of payment due dates; amending s. 218.75, F.S.; revising provisions with respect to mandatory interest; amending s. 218.76, F.S.; revising provisions with respect to improper invoices and resolution of disputes; providing for the recovery of court costs and attorney’s fees under certain circumstances; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1091—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; providing for a Florida Golf license plate; providing for a use fee; directing the Department of Highway Safety and Motor Vehicles to develop a Florida Golf license plate; providing for the distribution of fees; providing an effective date.

—was read the second time by title.

The Committee on Transportation offered the following:

(Amendment Bar Code: 440469)

Amendment 1—On page 5, lines 22 through 24,
remove from the bill: Tee Off For Opportunity Trust Fund of the Dade Amateur Golf Association. The Tee Off For Opportunity Trust Fund

and insert in lieu thereof: *Florida Childrens’ Golf Fund. The Florida Childrens’ Golf Fund*

Rep. Russell moved the adoption of the amendment, which was adopted.

The Committee on Transportation & Economic Development Appropriations offered the following:

(Amendment Bar Code: 070569)

Amendment 2 (with title amendment)—On page 5, line 1
remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (ff) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.8056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ff) *Florida Golf license plate, $25.*

Section 2. Subsection (32) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(32) FLORIDA GOLF LICENSE PLATES:—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Golf License plate as provided in this section. The word “Florida” must appear at the bottom of the plate. The Dade Amateur Golf Association, following consultation with the PGA TOUR, the Florida Sports Foundation, the LPGA and the PGA of America may submit a revised sample plate for consideration by the department.

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

1. Up to five percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation for the administration of the Florida Youth Golf Program.

2. The Dade Amateur Golf Association shall receive the first $80,000 in proceeds from the annual use fees for the operation of youth golf programs in Miami-Dade County. Thereafter, fifteen percent of the proceeds from the annual use fee shall be provided to the Dade Amateur Golf Association for the operation of youth golf programs in Miami-Dade County.

3. The remaining proceeds from the annual use fee shall be available for grants to non-profit organizations to operate youth golf programs and for the purpose of marketing the Florida Golf License Plates. All grant recipients, including the Dade Amateur Golf Association, shall be required to provide to the Florida Sports Foundation an annual program and financial report regarding the use of grant funds. Such reports shall be made available to the public.

(c) The Florida Sports Foundation shall establish a Florida Youth Golf Program. The Florida Youth Golf Program shall assist organizations for the benefit of youth, introduce young people to golf, instruct young people in golf, teach the values of golf and stress life skills, fair play, courtesy, self-discipline.

(d) The Florida Sports Foundation shall establish a five member committee to offer advice regarding the distribution of the annual use fees for grants to non-profit organizations. The advisory committee shall consist of one member from an agency serving youth, one member an agency serving disabled youth and three members at large.

And the title is amended as follows:

On page 1, line 8 through page 4, line 27
remove from the title of the bill: all of said lines

and insert in lieu thereof: providing for the distribution and use of fees; requiring the Florida Sports Foundation to establish a youth golf program; providing for an advisory committee; providing an effective date.

Rep. Russell moved the adoption of the amendment.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 642025)

Amendment 1 to Amendment 2—On page 3, lines 2-7
remove from the amendment: all of said lines

and insert in lieu thereof:

(d) The Florida Sports Foundation shall establish a five-member committee to offer advice regarding the distribution of the annual use fees for grants to nonprofit organizations. The advisory committee shall consist of one member from a group serving youth, one member from a group serving disabled youth, and three members at large.

Rep. Wishner moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 2**, as amended, which was adopted.

Representative(s) Ritter offered the following:

(Amendment Bar Code: 084917)

Amendment 3—On page 5, line 19,
remove from the bill: all of said lines

and insert in lieu thereof: *bottom of the plate and the words "Choose Golf"*

Rep. Ritter moved the adoption of the amendment, which was adopted.

Reconsideration

On motion by Rep. Russell, the House reconsidered the vote by which **Amendment 3** was adopted. The question recurred on the adoption of the amendment, which failed of adoption.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 757—A bill to be entitled An act relating to wrecker liens; creating s. 319.227, F.S.; providing for notice of transfer of motor vehicle or mobile home; amending s. 320.03, F.S.; including a cross reference; providing that the term "civil penalties and fines" does not include reference to a wrecker operator's lien; amending s. 713.78, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall not issue a license plate or revalidation sticker for certain motor vehicles, vessels, or motor homes for which a wrecker operator's lien has been issued; providing procedures with respect to such liens; creating s. 328.25, F.S.; providing for notice of transfer of vessel; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 751657)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (8) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(8) If the applicant's name appears on the list referred to in s. 316.1001(4)*,* ~~or~~ s. 316.1967(6), *or s. 713.78(13),* a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing that the fines outstanding have been paid. The tax collector and the clerk of the court are each entitled to receive monthly, as costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. *As used in this subsection, the term "civil penalties and fines" does not include a wrecker operator's lien as described in s. 713.78(13).* If the tax collector has private tag agents, such tag agents are entitled to receive a pro rata share of the amount paid to the tax collector, based upon the percentage of license plates and revalidation stickers issued by the tag agent compared to the total issued within the county. The authority of any private agent to issue license plates shall be revoked, after notice and a hearing as provided in chapter 120, if he or she issues any license plate or revalidation sticker contrary to the provisions of this subsection. This section applies only to the annual renewal in the owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under this chapter, except for the transfer of registrations which is inclusive of the annual renewals. This section does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

Section 2. Subsection (13) is added to section 713.78, Florida Statutes, to read:

713.78 Liens for recovering, towing, or storing vehicles and documented vessels.—

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(c) for recovery, towing, or storage of a vehicle, vessel, or mobile home, upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11), the department shall place the name of the registered owner of that vehicle, vessel, or mobile home on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle, vessel, or mobile home is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.

2. The name of the registered owner of the vehicle, vessel, or mobile home and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).

3. A general description of the vehicle, vessel, or mobile home, including its color, make, model, body style, and year.

4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; mobile home sticker number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.

5. The name of the person and the corresponding law enforcement agency that requested that the vehicle, vessel, or mobile home be recovered, towed, or stored.

6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle, vessel, or mobile home for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001 before the vehicle, vessel, or mobile home was recovered, towed, or stored.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a licensed plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle, vessel, or mobile home is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the

judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than $500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle, vessel, or mobile home was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle, vessel, or mobile home was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a licensed plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a licensed plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle, vessel, or mobile home was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle, vessel, or mobile home attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of $2, which shall be deposited into the Florida Motor Vehicle Theft Prevention Trust Fund established under s. 860.158. A service charge of $2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which is inclusive of the annual renewals. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

(g) The Department of Highway Safety and Motor Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2 after "liens;" through line 17,
remove from the title of the bill: all of said lines

and insert in lieu thereof: amending s. 320.03, F.S.; including a cross reference; providing that the term "civil penalties and fines" does not include reference to a wrecker operator's lien; amending s. 713.78, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall not issue a license plate or revalidation sticker for certain motor vehicles, vessels, or motor homes for which a wrecker operator's lien has been issued; providing procedures with respect to such liens; providing an effective date.

Rep. Kottkamp moved the adoption of the amendment.

The Committee on Transportation offered the following:

(Amendment Bar Code: 625279)

Amendment 1 to Amendment 1—On page 2, lines 27-28,
remove from the amendment: *paragraph (2)(c)*

and insert in lieu thereof: *paragraphs (2)(c) or (2)(d)*

Rep. Russell moved the adoption of the amendment to the amendment, which was adopted.

The Committee on Transportation offered the following:

(Amendment Bar Code: 644741)

Amendment 2 to Amendment 1—On page 3, line 24
remove from the amendment: *and*

and insert in lieu thereof: *or*

Rep. Russell moved the adoption of the amendment to the amendment, which was adopted.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 120365)

Amendment 3 to Amendment 1—On page 2, lines 21 -24
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 2. Subsections (4)(b) and (6) of section 713.78, Florida Statutes, is amended, and subsection (13) is added to said section to read:

713.78 Liens for recovering, towing, or storing vehicles and documented vessels.—

(4)(b) Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner and to all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5), and that any vehicle or vessel which remains unclaimed, or for which the charges for

recovery, towing, or storage services remain unpaid, may be sold ~~after 35 days~~ free of all prior liens *after 35 days if the vehicle or vessel is more than 3 years of age and after 50 days if the vehicle or vessel is 3 years of age or less*.

(6) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge or unpaid lot rental amount after 35 days from the time the vehicle or vessel is stored therein *if the vehicle or vessel is more than 3 years of age and after 50 days from the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less*. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle, vessel, or mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice shall be sent by certified mail, return receipt requested, to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold such proceeds subject to the claim of the person legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order.

Rep. Cantens moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1133—A bill to be entitled An act relating to operations of correctional work programs; revising provisions relating to leased or managed work programs to conform to current operations and applications; amending ss. 946.502, 946.5025, 946.5026, 946.503, 946.506, 946.509, 946.511, 946.514, 946.516, 946.518, and 946.520, F.S.; conforming internal cross references; deleting obsolete provisions; clarifying a definition; changing a reporting date; amending s. 957.04, F.S., to conform a cross reference; providing legislative findings with regard to fulfillment of an important state interest; creating s. 946.525, F.S., relating to participation by the corporation in state group health insurance and prescription drug coverage programs; providing for participation by the corporation board of directors in said programs; providing for a fee; providing conditions for submission of proposals and for review thereof; providing terms and conditions for enrollment; providing for applicability; providing for rules; requiring certain letters and rulings with regard to the State Group Self-Insurance Program; requiring notification to the Legislature; providing a contingent effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 73—A bill to be entitled An act relating to state government; creating the "Florida Customer Service Standards Act"; providing definitions; specifying measures that state departments are directed to implement with respect to interaction with their customers; providing requirements regarding operating hours; providing that failure to comply with the act does not constitute a cause of action; providing exceptions; providing an effective date.

—was read the second time by title.

Representative(s) Smith and Frankel offered the following:

(Amendment Bar Code: 940437)

Amendment 1—On page 2, line 12 of the bill

after the word "Commission", insert: *and the Legislature*

Rep. Frankel moved the adoption of the amendment, which failed of adoption.

Representative(s) Ausley offered the following:

(Amendment Bar Code: 034353)

Amendment 2—On page 3, line 18, of the bill

after "*service*" insert: *and request sufficient funding and positions to meet such outline or goal*

Rep. Ausley moved the adoption of the amendment, which failed of adoption.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 949—A bill to be entitled An act relating to local government regulation of water or wastewater utilities; amending s. 367.171, F.S.; providing for regulation of certain utilities by certain counties; prohibiting exercise of eminent domain by certain governmental entities under certain circumstances; providing an effective date.

—was read the second time by title.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 875167)

Amendment 1—On page 1, line 29, of the bill

after "health" insert: *, the environment,*

Rep. Attkisson moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 917—A bill to be entitled An act relating to Palm Beach County; amending chapter 90-445, Laws of Florida, as amended; providing for the uniform implementation, interpretation, and enforcement of building code requirements pursuant to the Florida Building Code; providing and amending definitions; providing for enforcement; providing for repeal of conflicting laws; providing for interpretation of codes and revision; deleting provisions relating to appointments; providing for authority for building code amendments; providing for amending provisions for product and system evaluation, including application fees and revocation and renewal of product and system compliance; providing severability; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 094599)

Amendment 1—On page 1, lines 22-23,
remove from the bill: said lines

and insert in lieu thereof:

Section 1. Notwithstanding section 136 of chapter 2000-141, Laws of Florida, chapter 90-445, Laws of Florida, is reenacted and amended to read:

Rep. Bucher moved the adoption of the amendment, which was adopted.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 514373)

Amendment 2—On page 7, lines 13-25,
remove from the bill: all of said lines

and insert in lieu thereof:

(1) *The board shall have the authority to evaluate* ~~ADMINISTRATION. Palm Beach County and each unit of local government within Palm Beach County shall have the option to direct inquiries concerning~~ new or existing products or systems, *in accordance with section 553.842, Florida Statutes, and the Florida Building Commission's rules adopted thereunder* ~~to the board. The board shall act as a clearing house for new or different products or systems, by evaluating them based on the current model codes and any amendments or revisions, being recommended for adoption by the board~~. The board *is authorized to* ~~may~~ issue evaluation and compliance reports for products and systems found to be in compliance*, as provided by policies established by the board*. Recommendations *and compliance reports* of the board concerning new *and existing* products or systems shall be advisory in nature *for the municipalities within Palm Beach County and shall not form the basis of a local or statewide approval pursuant to section 553.842, Florida Statutes*.

Rep. Bucher moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 645—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.501, F.S.; providing an exemption from the surcharge on alcoholic beverages for specified nonprofit organizations; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Goodlette, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1118, as amended, and requests the concurrence of the House, and in the event the House refuses to concur, the Senate requests that a conference committee be appointed to work out the differences between the two houses.

Faye W. Blanton, Secretary

By the Committees on Ethics and Elections, Ethics and Elections and Senator Posey and others—

CS for SB 1118—A bill to be entitled An act relating to elections; creating the Florida Election Reform Act of 2001; amending s. 97.021, F.S.; revising definitions; amending ss. 98.471, 100.341, 100.361, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots; amending s. 101.015, F.S.; requiring the Division of Elections to review the voting systems certification standards to ensure that new technologies are available and appropriately certified for use; amending s. 101.151, F.S.; modifying specifications for ballots; requiring the Department of State to adopt rules prescribing uniform ballots; amending ss. 101.21, 101.24, 101.292, 101.341, 101.43, 101.49, 101.58, 101.71, 101.75, 104.30, 138.05, F.S.; removing provisions relating to voting machines and updating references, to conform; amending s. 101.5603, F.S.; deleting references to punchcard marking and voting devices; amending s. 101.5604, F.S.; providing for the use of precinct tabulation electronic or electromechanical voting systems in each county; amending s. 101.5606, F.S.; providing additional requirements for electronic and electromechanical voting systems; prohibiting the use of punchcard voting systems; amending s. 101.5614, F.S.; removing references to canvassing returns at central or regional locations, to conform; creating s. 101.595, F.S.; requiring supervisors of elections and the Department of State to report on overvotes and undervotes following the general election; amending s. 103.101, F.S., relating to the form of the presidential preference primary, to conform; amending s. 582.18, F.S., relating to the election of district supervisors; conforming a cross-reference; repealing ss. 100.071, 101.141, 101.181, 101.191, 101.251, 101.5609, F.S., relating to the specification and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.34, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, 101.56, 102.012(7), F.S., relating to voting machines, to conform; amending s. 97.021, F.S.; revising the definitions of the terms "absent elector" and "primary election"; providing additional definitions; creating s. 101.048, F.S.; providing procedures for voting and counting provisional ballots; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; amending s. 101.5614, F.S.; providing for the return of provisional ballots to the supervisor of elections; providing for the canvass of provisional ballots; clarifying the standard for counting votes on spoiled ballots; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; changing the composition of the Elections Canvassing Commission; revising deadlines for county returns; amending s. 102.112, F.S.; revising deadlines for certification of election results; requiring the acceptance of late-filed election returns in certain circumstances; increasing the fine for filing late-filed election returns; amending s. 102.141, F.S.; requiring the county canvassing board to provide public notice of time and place of the canvass of provisional ballots; modifying deadlines for submitting unofficial returns; revising requirements for an automatic machine recount; amending s. 102.166, F.S.; substantially modifying standards and procedures for manual recounts; amending s. 102.168, F.S.; revising the grounds for an election contest; creating s. 102.135, F.S.; prohibiting a member of the Elections Canvassing Commission or a member of the county canvassing board from rendering a post-election decision that may affect the outcome of any race in which the member publicly endorsed or solicited contributions; creating s. 97.0555, F.S.; providing for registration of certain military and overseas persons; requiring the Department of State to adopt rules specifying eligibility; creating s. 101.6951, F.S.; providing for a state write-in absentee ballot for overseas voters; creating s. 101.6952, F.S.; providing for absentee ballots for overseas voters; creating s. 101.697, F.S.; providing for absentee ballot requests and voting via electronic transmission by overseas voters under certain circumstances; creating s. 101.698, F.S.; authorizing the Elections Canvassing Commission to adopt emergency rules during crises to facilitate absentee voting; amending s. 101.62, F.S.; modifying information on absentee ballot requests; amending s. 101.64, F.S.; modifying absentee ballot certificates; amending s. 101.65, F.S.; modifying instructions to absent electors; amending s. 101.657, F.S., relating to voting absentee ballots; conforming provisions; amending s. 101.68, F.S.; modifying information that must be included on an absentee ballot; authorizing the processing of absentee ballots through tabulations for a specified period before the election; amending s. 104.047, F.S.; deleting a prohibition against persons witnessing more than five ballots in an election and a prohibition against returning more than two ballots in an election, and the penalties therefor; repealing ss. 101.647, 101.685, F.S., relating to returning absentee ballots and absentee ballot coordinators; amending s. 98.255, F.S.; providing for voter education; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 101.131, F.S.; eliminating a requirement to call out names of voters; creating s. 102.014, F.S.; providing for pollworker

recruitment and training; repealing s. 102.012(8) and (9), relating to pollworker training, to conform; amending s. 102.021, F.S.; to correct a cross-reference; amending s. 97.073, F.S.; revising procedures to be followed when a voter registration application is incomplete; amending s. 98.015, F.S.; providing for the nonpartisan election of supervisors of elections; amending s. 105.031, F.S.; requiring candidates for supervisor of elections to pay a qualifying fee, subscribe to an oath, and file certain items in order to qualify for election; amending s. 105.035, F.S.; providing alternative procedures for candidates for supervisor of elections to qualify for election; amending s. 105.041, F.S.; providing for the form of the ballot for candidates for supervisor of elections; providing for write-in candidates for supervisor of elections; amending s. 105.051, F.S.; providing for determination of election to office of candidates for supervisor of elections; amending s. 105.061, F.S.; providing that supervisors of elections are to be elected by vote of the qualified electors of the county; amending s. 105.08, F.S.; providing requirements for candidates for supervisor of elections with respect to campaign contributions and expenses and their reporting; repealing s. 100.091, F.S., to eliminate the second primary election; repealing s. 100.096, F.S., relating to the holding of special elections in conjunction with the second primary election, to conform; amending ss. 97.055, 97.071, 97.1031, 98.081, F.S., relating to restrictions on changing party affiliation between primary elections, to conform; amending ss. 99.061, 99.095, F.S., relating to qualifying for nomination or election to office, to conform; amending s. 99.063, F.S.; adjusting the date to designate a Lieutenant Governor running mate, to conform; amending ss. 99.103, 100.061, 100.081, 100.111, 100.141, 101.252, 101.62, 102.168, 103.021, 103.022, 103.091, 105.031, 105.041, 105.051, 106.07, 106.08, 106.29, F.S.; revising references, to conform to the elimination of the second primary election; amending s. 236.25, F.S.; allowing certain school districts to levy, by referendum, additional district school taxes; providing limitations on the uses of the resulting revenues; amending s. 236.31, F.S.; providing for millage elections pursuant to s. 236.25, F.S.; amending s. 236.32, F.S.; revising the procedures for conducting school district millage elections; amending s. 106.141, F.S.; increasing the amount that may be transferred to an office account; amending s. 106.15, F.S.; expanding prohibition against candidates using state employees' services during working hours to include all government employees; amending s. 97.041, F.S.; providing for automatic restoration of former felons' right to vote following completion and satisfaction of sentence of incarceration and community supervision; providing conditions on such automatic restoration; amending ss. 97.052, 97.053, F.S., to conform; providing an appropriation for the design of a statewide voter registration database; providing requirements for the database; repealing s. 98.0975, F.S., relating to the central voter file maintained by the Division of Elections; providing an appropriation for voter education and pollworker training; providing for the appropriation from the General Appropriations Act to be used to implement the provisions of the act; providing for study of elections process in multiple time zones; providing effective dates.

—was read the first time by title.

REPRESENTATIVE BALL IN THE CHAIR

THE SPEAKER IN THE CHAIR

On motion by Rep. Goodlette, the rules were waived and the bill was read the second time by title.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 845345)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsections (11) through (20) and (22) through (30) of section 97.021, Florida Statutes, are renumbered as subsections (12) through (21) and (24) through (32), respectively, present subsection (21) is renumbered as subsection (22) and amended, and new subsections (11) and (23) are added to said section, to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(11) "Error in the vote tabulation" means the failure of a vote tabulation system to count a vote for a candidate when the voter's intent is clearly ascertainable.

(22)~~(21)~~ "Primary election" means an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office. The ~~first~~ primary *election* is a nomination or elimination election~~; the second primary is a nominating election only~~.

(23) "Provisional ballot" means a ballot issued to a voter by the election board at the polling place on election day for one of the following reasons:

(a) The voter's name does not appear on the precinct register and verification of the voter's eligibility cannot be determined.

(b) There is an indication on the precinct register that the voter has requested an absentee ballot and there is no indication whether the voter has returned the absentee ballot.

Section 2. Section 100.061, Florida Statutes, is amended to read:

100.061 ~~First~~ Primary election.—In each year in which a general election is held, a ~~first~~ primary election for nomination of candidates of political parties shall be held on the *second* Tuesday *in September* ~~9 weeks prior to the general election~~. *The* ~~Each~~ candidate receiving *the highest number* ~~a majority~~ of the votes cast in each contest in the ~~first~~ primary election shall be declared nominated for such office. *If two or more persons receive an equal and highest number of votes for the same office, such persons shall draw lots to determine who shall receive the nomination.* ~~A second primary election shall be held as provided by s. 100.091 in every contest in which a candidate does not receive a majority.~~

Section 3. *Sections 100.091 and 100.096, Florida Statutes, are repealed.*

Section 4. Section 10.1008, Florida Statutes, is amended to read:

10.1008 Applicability.—This joint resolution applies with respect to the qualification, nomination, and election of members of the Legislature in the *primary* ~~primaries~~ and general *elections* ~~election~~ to be held in 1992 and thereafter.

Section 5. Subsection (1) of section 97.055, Florida Statutes, is amended to read:

97.055 Registration books; when closed for an election.—

(1) The registration books must be closed on the 29th day before each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately. When the registration books are closed for an election, voter registration and party changes must be accepted but only for the purpose of subsequent elections. ~~However, party changes received between the book-closing date of the first primary election and the date of the second primary election are not effective until after the second primary election.~~

Section 6. Subsection (3) of section 97.071, Florida Statutes, is amended to read:

97.071 Registration identification card.—

(3) In the case of a change of name, address, or party affiliation, the supervisor must issue the voter a new registration identification card. ~~However, a registration identification card indicating a party affiliation change made between the book-closing date for the first primary election and the date of the second primary election may not be issued until after the second primary election.~~

Section 7. Subsection (3) of section 97.1031, Florida Statutes, is amended to read:

97.1031 Notice of change of residence within the same county, change of name, or change of party.—

(3) When an elector seeks to change party affiliation, the elector must provide a signed, written notification of such intent to the supervisor and obtain a registration identification card reflecting the new party affiliation~~, subject to the issuance restriction in s. 97.071(3)~~.

Section 8. Subsection (1) of section 98.081, Florida Statutes, is amended to read:

98.081 Names removed from registration books; restrictions on reregistering; recordkeeping; restoration of erroneously or illegally removed names.—

(1) Any person who requested that his or her name be removed from the registration books between the book-closing date of the ~~first~~ primary *election* and the date of the *subsequent general election* ~~second primary~~ may not register in a different political party *during the period* ~~until~~ after the date of the ~~second~~ primary election *and before the date of the subsequent general election*.

Section 9. Subsections (1), (2), and (8) of section 99.061, Florida Statutes, are amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the alternative method with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the ~~first~~ primary *election*, but not later than noon of the 116th day prior to the date of the ~~first~~ primary *election*, for persons seeking to qualify for nomination or election to federal office; and noon of the 50th day prior to the ~~first~~ primary *election*, but not later than noon of the 46th day prior to the date of the ~~first~~ primary *election*, for persons seeking to qualify for nomination or election to a state or multicounty district office.

(2) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district or special district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the alternative method with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 50th day prior to the ~~first~~ primary *election* or special district election, but not later than noon of the 46th day prior to the date of the ~~first~~ primary *election* or special district election. *When* ~~However, if~~ a special district election is held at the same time as the ~~second primary or~~ general election, qualifying shall *also* be the 50th day prior to the ~~first~~ primary *election*, but not later than noon of the 46th day prior to the date of the ~~first~~ primary *election*. Within 30 days after the closing of qualifying time, the supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.

(8) Notwithstanding the qualifying period prescribed by this section, in each year in which the Legislature apportions the state, the qualifying period for persons seeking to qualify for nomination or election to federal office shall be between noon of the 57th day prior to the ~~first~~ primary *election*, but not later than noon of the 53rd day prior to the ~~first~~ primary *election*.

Section 10. Subsections (1), (2), and (4) of section 99.063, Florida Statutes, are amended to read:

99.063 Candidates for Governor and Lieutenant Governor.—

(1) No later than 5 p.m. of the *9th* ~~6th~~ day following the ~~second~~ primary election, each candidate for Governor shall designate a Lieutenant Governor as a running mate. Such designation must be made in writing to the Department of State.

(2) No later than 5 p.m. of the *9th* ~~6th~~ day following the ~~second~~ primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(a) The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought; and the signature of the candidate, duly acknowledged.

(b) The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

(c) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

(d) The full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution.

(4) In order to have the name of the candidate for Lieutenant Governor printed on the ~~first or second~~ primary election ballot, a candidate for Governor participating in the primary must designate the candidate for Lieutenant Governor, and the designated candidate must qualify no later than the end of the qualifying period specified in s. 99.061. If the candidate for Lieutenant Governor has not been designated and has not qualified by the end of the qualifying period specified in s. 99.061, the phrase "Not Yet Designated" must be included in lieu of the candidate's name on *the* primary election *ballot* ~~ballots and on advance absentee ballots for the general election~~.

Section 11. Subsection (1) of section 99.095, Florida Statutes, is amended to read:

99.095 Alternative method of qualifying.—

(1) A person seeking to qualify for nomination to any office may qualify to have his or her name placed on the ballot for the ~~first~~ primary election by means of the petitioning process prescribed in this section. A person qualifying by this alternative method shall not be required to pay the qualifying fee or party assessment required by this chapter. A person using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method for the office sought. If the person is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate in his or her oath for which group or district office he or she is running. The oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the ~~first~~ primary *election* is held, but prior to the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing such oath. No signatures shall be obtained by a candidate on any nominating petition until the candidate has filed the oath required in this section. If the person is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election and the petition does not indicate the group or district office for which the person is running, the signatures obtained on such petition will not be counted.

Section 12. Section 99.103, Florida Statutes, is amended to read:

99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.—

(1) If more than three-fourths of the full authorized membership of the state executive committee of any party was elected at the last previous election for such members and if such party is declared by the Department of State to have recorded on the registration books of the counties, as of the first Tuesday after the first Monday in January prior to the ~~first~~ primary *election* in general election years, 5 percent of the total registration of such counties when added together, such committee shall receive, for the purpose of meeting its expenses, all filing fees collected by the Department of State from its candidates less an amount equal to 15 percent of the filing fees, which amount the Department of State shall deposit in the General Revenue Fund of the state.

(2) Not later than 20 days after the close of qualifying in even-numbered years, the Department of State shall remit 95 percent of all filing fees, less the amount deposited in general revenue pursuant to subsection (1), or party assessments that may have been collected by the department to the respective state executive committees of the parties complying with subsection (1). Party assessments collected by the Department of State shall be remitted to the appropriate state executive committee, irrespective of other requirements of this section, provided such committee is duly organized under the provisions of chapter 103. The remainder of filing fees or party assessments collected by the Department of State shall be remitted to the appropriate state executive committees not later than the date of the ~~first~~ primary *election*.

Section 13. Subsection (2) of section 100.071, Florida Statutes, is amended to read:

100.071 Grouping of candidates on primary *election ballot* ~~ballots~~.—

(2) Each nominee of a political party chosen in the *primary election* ~~primaries~~ shall appear on the general election ballot in the same numbered group or district as on the primary election ballot.

Section 14. Section 100.081, Florida Statutes, is amended to read:

100.081 ~~Conducting primary elections;~~ Nomination of county commissioners *at primary election*.—The primary *election* ~~elections~~ shall provide for the nomination of county commissioners by the qualified electors of such county at the time and place set for voting on other county officers.

Section 15. Paragraph (c) of subsection (1), subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 100.111, Florida Statutes, are amended to read:

100.111 Filling vacancy.—

(1)

(c) If such a vacancy occurs prior to the ~~first~~ primary *election* but on or after the first day set by law for qualifying, the Secretary of State shall set dates for qualifying for the unexpired portion of the term of such office. Any person seeking nomination or election to the unexpired portion of the term shall qualify within the time set by the Secretary of State. If time does not permit party nominations to be made in conjunction with the ~~first and second~~ primary *election* ~~elections~~, the Governor may call a special primary election~~, and, if necessary, a second special primary election,~~ to select party nominees for the unexpired portion of such term.

(3) Whenever there is a vacancy for which a special election is required pursuant to s. 100.101(1)-(4), the Governor, after consultation with the Secretary of State, shall fix the date of a special ~~first~~ primary election~~, a special second primary election,~~ and a special election. Nominees of political parties other than minor political parties shall be chosen under the primary laws of this state in the special primary *election* ~~elections~~ to become candidates in the special election. Prior to setting the special election dates, the Governor shall consider any upcoming elections in the jurisdiction where the special election will be held. The dates fixed by the Governor shall be specific days certain and shall not be established by the happening of a condition or stated in the alternative. The dates fixed shall provide a minimum of 2 weeks between each election. In the event a vacancy occurs in the office of state senator or member of the House of Representatives when the Legislature is in regular ~~legislative~~ session, the minimum times prescribed by this subsection may be waived upon concurrence of the Governor, the Speaker of the House of Representatives, and the President of the Senate. If a vacancy occurs in the office of state senator and no session of the Legislature is scheduled to be held prior to the next general election, the Governor may fix the dates for *the* ~~any~~ special primary *election* and ~~for~~ the special election to coincide with the dates of the ~~first and second~~ primary *election* and *the* general election. If a vacancy in office occurs in any district in the state Senate or House of Representatives or in any congressional district, and no session of the Legislature, or session of Congress if the vacancy is in a congressional district, is scheduled to be held during the unexpired portion of the term, the Governor is not required to call a special election to fill such vacancy.

(a) The dates for candidates to qualify in such special election or special primary election shall be fixed by the Department of State, and candidates shall qualify not later than noon of the last day so fixed. The dates fixed for qualifying shall allow a minimum of 14 days between the last day of qualifying and the special ~~first~~ primary election.

(b) The filing of campaign expense statements by candidates in such special *primary election* ~~elections~~ or special *election* ~~primaries~~ and by committees making contributions or expenditures to influence the results of such special *primary election* ~~primaries~~ or special *election* ~~elections~~ shall be not later than such dates as shall be fixed by the Department of State, and in fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations.

(c) The dates for a candidate to qualify by the alternative method in such special primary *election* or special election shall be fixed by the Department of State. In fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations. Any candidate seeking to qualify by the alternative method in a special primary election shall obtain 25 percent of the signatures required by s. 99.095, s. 99.0955, or s. 99.096, as applicable.

(d) The qualifying fees and party assessments of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. The party assessment shall be paid to the appropriate executive committee of the political party to which the candidate belongs.

(e) Each county canvassing board shall make as speedy a return of the *results* ~~result~~ of such special *primary election* ~~elections~~ and *special election* ~~primaries~~ as time will permit, and the Elections Canvassing Commission likewise shall make as speedy a canvass and declaration of the nominees as time will permit.

(4)(a) In the event that death, resignation, withdrawal, removal, or any other cause or event should cause a party to have a vacancy in nomination which leaves no candidate for an office from such party, the Governor shall, after conferring with the Secretary of State, call a special primary election ~~and, if necessary, a second special primary election~~ to select for such office a nominee of such political party. The dates on which candidates may qualify for such special primary election shall be fixed by the Department of State, and the candidates shall qualify no later than noon of the last day so fixed. The filing of campaign expense statements by candidates in *a* special *primary election* ~~primaries~~ shall not be later than such dates as shall be fixed by the Department of State. In fixing such dates, the Department of State shall take into consideration and be governed by the practical time limitations. The qualifying fees and party assessment of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. Each county canvassing board shall make as speedy a return of the results of such *special primary election* ~~primaries~~ as time will permit, and the Elections Canvassing Commission shall likewise make as speedy a canvass and declaration of the nominees as time will permit.

(5) In the event of unforeseeable circumstances not contemplated in these general election laws concerning the calling and holding of *a*

special primary *election* ~~elections~~ and *a* special *election* ~~elections~~ resulting from court order or other unpredictable circumstances, the Department of State shall have the authority to provide for the conduct of orderly elections.

Section 16. Subsection (2) of section 100.141, Florida Statutes, is amended to read:

100.141 Notice of special election to fill any vacancy in office or nomination.—

(2) The Department of State shall prepare a notice stating what offices and vacancies are to be filled in the special election, the *dates* ~~date~~ set for *the* ~~each~~ special primary election and the special election, the dates fixed for qualifying for office, the dates fixed for qualifying by the alternative method, and the dates fixed for filing campaign expense statements.

Section 17. Subsection (1) of section 101.251, Florida Statutes, is amended to read:

101.251 Information which supervisor of elections must print on ballots.—

(1) The supervisor of elections of each county shall print, on the general election ballots to be used in such county, the names of candidates nominated by primary election or special primary *election* ~~elections~~ or selected by the appropriate executive committee of any political party.

Section 18. Subsection (2) of section 101.252, Florida Statutes, is amended to read:

101.252 Candidates entitled to have names printed on certain ballots; exception.—

(2) Any candidate for party executive committee member who has qualified as prescribed by law is entitled to have his or her name printed on the ~~first~~ primary *election* ballot. However, when there is only one candidate of any political party qualified for such an office, the name of the candidate shall not be printed on the ~~first~~ primary *election* ballot, and such candidate shall be declared elected to the state or county executive committee.

Section 19. Paragraph (a) of subsection (4) and subsection (7) of section 101.62, Florida Statutes, are amended to read:

101.62 Request for absentee ballots.—

(4)(a) To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the ~~first~~ primary election *and not fewer than 45 days before the general election*, mail an absentee ballot. ~~Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an advance absentee ballot to those persons requesting ballots for such elections. The advance absentee ballot for the second primary shall be the same as the first primary absentee ballot as to the names of candidates, except that for any offices where there are only two candidates, those offices and all political party executive committee offices shall be omitted. Except as provided in s. 99.063(4), the advance absentee ballot for the general election shall be as specified in s. 101.151, except that in the case of candidates of political parties where nominations were not made in the first primary, the names of the candidates placing first and second in the first primary election shall be printed on the advance absentee ballot. The advance absentee ballot or advance absentee ballot information booklet shall be of a different color for each election and also a different color from the absentee ballots for the first primary, second primary, and general election. The supervisor shall mail an advance absentee ballot for the second primary and general election to each qualified absent elector for whom a request is received until the absentee ballots are printed. The supervisor shall enclose with the advance second primary absentee ballot and advance general election absentee ballot an explanation stating that the absentee ballot for the election will be mailed as soon as it is printed; and, if both the advance absentee ballot and the absentee ballot for the election are returned in time to be counted, only the absentee ballot will be counted.~~

(7)~~(a)~~ For the purposes of this section, "absent qualified elector overseas" means:

(a)~~1.~~ Members of the Armed Forces while in the active service who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia;

(b)~~2.~~ Members of the Merchant Marine of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia; and

(c)~~3.~~ Other citizens of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia,

who are qualified and registered as provided by law.

(8)~~(b)~~ Notwithstanding any other provision of law to the contrary, there shall appear on the ballots sent to absent qualified electors overseas, in addition to the names of the candidates for each office, the political party affiliation of each candidate for each office, other than a nonpartisan office.

~~(c) With respect to marked ballots mailed by absent qualified electors overseas, only those ballots mailed with an APO, FPO, or foreign postmark shall be considered valid.~~

Section 20. Subsection (3) and paragraph (b) of subsection (4) of section 103.021, Florida Statutes, are amended to read:

103.021 Nomination for presidential electors.—Candidates for presidential electors shall be nominated in the following manner:

(3) Candidates for President and Vice President with no party affiliation may have their names printed on the general election ballots if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the last preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisor of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the ~~first~~ primary *election*, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State which shall determine whether or not the percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as party candidates.

(4)

(b) A minor party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States may have the names of its candidates for President and Vice President printed on the general election ballot if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisors of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the ~~first~~ primary *election*, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State, which shall determine whether or not the

percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as other party candidates.

Section 21. Section 103.022, Florida Statutes, is amended to read:

103.022 Write-in candidates for President and Vice President.—Persons seeking to qualify for election as write-in candidates for President and Vice President of the United States may have a blank space provided on the general election ballot for their names to be written in by filing an oath with the Department of State at any time after the 57th day, but before noon of the 49th day, prior to the date of the ~~first~~ primary election in the year in which a presidential election is held. The Department of State shall prescribe the form to be used in administering the oath. The candidates shall file with the department a certificate naming the required number of persons to serve as electors. Such write-in candidates shall not be entitled to have their names on the ballot.

Section 22. Subsection (4) of section 103.091, Florida Statutes, is amended to read:

103.091 Political parties.—

(4) Any political party other than a minor political party may by rule provide for the membership of its state or county executive committee to be elected for 4-year terms at the ~~first~~ primary election in each year a presidential election is held. The terms shall commence on the first day of the month following each presidential general election; but the names of candidates for political party offices shall not be placed on the ballot at any other election. The results of such election shall be determined by a plurality of the votes cast. In such event, electors seeking to qualify for such office shall do so with the Department of State or supervisor of elections not earlier than noon of the 57th day, or later than noon of the 53rd day, preceding the ~~first~~ primary election. The outgoing chair of each county executive committee shall, within 30 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers. The chair of each state executive committee shall, within 60 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers.

Section 23. Subsection (1) of section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

(1) TIME OF QUALIFYING.—Except for candidates for judicial office, nonpartisan candidates for multicounty office shall qualify with the Division of Elections of the Department of State and nonpartisan candidates for countywide or less than countywide office shall qualify with the supervisor of elections. Candidates for judicial office other than the office of county court judge shall qualify with the Division of Elections of the Department of State, and candidates for the office of county court judge shall qualify with the supervisor of elections of the county. Candidates shall qualify no earlier than noon of the 50th day, and no later than noon of the 46th day, before the ~~first~~ primary election. Filing shall be on forms provided for that purpose by the Division of Elections and furnished by the appropriate qualifying officer. Any person seeking to qualify by the alternative method, as set forth in s. 105.035, if the person has submitted the necessary petitions by the required deadline and is notified after the fifth day prior to the last day for qualifying that the required number of signatures has been obtained, shall be entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date he or she is notified that the necessary number of signatures has been obtained. Any person other than a write-in candidate who qualifies within the time prescribed in this subsection shall be entitled to have his or her name printed on the ballot.

Section 24. Subsection (1) and paragraph (b) of subsection (2) of section 105.041, Florida Statutes, are amended to read:

105.041 Form of ballot.—

(1) BALLOTS.—The names of candidates for judicial office and candidates for the office of school board member which appear on the ballot at the ~~first~~ primary election shall either be grouped together on a separate portion of the ballot or on a separate ballot. The names of candidates for election to judicial office and candidates for the office of school board member which appear on the ballot at the general election and the names of justices and judges seeking retention to office shall be grouped together on a separate portion of the general election ballot.

(2) LISTING OF CANDIDATES.—

(b)1. The names of candidates for the office of circuit judge shall be listed on the ~~first~~ primary *election* ballot in the order determined by lot conducted by the director of the Division of Elections of the Department of State after the close of the qualifying period.

2. Candidates who have secured a position on the general election ballot, after having survived elimination at the ~~first~~ primary *election*, shall have their names listed in the same order as on the ~~first~~ primary *election* ballot, notwithstanding the elimination of any intervening names as a result of the ~~first~~ primary *election*.

Section 25. Paragraph (b) of subsection (1) of section 105.051, Florida Statutes, is amended to read:

105.051 Determination of election or retention to office.—

(1) ELECTION.—In circuits and counties holding elections:

(b) If two or more candidates, neither of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the ballot at the ~~first~~ primary election. If any candidate for such office receives a majority of the votes cast for such office in the ~~first~~ primary election, the name of the candidate who receives such majority shall not appear on any other ballot unless a write-in candidate has qualified for such office. An unopposed candidate shall be deemed to have voted for himself or herself at the general election. If no candidate for such office receives a majority of the votes cast for such office in the ~~first~~ primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot. If more than two candidates receive an equal and highest number of votes, the name of each candidate receiving an equal and highest number of votes shall be placed on the general election ballot. In any contest in which there is a tie for second place and the candidate placing first did not receive a majority of the votes cast for such office, the name of the candidate placing first and the name of each candidate tying for second shall be placed on the general election ballot.

Section 26. Paragraphs (a) and (b) of subsection (1) of section 106.07, Florida Statutes, are amended to read:

106.07 Reports; certification and filing.—

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee. Reports shall be filed on the 10th day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made during the calendar quarter which have not otherwise been reported pursuant to this section.

(a) Except as provided in paragraph (b), following the last day of qualifying for office, the reports shall be filed on the 32nd, 18th, and 4th days immediately preceding the ~~first~~ primary *election* and on the 18th and 4th days immediately preceding the ~~second primary and~~ general

election, for a candidate who is opposed in seeking nomination or election to any office, for a political committee, or for a committee of continuous existence.

(b) Following the last day of qualifying for office, any statewide candidate who has requested to receive contributions from the Election Campaign Financing Trust Fund or any statewide candidate in a race with a candidate who has requested to receive contributions from the trust fund shall file reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the ~~first~~ primary and general elections~~, and on the 4th, 11th, 18th, and 25th days prior to the second primary~~.

Section 27. Subsection (1) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.—

(1)(a) Except for political parties, no person, political committee, or committee of continuous existence may, in any election, make contributions in excess of *$1,000* ~~$500~~ to any candidate for election to or retention in office or to any political committee supporting or opposing one or more candidates. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.

(b)1. The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

2. Notwithstanding the limits provided in this subsection, an unemancipated child under the age of 18 years of age may not make a contribution in excess of $100 to any candidate or to any political committee supporting one or more candidates.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the ~~first~~ primary *election*~~, second primary,~~ and *the* general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election. ~~With respect to candidates in a circuit holding an election for circuit judge or in a county holding an election for county court judge, there are only two elections, which are the first primary election and general election.~~

Section 28. Subsection (1) of section 106.29, Florida Statutes, is amended to read:

106.29 Reports by political parties; restrictions on contributions and expenditures; penalties.—

(1) The state executive committee and each county executive committee of each political party regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding *both* the ~~first~~ primary election~~, the second primary election,~~ and the general election. Each state executive committee shall file the original and one copy of its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any state or county executive committee failing to file a report on the designated due date shall be subject to a fine as provided in subsection (3). No separate fine shall be assessed for failure to file a copy of any report required by this section.

Section 29. Section 98.0977, Florida Statutes, is created to read:

98.0977 Statewide voter registration database.—

(1) The department shall develop a statewide voter registration database, which shall contain voter registration information from every supervisor of elections in this state and shall be accessible through an Internet web site. Accordingly, the department may contract for the analysis, design, development, operation, and maintenance of a statewide, on-line voter registration database and associated Internet web site. The database system adopted must provide functionality for ensuring that the database is updated on a daily basis to determine if a registered voter is ineligible to vote for any of the following reasons, including, but not limited to:

(a) The voter is deceased;

(b) The voter has been convicted of a felony and has not had his or her civil rights restored; or

(c) The voter has been adjudicated mentally incompetent and his or her mental capacity with respect to voting has not been restored.

The database shall also allow for duplicate voter registrations to be identified.

(2) In administering the database, each supervisor of elections shall compare registration information provided by a voter with information held by the Department of Law Enforcement, the Board of Executive Clemency, and the Office of Vital Statistics. If the supervisor of elections finds information that suggests that a voter is ineligible to register to vote, the supervisor of elections shall notify the voter by certified United States mail. The notification shall contain a statement as to the reason for the voter's potential ineligibility to register to vote and shall request information from the voter on forms provided by the supervisor of elections in order to make a final determination on the voter's eligibility. After reviewing the information requested by the supervisor of elections and provided by the voter, if the supervisor of elections determines that the voter is not eligible to vote under the laws of this state, the supervisor of elections shall notify the voter by certified United States mail that he or she has been found ineligible to register to vote in this state, shall state the reason for the ineligibility, and shall inform the voter that he or she will be removed from the voter registration rolls.

(3) To the maximum extent feasible, state and local governmental agencies shall facilitate provision of information and access to data to the department and the supervisors of elections in order to compare information in the statewide voter registration database with available information in other computer databases, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local governmental agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(4) The Division of Elections shall provide written quarterly progress reports on each phase of development of the voter registration database to the President of the Senate and the Speaker of the House of Representatives beginning July 1, 2001, and continuing until the database is fully implemented.

(5) The duties of the supervisors of elections under this section shall be considered part of their regular registration list maintenance duties under this chapter, and any supervisor of elections who willfully refuses or willfully neglects to perform his or her duties under this section shall be in violation of s. 104.051(2).

Section 30. *(1) The statewide voter registration database, created pursuant to s. 98.0977, Florida Statutes, by this act, shall be operational by June 1, 2002.*

(2) Funding for the analysis, design, development, operation, and maintenance of the statewide voter registration database pursuant to s. 98.0977(1), Florida Statutes, shall be as provided for in the 2001-2002 General Appropriations Act.

Section 31. Section 98.0979, Florida Statutes, is created to read:

98.0979 Statewide voter registration database open to inspection; copies.—

(1)(a) The voter registration information of the state constitutes public records. Any citizen shall be allowed to examine the voter

registration records, but may not make any copies or extract therefrom except as provided by this section.

(b) Within 15 days after a request for voter registration information, the division or supervisor of elections shall furnish any requested information, excluding only a voter's signature, social security number, and such other information that is by statute specifically made confidential or is exempt from public records requirements.

(c) Actual costs of duplication of information authorized by this section for release to the public shall be charged in accordance with the provisions of s. 119.07.

(2) The information provided by the division or supervisor of elections pursuant to this section shall be furnished only to:

(a) Municipalities;

(b) Other governmental agencies;

(c) Political candidates, for the purpose of furthering their candidacies;

(d) Registered political committees, certified committees of continuous existence, and political parties or officials thereof, for political purposes only; and

(e) Incumbent officeholders, for the purpose of reporting to their constituents.

(3) Such information shall not be used for commercial purposes. No person to whom a list of registered voters is made available pursuant to this section, and no person who acquires such a list, shall use any information contained therein for purposes which are not related to elections, political or governmental activities, voter registration, or law enforcement.

(4) Any person who acquires a list of registered voters from the division or supervisor of elections shall take and subscribe to an oath which shall be in substantially the following form:

I hereby swear (or affirm) that I am a person authorized by s. 98.0979, Florida Statutes, to acquire information on the registered voters of Florida; that the information acquired will be used only for the purposes prescribed in that section and for no other purpose; and that I will not permit the use or copying of such information by persons not authorized by the Election Code of the State of Florida.

. . .(Signature of person acquiring list). . .

Sworn and subscribed before me this . . . . day of . . . ., . . .(year). . . .

. . .(Name of person providing list). . .

Section 32. Section 101.048, Florida Statutes, is created to read:

101.048 Provisional ballots.—

(1) At all elections, a voter claiming to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined, shall be entitled to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections.

(2)(a) The county canvassing board shall examine each provisional ballot to determine if the person voting that ballot was entitled to vote in the election and that the person had not already cast a ballot in the election.

(b)1. If it is determined that the person was registered and entitled to vote, the canvassing board shall compare the signature on the provisional ballot envelope with the signature on the voter's registration and, if it matches, shall count the ballot.

2. If it is determined that the person voting the provisional ballot was not registered or entitled to vote, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and the envelope marked "Rejected as Illegal."

(3) The Provisional Ballot Voter's Certificate shall be in substantially the following form:

STATE OF FLORIDA
COUNTY OF . . . .

I do solemnly swear (or affirm) that my name is . . . . ; that my date of birth is . . . . ; that I am registered to vote and at the time I registered I resided at . . . . , in the municipality of . . . . , in . . . . County, Florida; that I am a qualified voter of the county and have not voted in this election.

. . .(Signature of Voter). . .
. . .(Current Address). . .

Sworn to and subscribed before me this . . . . day of . . . ., . . .(year). . . .

. . .(Clerk or Inspector of Election). . .

Additional information may be provided to further assist the supervisor of elections in determining eligibility. If known, please provide the place and date that you registered to vote.

(4) In counties where the voting system does not utilize a paper ballot, the supervisor of elections shall provide the appropriate provisional ballots to each polling place.

Section 33. Subsections (2) and (3) of section 101.045, Florida Statutes, are amended to read:

101.045 Electors must be registered in precinct; provisions for residence or name change.—

(2)(a) An elector who moves from the precinct within the county in which the elector is registered may be permitted to vote in the precinct to which he or she has moved his or her legal residence, provided such elector completes an affirmation in substantially the following form:

Change of Legal Residence of Registered
Voter

Under penalties for false swearing, I, . . .(Name of voter). . ., swear (or affirm) that the former address of my legal residence was . . .(Address of legal residence). . . in the municipality of . . . ., in . . . . County, Florida, and I was registered to vote in the . . . . precinct of . . . . County, Florida; that I have not voted in the precinct of my former registration in this election; that I now reside at . . .(Address of legal residence). . . in the Municipality of . . . ., in . . . . County, Florida, and am therefore eligible to vote in the . . . . precinct of . . . . County, Florida; and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

. . .(Signature of voter whose address of legal residence has changed). . .

(b) An elector whose name changes because of marriage or other legal process may be permitted to vote, provided such elector completes an affirmation in substantially the following form:

Change of Name of Registered
Voter

Under penalties for false swearing, I, . . .(New name of voter). . ., swear (or affirm) that my name has been changed because of marriage or other legal process. My former name and address of legal residence appear on the registration books of precinct . . . . as follows:
Name . . . .
Address . . . .
Municipality . . . .
County . . . .
Florida, Zip . . . .
My present name and address of legal residence are as follows:

Name . . . .
Address . . . .
Municipality . . . .
County . . . .
Florida, Zip . . . .
and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

. . .(Signature of voter whose name has changed). . .

(c) Such affirmation, when completed and presented at the precinct in which such elector is entitled to vote, *and upon verification of the elector's registration,* shall entitle such elector to vote as provided in this subsection. *If the elector's eligibility to vote cannot be determined, he or she shall be entitled to vote a provisional ballot subject to the requirements and procedures in s. 101.048.* Upon receipt of an affirmation certifying a change in address of legal residence or name, the supervisor shall as soon as practicable make the necessary changes in the registration records of the county to indicate the change in address of legal residence or name of such elector.

(d) Instead of the affirmation contained in paragraph (a) or paragraph (b), an elector may complete a voter registration application that indicates the change of name or change of address of legal residence.

(e) A request for an absentee ballot pursuant to s. 101.62 which indicates that the elector has had a change of address of legal residence from that in the supervisor's records shall be sufficient as the notice to the supervisor of change of address of legal residence required by this section. Upon receipt of such request for an absentee ballot from an elector who has changed his or her address of legal residence, the supervisor shall provide the elector with the proper ballot for the precinct in which the elector then has his or her legal residence.

(3) When an elector's name does not appear on the registration books of the election precinct in which the elector is registered ~~and when the elector cannot present a valid registration identification card~~, the elector may have his or her name restored if the supervisor is otherwise satisfied that the elector is validly registered, that the elector's name has been erroneously omitted from the books, and that the elector is entitled to have his or her name restored. The supervisor, if he or she is satisfied as to the elector's previous registration, shall allow such person to vote and shall thereafter issue a duplicate registration identification card.

Section 34. Subsections (1), (2), and (8) of section 101.5614, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

101.5614 Canvass of returns.—

(1)(a) In precincts in which an electronic or electromechanical voting system is used, as soon as the polls are closed, the election board shall secure the voting devices against further voting. The election board shall thereafter open the ballot box in the presence of members of the public desiring to witness the proceedings and count the number of voted ballots, unused ballots, *provisional ballots,* and spoiled ballots to ascertain whether such number corresponds with the number of ballots issued by the supervisor. If there is a difference, this fact shall be reported in writing to the county canvassing board with the reasons therefor if known. The total number of voted ballots shall be entered on the forms provided. The proceedings of the election board at the precinct after the polls have closed shall be open to the public; however, no person except a member of the election board shall touch any ballot or ballot container or interfere with or obstruct the orderly count of the ballots.

(b) In lieu of opening the ballot box at the precinct, the supervisor may direct the election board to keep the ballot box sealed and deliver it to a central or regional counting location. In this case, the election board shall count the stubs removed from the ballots to determine the number of voted ballots.

(2)(a) If the ballots are to be tallied at a central location or at no more than three regional locations, the election board shall place all ballots that have been cast and the unused, void, *provisional,* and defective ballots in the container or containers provided for this purpose, which shall be sealed and delivered forthwith to the central or regional counting location or other designated location by two inspectors who shall not, whenever possible, be of the same political party. The election board shall certify that the ballots were placed in such container or containers and each container was sealed in its presence and under its supervision, and it shall further certify to the number of ballots of each type placed in the container or containers.

(b) If ballots are to be counted at the precincts, such ballots shall be counted pursuant to rules adopted by the Department of State, which rules shall provide safeguards which conform as nearly as practicable to the safeguards provided in the procedures for the counting of votes at a central location.

(8) The return printed by the automatic tabulating equipment, to which has been added the return of write-in, absentee, and manually counted votes *and votes from provisional ballots*, shall constitute the official return of the election. Upon completion of the count, the returns shall be open to the public. A copy of the returns may be posted at the central counting place or at the office of the supervisor of elections in lieu of the posting of returns at individual precincts.

(9) Any supervisor of elections, deputy supervisor of elections, canvassing board member, election board member, or election employee who releases the results of any election prior to the closing of the polls on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 35. Paragraph (a) of subsection (2) of section 101.68, Florida Statutes, is amended to read:

101.68 Canvassing of absentee ballot.—

(2)(a) The county canvassing board may begin the canvassing of absentee ballots at 7 a.m. on the fourth day before the election, but not later than noon on the day following the election. In addition, for any county using electronic tabulating equipment, the processing of absentee ballots through such tabulating equipment may begin *at 7 a.m. on the fourth day before the election* ~~upon the opening of the polls on election day~~. However, notwithstanding any such authorization to begin canvassing or otherwise processing absentee ballots early, no result ~~or tabulation of absentee ballots~~ shall be *released* ~~made~~ until after the *closing* ~~close~~ of the polls on election day. *Any supervisor of elections, deputy supervisor of elections, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of absentee ballots prior to the closing of the polls on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 36. Section 101.69, Florida Statutes, is amended to read:

101.69 Voting in person; return of absentee ballot.—The provisions of this code shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of an election notwithstanding that the elector has requested an absentee ballot for that election. An elector who has received an absentee ballot, but desires to vote in person, shall return the ballot, whether voted or not, to the election board in the elector's precinct. The returned ballot shall be marked "canceled" by the board and placed with other canceled ballots. However, if the elector is unable to return the ballot, the elector may *vote a provisional ballot as provided in s. 101.048* ~~execute an affidavit stating that the absentee ballot has not been voted and the elector may then vote at the precinct~~.

Section 37. Subsection (1) of section 102.111, Florida Statutes, is amended to read:

102.111 Elections Canvassing Commission.—

(1) Immediately after certification of any election by the county canvassing board, the results shall be forwarded to the Department of

State concerning the election of any federal or state officer. The *Elections Canvassing Commission shall consist of the* Governor *and two members of the Cabinet as determined by the Governor*~~, the Secretary of State, and the Director of the Division of Elections shall be the Elections Canvassing Commission~~. The Elections Canvassing Commission shall, as soon as the official results are compiled from all counties, certify the returns of the election and determine and declare who has been elected for each office. In the event that *the Governor is recused, or any other member of the commission cannot serve, the Governor shall fill the vacancy following the same procedure for appointment to the commission. If no other Cabinet members are available to serve, the Governor shall choose a registered voter to replace the member* ~~any member of the Elections Canvassing Commission is unavailable to certify the returns of any election, such member shall be replaced by a substitute member of the Cabinet as determined by the Director of the Division of Elections. If the county returns are not received by the Department of State by 5 p.m. of the seventh day following an election, all missing counties shall be ignored, and the results shown by the returns on file shall be certified~~.

Section 38. Section 102.112, Florida Statutes, is amended to read:

102.112 Deadline for submission of county returns to the Department of State~~; penalties~~.—

(1) The county canvassing board or a majority thereof shall file the county returns for the election of a federal or state officer with the Department of State immediately after certification of the election results.

(2) Returns must be filed by 5 p.m. on the 7th day following the ~~first~~ primary *election and by 5 p.m. on the 11th day following the* ~~and~~ general election ~~and by 3 p.m. on the 3rd day following the second primary~~.

(3) If the returns are not received by the department by the time specified, such returns *shall* ~~may~~ be ignored and the results on file at that time *shall* ~~may~~ be certified by the department.

(4) If the returns are not received by the department due to an emergency, as defined in s. 101.732, the Elections Canvassing Commission shall determine the deadline by which the returns must be received.

~~(2) The department shall fine each board member $200 for each day such returns are late, the fine to be paid only from the board member's personal funds. Such fines shall be deposited into the Election Campaign Financing Trust Fund, created by s. 106.32.~~

~~(3) Members of the county canvassing board may appeal such fines to the Florida Elections Commission, which shall adopt rules for such appeals.~~

Section 39. Subsection (4) of section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—

(4)*(a)* If the returns for any office reflect that a candidate was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, *each county canvassing* ~~the~~ board responsible for certifying the results of the vote on such race or measure shall order a *machine* recount of the votes cast with respect to such office or measure. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount not be made. Each canvassing board responsible for conducting a *machine* recount shall *recount the ballots with the vote tabulation system. On optical scan machines, a machine recount shall mean actually processing each ballot through the vote tabulation system* ~~examine the counters on the machines or the tabulation of the ballots cast in each precinct in which the office or issue appeared on the ballot and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the counters of the machines or the tabulation of the ballots cast, the counters of such machines or the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly~~.

(b) If, after conducting a machine recount under paragraph (a), the returns for any office reflect that a candidate was defeated or eliminated by one-quarter of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-quarter of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-quarter of a percent or less of the votes cast on such measure, each county canvassing board responsible for certifying the results of the vote on such race or measure shall order a manual recount of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system. Manual recounts shall be conducted by the county canvassing boards using the procedures described in s. 102.166. Upon completion of its manual recount, each county canvassing board shall certify the returns for the applicable office or measure.

Section 40. Section 102.166, Florida Statutes, is amended to read:

102.166 Protest of election returns; procedure.—

(1)*(a)* Any candidate for nomination or election *to a federal, state, or multicounty district office*, or any elector qualified to vote in the election related to such candidacy, shall have the right to protest the returns of the election as being erroneous by filing with the *Elections Canvassing Commission* ~~appropriate canvassing board~~ a sworn, written protest.

(b)~~(2)~~ Such protest shall be filed with the *Elections Canvassing Commission* ~~canvassing board~~ prior to the time the *Elections Canvassing Commission* ~~canvassing board~~ certifies the results for the office being protested or within *72 hours* ~~5 days~~ after *the closing of the polls in that election* ~~midnight of the date the election is held~~, whichever occurs later.

~~(3) Before canvassing the returns of the election, the canvassing board shall:~~

~~(a) When paper ballots are used, examine the tabulation of the paper ballots cast.~~

~~(b) When voting machines are used, examine the counters on the machines of nonprinter machines or the printer-pac on printer machines. If there is a discrepancy between the returns and the counters of the machines or the printer-pac, the counters of such machines or the printer-pac shall be presumed correct.~~

(c) *Upon receipt of a sworn, written protest, the Elections Canvassing Commission shall direct each county canvassing board within the geographic jurisdiction of the office or ballot measure to* ~~When electronic or electromechanical equipment is used, the canvassing board shall~~ examine precinct records and election returns. If there is a clerical error, such error shall be corrected by the county canvassing board. If there is a discrepancy *that* ~~which~~ could affect the outcome of an election, the *Elections Canvassing Commission may direct each county* canvassing board *to* ~~may~~ recount the ballots on the automatic tabulating equipment.

(d)1.~~(4)(a)~~ *Upon completion of a machine recount ordered by the Elections Canvassing Commission pursuant to paragraph (c),* any candidate *for federal, state, or multicounty district office* whose name appeared on the ballot *or*~~,~~ any political committee that supports or opposes *a statewide or multicounty* ~~an~~ issue *that* ~~which~~ appeared on the ballot~~, or any political party whose candidates' names appeared on the ballot~~ may file a written request with the *Elections Canvassing Commission* ~~county canvassing board~~ for a manual recount *of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system*. The written

request shall contain a statement of the reason the manual recount is being requested.

2.~~(b)~~ Such request must be filed with the *Elections Canvassing Commission* ~~canvassing board prior to the time the canvassing board certifies the results for the office being protested or~~ within 72 hours after *completion of the machine recount ordered by the Elections Canvassing Commission pursuant to paragraph (c)* ~~midnight of the date the election was held, whichever occurs later~~.

3.~~(c)~~ *Based on its evaluation of the validity of the reasons stated in the written request,* the *Elections Canvassing Commission* ~~county canvassing board~~ may authorize a manual recount *of those ballots not counted by the voting equipment during the machine recount. If a manual recount is authorized, the Elections Canvassing Commission shall direct each county canvassing board within the geographic jurisdiction of the office or ballot measure to manually recount all ballots not previously counted by an otherwise properly functioning vote tabulation system, using standards for determining voter intent developed and published by the Division of Elections*. If a manual recount is authorized, the *Elections Canvassing Commission* ~~county canvassing board~~ shall make a reasonable effort to notify each candidate whose race is being recounted of the time and place of such recount.

~~(d) The manual recount must include at least three precincts and at least 1 percent of the total votes cast for such candidate or issue. In the event there are less than three precincts involved in the election, all precincts shall be counted. The person who requested the recount shall choose three precincts to be recounted, and, if other precincts are recounted, the county canvassing board shall select the additional precincts.~~

~~(5) If the manual recount indicates an error in the vote tabulation which could affect the outcome of the election, the county canvassing board shall:~~

~~(a) Correct the error and recount the remaining precincts with the vote tabulation system;~~

~~(b) Request the Department of State to verify the tabulation software; or~~

~~(c) Manually recount all ballots.~~

(2)(a) Any candidate for nomination or election to a county office, municipal office, or district office not covered by paragraph (1)(a), or any elector qualified to vote in the election related to such candidacy, shall have the right to protest the returns of the election as being erroneous by filing with the appropriate county canvassing board a sworn, written protest.

(b) Such protest shall be filed with the county canvassing board prior to the time the canvassing board certifies the results for the office being protested or within 72 hours after the closing of the polls in that election, whichever occurs later.

(c) Upon receipt of a sworn, written protest, the county canvassing board shall:

1. When paper ballots are used, examine the tabulation of the paper ballots cast.

2. When voting machines are used, examine the counters on the machines of nonprinter machines or the printer-pac on printer machines. If there is a discrepancy between the returns and the counters of the machines or the printer-pac, the counters of such machines or the printer-pac shall be presumed correct.

3. When electronic or electromechanical equipment is used, examine precinct records and election returns. If there is a clerical error, such error shall be corrected by the county canvassing board. If there is a discrepancy that could affect the outcome of an election, the canvassing board may recount the ballots on the automatic tabulating equipment.

(d)1. Upon completion of a machine recount ordered by a county canvassing board pursuant to subparagraph (c)3., any candidate not covered by paragraph (1)(d) whose name appeared on the ballot or any political committee that supports or opposes an issue not covered by paragraph (1)(d) which appeared on the ballot may file a written request with the county canvassing board for a manual recount of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system. The written request shall contain a statement of the reason the manual recount is being requested.

2. Such request must be filed with the canvassing board within 72 hours after the completion of the machine recount ordered pursuant to subparagraph (c)3.

3. Based on its evaluation of the validity of the reasons stated in the written request, the county canvassing board may authorize a manual recount of those ballots not counted by the voting equipment during the machine recount. If a manual recount is authorized, the county canvassing board shall manually recount all ballots not previously counted by an otherwise properly functioning vote tabulation system, using standards for determining voter intent developed and published by the Division of Elections. If a manual recount is authorized, the county canvassing board shall make a reasonable effort to notify each candidate whose race is being recounted of the time and place of such recount.

(3)~~(6)~~ Any manual recount shall be open to the public.

(4)~~(7)~~ Procedures for a manual recount are as follows:

(a) The county canvassing board shall appoint as many counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) If a counting team is unable to determine a voter's intent in casting a ballot, *using the standards for determining voter intent developed and published by the Division of Elections,* the ballot shall be presented to the county canvassing board for it to determine the voter's intent. *If the county canvassing board is unable to determine a voter's intent in casting a ballot using the standards for determining voter intent developed and published by the Division of Elections, the ballot shall not be counted in the official canvass.*

(5)~~(8)~~ If the county canvassing board determines the need to verify the tabulation software, the county canvassing board shall request in writing that the Department of State verify the software.

(6)~~(9)~~ When the Department of State verifies such software, the department shall:

(a) Compare the software used to tabulate the votes with the software filed with the Department of State pursuant to s. 101.5607; and

(b) Check the election parameters.

(7)~~(10)~~ The Department of State shall respond to the county canvassing board within 3 working days.

Section 41. Section 102.167, Florida Statutes, is amended to read:

102.167 Form of protest of election returns.—

(1) The form of the "Protest of Election Returns to the Elections Canvassing Commission" shall be as follows:

PROTEST OF ELECTION RETURNS TO THE ELECTIONS CANVASSING COMMISSION

. . . . , Florida

. . . . , . . .(year). . .

As provided in Section 102.166(1), Florida Statutes, I, ... of . . . . County, Florida, believe the election returns from . . . . in the . . . . election . . .(year). . . are erroneous.

I hereby protest the canvass of such returns by the Elections Canvassing Commission, and request that said returns be investigated,

examined, checked, and corrected by the Elections Canvassing Commission. The basis for this protest is . . . .
. . . .
. . . .
. . . .
. . . .
. . . .

Under penalties of perjury, I swear (or affirm) that I have read the foregoing and that the facts alleged are true, to the best of my knowledge and belief.

. . .*(Signature of person protesting election returns)*. . .

(2) The form of the "Protest of Election Returns to Canvassing Board" shall be as follows:

PROTEST OF ELECTION RETURNS TO
CANVASSING BOARD

. . . ., Florida

. . . ., . . .(year). . .

As provided in Section 102.166*(2)*~~(1)~~, Florida Statutes, I, ... of . . . . County, Florida, believe the election returns from Precinct No. . . . . in the . . . . election . . .(year). . . are erroneous.

I hereby protest the canvass of such returns by the . . . . Canvassing Board, and request that said returns be investigated, examined, checked, and corrected by said Canvassing Board. The basis for this protest is . . . .
. . . .
. . . .
. . . .
. . . .
. . . .

Under penalties of perjury, I swear (or affirm) that I have read the foregoing and that the facts alleged are true, to the best of my knowledge and belief.

. . .(Signature of person protesting election returns). . .

Section 42. Section 102.168, Florida Statutes, is amended to read:

102.168 Contest of election.—

(1) Except as provided in s. 102.171, the certification of election or nomination of any person to office~~, or of the result on any question submitted by referendum,~~ may be contested in the circuit court by any unsuccessful candidate for such office or nomination thereto *and the result on any question submitted by referendum may be contested in the circuit court* ~~or~~ by any elector ~~qualified to vote in the election related to such candidacy, or by any taxpayer, respectively~~.

(2) Such contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court within 10 days after midnight of the date the last county canvassing board empowered to canvass the returns certifies the results of the election being contested or within 5 days after midnight of the date the last county canvassing board empowered to canvass the returns certifies the results of that particular election following a protest pursuant to s. 102.166~~(1)~~, whichever occurs later.

(3) The complaint shall set forth the grounds on which the contestant intends to establish his or her right to such office or set aside the result of the election on a submitted referendum. The grounds for contesting an election under this section are:

(a) Misconduct, fraud, or corruption on the part of any election official or any member of the canvassing board sufficient to change or place in doubt the result of the election.

(b) Ineligibility of the successful candidate for the nomination or office in dispute.

(c) Receipt of a number of illegal votes or rejection of a number of legal votes sufficient to change or place in doubt the result of the election.

(d) Proof that any elector, election official, or canvassing board member was given or offered a bribe or reward in money, property, or any other thing of value for the purpose of procuring the successful candidate's nomination or election or determining the result on any question submitted by referendum.

~~(e) Any other cause or allegation which, if sustained, would show that a person other than the successful candidate was the person duly nominated or elected to the office in question or that the outcome of the election on a question submitted by referendum was contrary to the result declared by the canvassing board or election board.~~

(4) The canvassing board or *the Elections Canvassing Commission* ~~election board~~ shall be the proper party defendant, and the successful candidate shall be an indispensable party to any action brought to contest the election or nomination of a candidate.

(5) A statement of the grounds of contest may not be rejected, nor the proceedings dismissed, by the court for any want of form if the grounds of contest provided in the statement are sufficient to clearly inform the defendant of the particular proceeding or cause for which the nomination or election is contested.

(6) A copy of the complaint shall be served upon the defendant and any other person named therein in the same manner as in other civil cases under the laws of this state. Within 10 days after the complaint has been served, the defendant must file an answer admitting or denying the allegations on which the contestant relies or stating that the defendant has no knowledge or information concerning the allegations, which shall be deemed a denial of the allegations, and must state any other defenses, in law or fact, on which the defendant relies. If an answer is not filed within the time prescribed, the defendant may not be granted a hearing in court to assert any claim or objection that is required by this subsection to be stated in an answer.

(7) Any candidate *or*~~, qualified~~ elector~~, or taxpayer~~ presenting such a contest to a circuit judge is entitled to an immediate hearing. However, the court in its discretion may limit the time to be consumed in taking testimony, with a view therein to the circumstances of the matter and to the proximity of any succeeding ~~primary or other~~ election.

~~(8) The circuit judge to whom the contest is presented may fashion such orders as he or she deems necessary to ensure that each allegation in the complaint is investigated, examined, or checked, to prevent or correct any alleged wrong, and to provide any relief appropriate under such circumstances.~~

Section 43. Subsection (5) is added to section 99.096, Florida Statutes, to read:

99.096 Minor party candidates; names on ballot.—

(5) Notwithstanding any other provision of this section, a minor political party's entire slate of candidates shall be automatically granted ballot access at the general election that immediately follows a statewide or federal election at which any candidate of the minor political party received at least 1 percent of the votes cast statewide, and shall be exempt from the qualifying fee provisions under subsection (2) and the provisions for qualifying by the alternative method under subsection (3), if otherwise qualified for the office sought.

Section 44. Section 106.31, Florida Statutes, is amended to read:

106.31 Legislative intent.—The Legislature finds that the costs of running an effective campaign for statewide office have reached a level which tends to discourage persons from becoming candidates and to limit the persons who run for such office to those who are independently wealthy, who are supported by political committees representing special interests which are able to generate substantial campaign contributions, or who must appeal to special interest groups for campaign contributions. The Legislature further finds that campaign contributions generated by such political committees are having a disproportionate impact vis-a-vis contributions from unaffiliated individuals, which leads to the misperception of government officials

unduly influenced by those special interests to the detriment of the public interest. *Furthermore, it is the intent of the Legislature that the purpose of public campaign financing is to make candidates more responsive to the voters of the State of Florida and as insulated as possible from special interest groups.* The Legislature intends ss. 106.30-106.36 to alleviate these factors, dispel the misperception, and encourage qualified persons to seek statewide elective office who would not, or could not otherwise do so *and to protect the effective competition by a candidate who uses public funding*.

Section 45. Section 106.33, Florida Statutes, is amended to read:

106.33 Election campaign financing; eligibility.—Each candidate for the office of Governor or member of the Cabinet who desires to receive contributions from the Election Campaign Financing Trust Fund shall, upon qualifying for office, file a request for such contributions with the filing officer on forms provided by the Division of Elections. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. For the purposes of ss. 106.30-106.36, candidates for Governor and Lieutenant Governor on the same ticket shall be considered as a single candidate. To be eligible to receive contributions from the fund, a candidate *may* ~~shall~~ not be an unopposed candidate as defined in s. 106.011(15) and *must* ~~shall~~:

(1) Agree to abide by the expenditure limits provided in s. 106.34.

(2)*(a)* Raise contributions as follows:

1.~~(a)~~ One hundred fifty thousand dollars for a candidate for Governor.

2.~~(b)~~ One hundred thousand dollars for a candidate for Cabinet office.

(b) The following may not be used to meet the threshold amounts in paragraph (a):

1. Loans or contributions from the candidate's personal funds;

2. Contributions from national, state, and county executive committees of a political party; or

3. Contributions from individuals who at the time of contributing are not state residents. For purposes of this subparagraph, any person validly registered to vote in this state shall be considered a state resident.

(3) Limit loans or contributions from the candidate's personal funds to $25,000 and contributions from national, state, and county executive committees of a political party to $25,000 in the aggregate~~, which loans or contributions shall not qualify for meeting the threshold amounts in subsection (2)~~.

(4) Submit to a postelection audit of the campaign account by the division.

Section 46. Subsection (2) of section 106.35, Florida Statutes, is amended to read:

106.35 Distribution of funds.—

(2)(a) Each candidate who has been certified to receive contributions from the Election Campaign Financing Trust Fund shall be entitled to distribution of funds as follows:

1. For qualifying matching contributions making up all or any portion of the threshold amounts specified in s. 106.33(2), distribution shall be on a two-to-one basis.

2. For all other qualifying matching contributions, distribution shall be on a one-to-one basis.

(b) Qualifying matching contributions are those of $250 or less from an individual, made after September 1 of the calendar year prior to the election. *Any contribution that is a loan, is an in-kind contribution, is received from a political committee or committee of continuous existence, or is received from an individual who is not a state resident at the time the contribution is made shall not be considered a qualifying matching contribution. For purposes of this paragraph, any person validly registered to vote in this state shall be considered a state resident.* Aggregate contributions from an individual in excess of $250 will be matched only up to $250. A contribution from an individual, if made by check, must be drawn on the personal bank account of the individual making the contribution, as opposed to any form of business account, regardless of whether the business account is for a corporation, partnership, sole proprietorship, trust, or other form of business arrangement. For contributions made by check from a personal joint account, the match shall only be for the individual who actually signs the check.

Section 47. *Effective June 1, 2002, section 98.0975, Florida Statutes, is repealed.*

Section 48. Section 98.255, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 98.255, F.S., for present text.)

98.255 Voter-education programs.—

(1) By March 1, 2002, the Department of State shall adopt rules prescribing minimum standards for nonpartisan voter education. In developing the rules, the department shall review current voter-education programs within each county of the state. The standards shall address, but are not limited to, the following subjects:

(a) Voter registration;

(b) Balloting procedures, absentee and polling place;

(c) Voter rights and responsibilities;

(d) Distribution of sample ballots; and

(e) Public service announcements.

(2) Each supervisor of elections shall implement the minimum voter-education standards and shall conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process.

(3)(a) By December 15 of each general election year, each supervisor of elections shall report to the Department of State a detailed description of the voter-education programs implemented and any other information that may be useful in evaluating the effectiveness of voter-education efforts.

(b) The Department of State, upon receipt of such information, shall prepare a public report on the effectiveness of voter-education programs and shall submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year following a general election.

(c) The Department of State shall reexamine the rules adopted pursuant to subsection (1) and consider the findings in the report as a basis for adopting modified rules that incorporate successful voter-education programs and techniques, as necessary.

Section 49. Section 102.014, Florida Statutes, is created to read:

102.014 Pollworker recruitment and training.—

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

(2) A person who has attended previous training conducted within 2 years before the election may be appointed by the supervisor to fill a vacancy on election day. If no person with prior training is available to fill such vacancy, the supervisor of elections may fill such vacancy in accordance with the provisions of subsection (3) from among persons who have not received the training required by this section.

(3) In the case of absence or refusal to act on the part of any inspector or clerk at any precinct on the day of an election, the supervisor shall appoint a replacement who meets the qualifications prescribed in section 102.012(2). The inspector or clerk so appointed shall be a member of the same political party as the clerk or inspector whom he or she replaces.

(4) Each supervisor of elections shall be responsible for training inspectors and clerks, subject to the following minimum requirements:

(a) Each clerk shall receive four hours of training biannually when not in a general election year, and two hours of training quarterly in each general election year;

(b) Each inspector shall receive at least two hours of training biannually when not in a general election year, and one hour of training quarterly in each general election year.

(c) No clerk shall be entitled to work at the polls unless he or she has had a minimum of six hours of training.

(d) No inspector shall work at the polls unless he or she has had a minimum of three hours of training.

(5) The Department of State shall create a uniform polling place procedures manual and adopt the manual by rule. Each supervisor of elections shall insure that the manual is available in hard copy or electronic form in every precinct in the supervisor's jurisdiction on election day. The manual shall guide inspectors, clerks, and deputy sheriffs in the proper implementation of election procedures and laws. The manual shall be indexed by subject, and written in plain, clear, unambiguous language. The manual shall provide specific examples of common problems encountered at the polls on election day, and detail specific procedures for resolving those problems. The manual shall include, without limitation:

(a) Regulations governing solicitation by individuals and groups at the polling place;

(b) Procedures to be followed with respect to voters whose names are not on the precinct register;

(c) Proper operation of the voting system;

(d) Ballot handling procedures;

(e) Procedures governing spoiled ballots;

(f) Procedures to be followed after the polls close;

(g) Rights of voters at the polls;

(h) Procedures for handling emergency situations;

(i) Procedures for dealing with irate voters;

(j) The handling and processing of provisional ballots; and

(k) Security procedures.

The Department of State shall revise the manual as necessary to address new procedures in law or problems encountered by voters and pollworkers at the precincts.

(6) Supervisors of elections shall work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks.

Section 50. *Subsections (8) and (9) of section 102.012, Florida Statutes, are repealed.*

Section 51. Subsection (2) of section 102.021, Florida Statutes, is amended to read:

102.021 Compensation of inspectors, clerks, and deputy sheriffs.—

(2) Inspectors and clerks of election and deputy sheriffs serving at the precincts may receive compensation and travel expenses, as provided in s. 112.061, for attending the pollworker training required by s. *102.014* ~~102.012(8)~~.

Section 52. Section 101.031, Florida Statutes, is amended to read:

101.031 Instructions for electors.—

(1) The Department of State, or in case of municipal elections the governing body of the municipality, shall print, in large type on cards, instructions for the electors to use in voting. It shall provide not less than two cards for each voting precinct *for each election* and furnish such cards to each supervisor upon requisition. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. *The cards must also include the list of rights and responsibilities afforded to Florida voters, as described in subsection (2).*

(2) The supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities in the following form:

VOTER'S BILL OF RIGHTS

Each registered voter in this state has the right to:

1. Vote and have his or her vote accurately counted.

2. Cast a vote if he or she is in line when the polls are closing.

3. Ask for and receive assistance in voting.

4. Up to two replacement ballots if he or she has voted in error.

5. An explanation if his or her registration is in question.

6. Cast a provisional ballot if his or her registration is in question.

7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.

8. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.

9. Vote free from coercion or intimidation by elections officers or any other person.

10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

VOTER RESPONSIBILITIES

Each registered voter in this state has the responsibility to:

1. Study and know candidates and issues.

2. Keep his or her voter address current.

3. Know his or her precinct and its hours of operation.

4. Bring proper identification to the polling station.

5. Know how to operate voting equipment properly.

6. Treat precinct workers with courtesy.

7. Respect the privacy of other voters.

8. Report problems or violations of election law.

9. Ask questions when confused.

10. Check his or her completed ballot for accuracy.

(3) Nothing in this section shall give rise to a legal cause of action.

(4)~~(2)~~ In case any elector, after entering the voting booth, shall ask for further instructions concerning the manner of voting, two election officers who are not both members of the same political party, if present, or, if not, two election officers who are members of the same political party, shall give such instructions to such elector, but no officer or person assisting an elector shall in any manner request, suggest, or seek to persuade or induce any elector to vote for or against any particular ticket, candidate, amendment, question, or proposition. After giving the elector instructions and before the elector has voted, the officers or persons assisting the elector shall retire, and such elector shall vote in secret.

Section 53. Effective September 2, 2002, paragraph (b) of subsection (1) and subsections (2), (31), and (32) of section 97.021, Florida Statutes, as amended by this act, are amended to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(1) "Absent elector" means any registered and qualified voter who:

(b) Is an inspector, a poll worker, a deputy voting *system* ~~machine~~ custodian, a deputy sheriff, a supervisor of elections, or a deputy supervisor who is assigned to a different precinct than that in which he or she is registered to vote.

(2) "Ballot" or "official ballot" when used in reference to:

~~(a) "Voting machines," except when reference is made to write-in ballots, means that portion of the printed strips of cardboard, paper, or other material that is within the ballot frames containing the names of candidates, or a statement of a proposed constitutional amendment or other question or proposition submitted to the electorate at any election.~~

(a)~~(b)~~ "Paper ballots" means that printed sheet of paper*, used in conjunction with an electronic or electromechanical vote tabulation voting system,* containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.

(b)~~(c)~~ "Electronic or electromechanical devices" means a ballot which is voted by the process of *electronically designating* ~~punching~~ or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment.

(31) "Voting booth" or "booth" means that booth or enclosure wherein an elector casts his or her ballot~~, be it a paper ballot, a voting machine ballot, or a ballot cast~~ for tabulation by an electronic or electromechanical device.

(32) "Voting system" means a method of casting and processing votes that functions wholly or partly by use of ~~mechanical,~~ electromechanical~~,~~ or electronic apparatus or by use of paper ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, ~~tabulating cards,~~ printouts, and other software necessary for the system's operation.

Section 54. Effective September 2, 2002, section 98.471, Florida Statutes, is amended to read:

98.471 Use of precinct register at polls.—The precinct register, as prescribed in s. 98.461, may be used at the polls in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present a Florida driver's license, a Florida identification card issued under s. 322.051, or another form of picture identification approved by the Department of State. The elector shall sign his or her name in the space provided, and the clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector. If the elector fails to furnish the required identification, or if the clerk or inspector is in doubt as to the identity of the elector, such clerk or inspector shall follow the procedure prescribed in s. 101.49. ~~The precinct register may also contain the information set forth in s. 101.47(8) and, if so, the inspector shall follow the procedure required in s. 101.47, except that the identification provided by the elector shall be used for the signature comparison.~~

Section 55. Effective September 2, 2002, paragraph (a) of subsection (1) of section 100.071, Florida Statutes, as amended by this act, is amended to read:

100.071 Grouping of candidates on primary election ballot.—

(1)(a) Where two or more similar offices are to be filled in the same election, the names of candidates shall be placed or printed upon the ballot ~~or voting machine~~ in groups or districts; that is, if two or more members of the Legislature or two or more members of a governing board are to be elected from the same geographical area, then the candidates' names shall be placed or printed on the ballot ~~or voting machines~~ in groups or districts, as the case may be.

Section 56. Effective September 2, 2002, subsection (3) of section 100.361, Florida Statutes, is amended to read:

100.361 Municipal recall.—

(3) BALLOTS.—The ballots at the recall election shall conform to the following: With respect to each person whose removal is sought, the question shall be submitted: "Shall . . . . be removed from the office of . . . . by recall?" Immediately following each question there shall be printed on the ballots the two propositions in the order here set forth:

". . .(name of person). . . should be removed from office."

". . .(name of person). . . should not be removed from office."

~~Immediately to the right of each of the propositions shall be placed a square on which the electors, by making a crossmark (X), may vote either of the propositions. Voting machines or electronic or electromechanical equipment may be used.~~

Section 57. Section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for *ballots* ~~general election ballot.—In counties in which voting machines are not used, and in other counties for use as absentee ballots not designed for tabulation by an electronic or electromechanical voting system, the general election ballot shall conform to the following specifications:~~

(1) *Paper ballots* ~~The ballot~~ shall be printed on paper of such thickness that the printing cannot be distinguished from the back.

~~(2) Across the top of the ballot shall be printed "Official Ballot, General Election," beneath which shall be printed the county, the precinct number, and the date of the election. The precinct number, however, shall not be required for absentee ballots. Above the caption of the ballot shall be two stubs with a perforated line between the stubs and between the lower stub and the top of the ballot. The top stub shall be stub No. 1 and shall have printed thereon, "General Election, Official Ballot," and then shall appear the name of the county, the precinct number, and the date of the election. On the left side shall be a blank line under which shall be printed "Signature of Voter." On the right side shall be "Initials of Issuing Official," above which there shall be a blank line. The second stub shall be the same, except there shall not be a space for signature of the elector. Both stubs No. 1 and No. 2 on ballots for each precinct shall be prenumbered consecutively, beginning with "No. 1." However, a second stub shall not be required for absentee ballots.~~

(2)~~(3)~~(a) ~~Beneath the caption and preceding the names of candidates shall be the following words: "To vote for a candidate whose name is printed on the ballot, place a cross (X) mark in the blank space at the right of the name of the candidate for whom you desire to vote. To vote for a write-in candidate, write the name of the candidate in the blank space provided for that purpose."~~ The ballot shall have headings under which shall appear the names of the offices and names of duly nominated candidates for the respective offices in the following order: the heading "~~Electors for~~ President and Vice President" and thereunder

the names of the candidates for President and Vice President of the United States nominated by the political party which received the highest vote for Governor in the last general election of the Governor in this state~~, above which shall appear the name of said party~~. Then shall appear the names of other candidates for President and Vice President of the United States who have been properly nominated. Votes cast for write-in candidates for President and Vice President shall be counted as votes cast for the presidential electors supporting such candidates. Then shall follow the heading "Congressional" and thereunder the offices of United States Senator and Representative in Congress; then the heading "State" and thereunder the offices of Governor and Lieutenant Governor, Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Education, Commissioner of Agriculture, state attorney, and public defender, together with the names of the candidates for each office and the title of the office which they seek; then the heading "Legislative" and thereunder the offices of state senator and state representative; then the heading "County" and thereunder clerk of the circuit court, clerk of the county court (when authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, and supervisor of elections. Thereafter follows: members of the board of county commissioners~~,~~ and such other county *and district* offices as are involved in the general election, in the order fixed by the Department of State*, followed, in the year of their election, by "Party Offices," and thereunder the offices of state and county party executive committee members*. ~~When a write-in candidate has qualified for any office, a subheading "Write-in Candidate for . . .(name of office). . ." shall be provided followed by a blank space in which to write the name of the candidate.~~ With respect to write-in candidates, if two or more candidates are seeking election to one office, only one blank space shall be provided.

(b) ~~Immediately following the name of each office on the ballot shall be printed, "Vote for One."~~ When more than one candidate is nominated for office, the candidates for such office shall qualify and run in a group or district, and the group or district number shall be printed beneath the name of the office. ~~The name of the office shall be printed over each numbered group or district and each numbered group or district shall be clearly separated from the next numbered group or district, the same as in the case of single offices. Following the group or district number shall be printed the words, "Vote for One," and the names of the candidates in the respective groups or districts shall be arranged thereunder.~~

(c) If in any election all the offices as set forth in paragraph (a) are not involved, those offices to be filled shall be arranged on the ballot in the order named.

(3)(a)~~(4)~~ The names of the candidates of the party which received the highest number of votes for Governor in the last election in which a Governor was elected shall be placed first under the heading for each office *on the general election ballot*, together with an appropriate abbreviation of party name; the names of the candidates of the party which received the second highest vote for Governor shall be second under the heading for each office, together with an appropriate abbreviation of the party name.

(b)~~(5)~~ Minor political party candidates and candidates with no party affiliation shall have their names appear on the general election ballot following the names of recognized political parties, in the same order as they were certified.

(4)(a) The name of candidates for each office shall be arranged alphabetically as to surnames on a primary election ballot.

(b) When two or more candidates running for the same office on a primary election ballot have the same or a similar surname, the word "incumbent" shall appear next to the incumbent's name.

(5) The primary election ballot shall be arranged so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor, if applicable.

(6) The general election ballot shall be arranged so that the offices of President and Vice President are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for President and Vice President and so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor.

(7)~~(6)~~ Except for justices or judges seeking retention, the names of unopposed candidates shall not appear on the general election ballot. Each unopposed candidate shall be deemed to have voted for himself or herself.

(8)(a) The Department of State shall adopt rules prescribing a uniform primary and general election ballot for each certified voting system. The rules shall incorporate the requirements set forth in this section and shall prescribe additional matters and forms which include, without limitation:

1. Clear and unambiguous ballot instructions and directions;

2. Individual race layout; and

3. Overall ballot layout.

(b) The department rules shall graphically depict a sample uniform primary and general election ballot form for each certified voting system.

~~(7) The same requirement as to the type, size, and kind of printing of official ballots in primary elections as provided in s. 101.141(5) shall govern the printing of official ballots in general elections.~~

~~(8) Should the above directions for complete preparation of the ballot be insufficient, the Department of State shall determine and prescribe any additional matter or form. Not less than 60 days prior to a general election, the Department of State shall mail to each supervisor of elections the format of the ballot to be used for the general election.~~

~~(9) The provisions of s. 101.141(7) shall be applicable in printing of said ballot.~~

Section 58. Effective September 2, 2002, section 101.21, Florida Statutes, is amended to read:

101.21 Official ballots; number; printing; payment.—

~~(1) In any county in which voting machines are not used,~~ The supervisor of elections shall determine the actual number of ballots to be printed *for an election*. The printing and delivery of ballots and cards of instruction shall, in a municipal election, be paid for by the municipality, and in all other elections by the county.

~~(2) In any county in which voting machines are used, one set of official ballots shall be provided for each machine plus a number of sets equal to 5 percent of the total number of machines; one set shall be inserted or placed in or upon each machine, and the remainder of the sets shall be retained in the custody of the supervisor, unless it shall become necessary during the election to make use of same upon or in the machines.~~

Section 59. Effective September 2, 2002, section 101.24, Florida Statutes, is amended to read:

101.24 Ballot boxes and ballots.—The supervisor of elections~~, except where voting machines are used,~~ shall prepare for each polling place one ballot box of sufficient size to contain all the ballots of the particular precinct, and the ballot box shall be plainly marked with the name of the precinct for which it is intended. An additional ballot box, if necessary, may be supplied to any precinct. Before each election, the supervisor shall place in the ballot box or ballot transfer container as many ballots as are required in s. 101.21. After securely sealing the ballot box or ballot transfer container, the supervisor shall send the ballot box or ballot transfer container to the clerk or inspector of election of the precinct in which it is to be used. The clerk or inspector shall be placed under oath or affirmation to perform his or her duties faithfully and without favor or prejudice to any political party.

Section 60. Effective September 2, 2002, subsection (2) of section 101.292, Florida Statutes, is amended to read:

101.292 Definitions; ss. 101.292-101.295.—As used in ss. 101.292-101.295, the following terms shall have the following meanings:

(2) "Voting equipment" means ~~new or used voting machines and materials, parts, or other equipment necessary for the maintenance or improvement of voting machines, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017. The term "voting equipment" also includes~~ electronic or electromechanical voting systems, voting devices, and automatic tabulating equipment as defined in s. 101.5603, as well as materials, parts, or other equipment necessary for the operation and maintenance of such systems and devices*, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017*.

Section 61. Effective September 2, 2002, section 101.34, Florida Statutes, is amended to read:

101.34 Custody of voting *system* ~~machines~~.—The supervisor of elections shall be the custodian of *the* voting *system* ~~machines~~ in the county ~~using them~~, and he or she shall appoint deputies necessary to prepare and supervise the *voting system* ~~machines~~ prior to and during elections. The compensation for such deputies shall be paid by the supervisor of elections.

Section 62. Effective September 2, 2002, section 101.341, Florida Statutes, is amended to read:

101.341 Prohibited activities by voting *system* ~~machine~~ custodians and deputy custodians.—

(1) No voting *system* ~~machine~~ custodian or deputy custodian or other employee of the supervisor of elections, which employee's duties are primarily involved with the preparation, maintenance, or repair of voting equipment, shall accept employment or any form of consideration from any person or business entity involved in the purchase, repair, or sale of voting equipment unless such employment has the prior written approval of the supervisor of elections of the county by which such person is employed.

(2) Any person violating the provisions of this section *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083. Such person shall also be subject to immediate discharge from his or her position.

Section 63. Effective September 2, 2002, section 101.43, Florida Statutes, is amended to read:

101.43 Substitute ballot.—When ~~voting machines are used and~~ the required official ballots for a precinct are not delivered in time to be used on election day, or after delivery, are lost, destroyed or stolen, the clerk or other officials whose duty it is to provide ballots for use at such election, in lieu of the official ballots, shall have substitute ballots prepared, conforming as nearly as possible to the official ballots, and the board of election shall substitute these ballots to be used in the same manner as the official ballots would have been used at the election.

Section 64. Section 101.49, Florida Statutes, is amended to read:

101.49 Procedure of election officers where signatures differ.—

(1) Whenever any clerk or inspector, upon a just comparison of the *signatures* ~~signature~~, *doubts* ~~shall doubt~~ that the *signature* ~~handwriting affixed to a signature identification slip~~ of any elector who presents himself or herself at the polls to vote is the same as the signature of the elector affixed in the registration book, the clerk or inspector shall deliver to the person an affidavit which shall be in substantially the following form:

STATE OF FLORIDA,
COUNTY OF . . . . .

I do solemnly swear (or affirm) that my name is . . . . ; that I am . . . . years old; that I was born in the State of . . . . ; that I am registered to vote, and at the time I registered I resided on . . . . Street, in the municipality of . . . . , County of . . . . , State of Florida; that I am a qualified voter of the county and state aforesaid and have not voted in this election.

. . .(Signature of voter). . .

Sworn to and subscribed before me this . . . . day of . . . . , A. D. . . .(year). . . .

. . .(Clerk or inspector of election). . .
Precinct No. . . . . .
County of . . . . .

(2) The person shall fill out, in his or her own handwriting or with assistance from a member of the election board, the form and make an affidavit to the facts stated in the filled-in form; such affidavit shall then be sworn to and subscribed before one of the inspectors or clerks of the election who is authorized to administer the oath. Whenever the affidavit is made and filed with the clerk or inspector, the person shall then be *permitted* ~~admitted to the voting machine~~ to cast his or her vote, but if the person fails or refuses to make out or file such affidavit, then he or she shall not be permitted to vote.

Section 65. Effective September 2, 2002, subsections (4), (5), and (8) of section 101.5603, Florida Statutes, are amended to read:

101.5603 Definitions relating to Electronic Voting Systems Act.—As used in this act, the term:

(4) "Electronic or electromechanical voting system" means a system of casting votes by use of voting devices or marking devices and counting ballots by employing automatic tabulating equipment or data processing equipment*, and the term includes touchscreen systems*.

(5) "Marking device" means ~~either an approved apparatus used for the piercing of ballots by the voter or~~ any approved device for marking a ballot with ink or other substance *or by touching a screen* which will enable the ballot to be tabulated by means of automatic tabulating equipment.

(8) "Voting device" means ~~either an apparatus in which ballots are inserted and used in connection with a marking device for the piercing of ballots by the voter or~~ an apparatus by which votes are registered electronically.

Section 66. Effective September 2, 2002, section 101.5604, Florida Statutes, is amended to read:

101.5604 Adoption of system; procurement of equipment; commercial tabulations.—The board of county commissioners of any county, at any regular meeting or a special meeting called for the purpose, may, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county. Thereafter the electronic or electromechanical voting system may be used for voting at all elections for public and party offices and on all measures and for receiving, registering, and counting the votes thereof in such election precincts as the governing body directs. *Any electronic or electromechanical voting system used by the county must be a precinct tabulation voting system.* ~~Any such board may contract for the tabulation of votes at a location within the county when there is no suitable tabulating equipment available which is owned by the county.~~

Section 67. Effective September 2, 2002, subsections (3) and (10) of section 101.5606, Florida Statutes, are amended, and subsections (13) and (14) are added to said section, to read:

101.5606 Requirements for approval of systems.—No electronic or electromechanical voting system shall be approved by the Department of State unless it is so constructed that:

(3)*(a)* The automatic tabulating equipment will be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast or when the voter is not entitled to cast a vote for the office or measure.

(b) The automatic tabulating equipment will be set to reject a ballot which the tabulating equipment reads as a ballot with no votes cast.

(10) It is capable of automatically producing precinct totals in printed *and electronic format for use in producing countywide totals*~~,~~ ~~marked, or punched form, or a combination thereof~~.

(13) It is a precinct count tabulation system.

(14) It does not use a punch card ballot.

Section 68. Section 101.56062, Florida Statutes, is created to read:

101.56062 Voting system loan program; use; rule.—

(1) The purpose of this section is to provide assistance to counties to purchase voting systems necessary to conduct elections.

(2) The department is authorized to make and administer loans to eligible counties for the purpose of purchasing voting systems and ancillary equipment needed to record and tabulate a vote in each precinct for any election held by the county supervisor of elections.

(3) The term of loans made pursuant to this section shall be interest free and not exceed 10 years.

(4) The department is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. Such rules shall set forth, a median price range which the cost of voting systems shall not exceed for the purpose of procuring loans under this section, and a priority system for loans based on need. The department shall consider the cost of similar voting systems within the state in determining the median price range. The priority system shall give special consideration to the following:

(a) The county millage rate;

(b) Growth in the county's tax base over the last 3 years;

(c) The financial health of the county;

(d) The financial ability of the county to repay the loan;

(e) The median household income of the county population;

(f) Poverty rate estimates;

(g) Per capita income level; and

(h) Any other reliably documented measures of disadvantage status.

(5)(a) If a county defaults under the terms of its loan agreement, the department shall so certify to the Comptroller, who shall forward the amount delinquent to the department from any unobligated funds due to the county under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan, including accelerating loan repayments.

(b) The department may impose a penalty for delinquent loan payments in the amount of 5 percent of the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(6) The department is authorized to terminate or rescind a financial assistance agreement when the county fails to comply with the terms and conditions of the agreement.

(7) A county that has secured a loan pursuant to this section and meets any of the conditions set forth in s. 218.503(1)(a)-(d) may petition the Governor for suspension of payment of the loan principle and, if applicable, unpaid penalties. The Governor is authorized to suspend any payment of a loan secured pursuant to this section, including any unpaid penalties, for any county that has fulfilled the requirements of this subsection.

Section 69. Paragraph (b) of subsection (1) of section 101.5607, Florida Statutes, is amended to read:

101.5607 Department of State to maintain voting system information; prepare software.—

(1)

(b) Within 24 hours after the completion of any logic and accuracy test conducted pursuant to s. 101.5612~~(1)~~, the supervisor of elections shall send by certified mail to the Department of State a copy of the tabulation program which was used in the logic and accuracy testing.

Section 70. Paragraph (b) of subsection (2) of section 101.5608, Florida Statutes, is amended to read:

101.5608 Voting by electronic or electromechanical method; procedures.—

(2) When an electronic or electromechanical voting system utilizes a ballot card or paper ballot, the following procedures shall be followed:

(b) Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. *If the vote tabulation device has rejected a ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter. The election official, without examining the original ballot, shall state the possible reasons for the rejection and direct the voter to the instruction model provided at the precinct pursuant to s. 101.5611.* A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope.

Section 71. Section 101.5612, Florida Statutes, is amended to read:

101.5612 Testing of tabulating equipment.—

(1) All electronic or electromechanical voting systems shall be thoroughly tested at the conclusion of maintenance and programming. Tests shall be sufficient to determine that the voting system is properly programmed, the election is correctly defined on the voting system, and all of the voting system input, output, and communication devices are working properly.

(2)~~(1)~~ On any day not more than 10 days prior to the election day, the supervisor of elections shall have the automatic tabulating equipment *publicly* tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting such notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of *such public* ~~the~~ preelection test to each candidate qualifying with that office and obtain a signed receipt that such notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each such candidate to contact the county supervisor of elections as to the time and location of the *public preelection test* ~~pretest~~. The supervisor or the municipal elections official shall, at least 15 days prior to an election, send written notice by certified mail to the county party chair of each political party and to all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the *public* preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. Such designee shall not interfere with the normal operation of the canvassing board.

(3) For electronic or electromechanical voting systems configured to tabulate absentee ballots at a central or regional site, the public testing shall be conducted by processing a preaudited group of ballots so produced as to record a predetermined number of valid votes for each candidate and on each measure and to include one or more ballots for each office which have activated voting positions in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated and errorless results achieved immediately before the start of the official count of the ballots and again after the completion of the official count. The programs and ballots used for testing shall be sealed and retained under the custody of the county canvassing board.

(4)(a)1. For electronic or electromechanical voting systems configured to include electronic or electromechanical tabulation devices which are distributed to the precincts, all or a sample of the devices to be used in the election shall be publicly tested. If a sample is to be tested, the sample shall consist of a random selection of at least 5 percent or 10 of the devices, whichever is greater. The test shall be conducted by processing a group of ballots, causing the device to output results for the ballots processed, and comparing the output of results to the results expected for the ballots processed. The group of ballots shall be produced so as to record a predetermined number of valid votes for each candidate and on each measure and to include for each office one or more ballots which have activated voting positions in excess of the number allowed by law in order to test the ability of the tabulating device to reject such votes.

2. If any tested tabulating device is found to have an error in tabulation, it shall be deemed unsatisfactory. For each device deemed unsatisfactory, the canvassing board shall take steps to determine the cause of the error, shall attempt to identify and test other devices that could reasonably be expected to have the same error, and shall test a number of additional devices sufficient to determine that all devices are satisfactory. Upon deeming any device unsatisfactory, the canvassing board may require all devices to be tested or may declare that all devices are unsatisfactory.

3. If the operation or output of any tested tabulation device, such as spelling or the order of candidates on a report, is in error, such problem shall be reported to the canvassing board. The canvassing board shall then determine if the reported problem warrants its deeming the device unsatisfactory.

(b) At the completion of testing under this subsection, the canvassing board or its representative, the representatives of the political parties, and the candidates or their representatives who attended the test shall witness the resetting of each device that passed to a preelection state of readiness and the sealing of each device that passed in such a manner as to secure its state of readiness until the opening of the polls.

(c) The canvassing board or its representative shall execute a written statement setting forth the tabulation devices tested, the results of the testing, the protective counter numbers, if applicable, of each tabulation device, the number of the seal securing each tabulation device at the conclusion of testing, any problems reported to the board as a result of the testing, and whether each device tested is satisfactory or unsatisfactory.

(d) Any tabulating device deemed unsatisfactory shall be reprogrammed, repaired, or replaced and shall be made available for retesting. Such device must be determined by the canvassing board or its representative to be satisfactory before it may be used in any election. The canvassing board or its representative shall announce at the close of the first testing the date, place, and time that any unsatisfactory device will be retested or may, at the option of the board, notify by telephone each person who was present at the first testing as to the date, place, and time that the retesting will occur.

(e) Records must be kept of all preelection testing of electronic or electromechanical tabulation devices used in any election. Such records are to be present and available for inspection and reference during public preelection testing by any person in attendance during such testing. The need of the canvassing board for access to such records during the testing shall take precedence over the need of other attendees to access such records so that the work of the canvassing board will not be delayed or hindered. Records of testing must include, for each device, the name of each person who tested the device and the date, place, time, and results of each test. Records of testing shall be retained as part of the official records of the election in which any device was used.

~~(2) The test shall be conducted by processing a preaudited group of ballots so produced as to record a predetermined number of valid votes for each candidate and on each measure and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots in the same manner as set forth above. After the completion of the count, the test shall be repeated. The programs and ballots used shall be sealed and retained under the custody of the county canvassing board.~~

Section 72. Effective September 2, 2002, subsections (1), (2), (3), and (7) of section 101.5614, Florida Statutes, as amended by this act, are amended to read:

101.5614 Canvass of returns.—

(1)~~(a)~~ In precincts in which an electronic or electromechanical voting system is used, as soon as the polls are closed, the election board shall secure the voting devices against further voting. The election board shall thereafter open the ballot box in the presence of members of the public desiring to witness the proceedings and count the number of voted ballots, unused ballots, provisional ballots, and spoiled ballots to ascertain whether such number corresponds with the number of ballots issued by the supervisor. If there is a difference, this fact shall be reported in writing to the county canvassing board with the reasons therefor if known. The total number of voted ballots shall be entered on the forms provided. The proceedings of the election board at the precinct after the polls have closed shall be open to the public; however, no person except a member of the election board shall touch any ballot or ballot container or interfere with or obstruct the orderly count of the ballots.

~~(b) In lieu of opening the ballot box at the precinct, the supervisor may direct the election board to keep the ballot box sealed and deliver it to a central or regional counting location. In this case, the election board shall count the stubs removed from the ballots to determine the number of voted ballots.~~

~~(2)(a) If the ballots are to be tallied at a central location or at no more than three regional locations, the election board shall place all ballots that have been cast and the unused, void, provisional, and defective ballots in the container or containers provided for this purpose, which shall be sealed and delivered forthwith to the central or regional counting location or other designated location by two inspectors who shall not, whenever possible, be of the same political party. The election board shall certify that the ballots were placed in such container or containers and each container was sealed in its presence and under its supervision, and it shall further certify to the number of ballots of each type placed in the container or containers.~~

(2)~~(b) If ballots are to be counted at the precincts, such ballots shall be counted pursuant to rules adopted by~~ The Department of State~~,~~ ~~which rules~~ shall*, in accordance with s. 101.015, adopt rules that* provide safeguards ~~which conform as nearly as practicable to the safeguards provided in the procedures~~ for the counting of votes at *a precinct and at* a central *or regional* location.

~~(3)(a) All proceedings at the central or regional counting location or other designated location shall be under the direction of the county canvassing board and shall be open to the public, but no person except a person employed and authorized for the purpose shall touch any ballot or ballot container, any item of automatic tabulating equipment, or any~~

~~return prior to its release. If the ballots are tabulated at regional locations, one member of the canvassing board or a person designated by the board to represent it shall be present at each location during the testing of the counting equipment and the tabulation of the ballots.~~

(3)~~(b)~~ *The results of* ~~If~~ ballots ~~are~~ tabulated at *precinct* ~~regional~~ locations~~, the results of such election~~ may be transmitted ~~via dedicated teleprocessing lines~~ to the main computer system for the purpose of compilation of complete returns. The security guidelines for transmission of returns ~~by dedicated teleprocessing lines~~ shall conform to rules adopted by the Department of State pursuant to s. 101.015.

(7) Absentee ballots may be counted by automatic tabulating equipment if they have been ~~punched or~~ marked in a manner which will enable them to be properly counted by such equipment.

Section 73. Effective September 2, 2002, section 101.58, Florida Statutes, is amended to read:

101.58 Supervising and observing registration and election processes.—The Department of State may, at any time it deems fit,~~;~~ upon the petition of 5 percent of the registered electors~~;~~ or upon the petition of any candidate, county executive committee chair, state committeeman or committeewoman, or state executive committee chair, appoint one or more deputies whose duties shall be to observe and examine the registration and election processes and the condition, custody, and operation of *the* voting *system and equipment* ~~machines~~ in any county or municipality. The deputy shall have access to all registration books and records as well as any other records or procedures relating to the voting process. The deputy may supervise preparation of the election *equipment* ~~machines~~ and procedures for election, and it shall be unlawful for any person to obstruct the deputy in the performance of his or her duty. The deputy shall file with the Department of State a report of his or her findings and observations of the registration and election processes in the county or municipality, and a copy of the report shall also be filed with the clerk of the circuit court of said county. The compensation of such deputies shall be fixed by the Department of State; and costs incurred under this section shall be paid from the annual operating appropriation made to the Department of State.

Section 74. Effective September 2, 2002, subsection (1) of section 101.64, Florida Statutes, is amended to read:

101.64 Delivery of absentee ballots; envelopes; form.—

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before
Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, ... , am a qualified and registered voter of . . . . County, Florida. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate and have my signature witnessed will invalidate my ballot. I am entitled to vote an absentee ballot for one of the following reasons:

1. I am unable without another's assistance to attend the polls.

2. I may not be in the precinct of my residence during the hours the polls are open for voting on election day.

3. I am an inspector, a poll worker, a deputy voting *system* ~~machine~~ custodian, a deputy sheriff, a supervisor of elections, or a deputy supervisor who is assigned to a different precinct than that in which I am registered.

4. On account of the tenets of my religion, I cannot attend the polls on the day of the general, special, or primary election.

5. I have changed my permanent residency to another county in Florida within the time period during which the registration books are closed for the election. I understand that I am allowed to vote only for national and statewide offices and on statewide issues.

6. I have changed my permanent residency to another state and am unable under the laws of such state to vote in the general election. I understand that I am allowed to vote only for President and Vice President.

7. I am unable to attend the polls on election day and am voting this ballot in person at the office of, and under the supervision of, the county supervisor of elections.

. . .(Voter's Signature). . .

. . .(Last four digits of voter's social security number). . .
Note: Your Signature Must Be Witnessed By Either:

a. A Notary or Officer Defined in Item 6.b. of the Instruction Sheet.

Sworn to (or affirmed) and subscribed before me this . . . . day of . . . . , . . .(year). . . , by . . .(name of person making statement). . . . My commission expires this . . . . day of . . . . , . . .(year). . . .

. . .(Signature of Official). . .
. . .(Print, Type, or Stamp Name). . .
. . .(State or Country of Commission). . .

Personally Known . . . . OR Produced Identification . . . .

Type of Identification Produced . . . .

OR

b. One Witness, who is a registered voter in the State.
I swear or affirm that the voter signed this Voter's Certificate in my presence and that, unless certified as an absentee ballot coordinator, I have not witnessed more than 5 ballots for this election.
WITNESS:
. . .(Signature of Witness). . .
. . .(Printed Name of Witness). . .
. . .(Voter I.D. Number of Witness and County of Registration). . .
. . .(Address). . .
. . .(City/State). . .

Section 75. Effective September 2, 2002, subsection (2) of section 101.71, Florida Statutes, is amended to read:

101.71 Polling place.—

(2) Notwithstanding the provisions of subsection (1), whenever the supervisor of elections of any county determines that the accommodations for holding any election at a polling place designated for any precinct in the county are unavailable or are inadequate for the expeditious and efficient housing and handling of voting and voting paraphernalia, ~~including voting machines where used,~~ the supervisor may provide, not less than 30 days prior to the holding of an election, that the voting place for such precinct shall be moved to another site which shall be accessible to the public on election day in said precinct or, if such is not available, to another site which shall be accessible to the public on election day in a contiguous precinct. If such action of the supervisor results in the voting place for two or more precincts being located for the purposes of an election in one building, the voting places for the several precincts involved shall be established and maintained separate from each other in said building. When any supervisor moves any polling place pursuant to this subsection, the supervisor shall, not more than 30 days or fewer than 7 days prior to the holding of an election, give notice of the change of the polling place for the precinct involved, with clear description of the voting place to which changed, at least once in a newspaper of general circulation in said county. A notice of the change of the polling place involved shall be mailed, at least 14 days prior to an election, to each registered elector or to each household in which there is a registered elector.

Section 76. Effective September 2, 2002, subsection (1) of section 101.75, Florida Statutes, is amended to read:

101.75 Municipal elections; change of dates for cause.—

(1) In any municipality, when the date of the municipal election falls on the same date as any statewide or county election and *the* voting *devices of the voting system used in the county* ~~machines~~ are not available for both elections, the municipality may provide that the municipal election may be held within 30 days prior to or subsequent to the statewide or county election.

Section 77. Effective September 2, 2002, subsections (4) and (7) of section 102.012, Florida Statutes, are amended to read:

102.012 Inspectors and clerks to conduct elections.—

(4)*(a) The election board of each precinct shall attend the polling place by 6 a.m. of the day of the election and shall arrange the furniture, stationery, and voting equipment.*

(b) An election board shall conduct the voting, beginning and closing at the time set forth in s. 100.011. If more than one board has been appointed, the second board shall, upon the closing of the polls, come on duty and count the votes cast. In such case, the first board shall turn over to the second board all closed ballot boxes, registration books, and other records of the election at the time the boards change. The second board shall continue counting until the count is complete or until 7 a.m. the next morning, and, if the count is not completed at that time, the first board that conducted the election shall again report for duty and complete the count. The second board shall turn over to the first board all ballots counted, all ballots not counted, and all registration books and other records and shall advise the first board as to what has transpired in tabulating the results of the election.

~~(7) For any precinct using voting machines, there shall be one election board appointed, plus an additional inspector for each machine in excess of one; however, the supervisor of elections may appoint a greater number of additional inspectors than required by this subsection.~~

Section 78. Effective September 2, 2002, subsection (3) of section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—

(3) The canvass, except the canvass of absentee electors' returns, shall be made from the returns and certificates of the inspectors as signed and filed by them with the county court judge and supervisor, respectively, and the county canvassing board shall not change the number of votes cast for a candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, respectively, in any polling place, as shown by the returns. All returns shall be made to the board on or before noon of the day following any primary, general, special, or other election. If the returns from any precinct are missing, if there are any omissions on the returns from any precinct, or if there is an obvious error on any such returns, the canvassing board shall order a recount of the returns from such precinct. Before canvassing such returns, the canvassing board shall examine the ~~counters on the machines or the~~ tabulation of the ballots cast in such precinct and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the ~~counters of the machines or the~~ tabulation of the ballots cast, the ~~counters of such machines or the~~ tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.

Section 79. Subsections (8) and (9) of section 103.101, Florida Statutes, are amended to read:

103.101 Presidential preference primary.—

(8) All names of candidates or delegates shall be listed as directed by the Department of State. ~~The ballot as prescribed in this section shall be used.~~

~~(9) The presidential preference primary ballot shall be in substantially the following form:~~

~~OFFICIAL PRESIDENTIAL PREFERENCE~~
~~PRIMARY BALLOT~~

~~No. . . . . Party~~

~~. . . . COUNTY, FLORIDA~~

~~Precinct No. . . . . .~~

~~. . .(Date). . .~~

~~. . .(Signature of Voter). . .~~ ~~. . .(Initials of Issuing Official). . .~~

~~Stub No. 1~~

~~OFFICIAL PRESIDENTIAL PREFERENCE~~
~~PRIMARY BALLOT~~

~~No. . . . . Party~~

~~. . . . COUNTY, FLORIDA~~

~~Precinct No. . . . . .~~

~~. . .(Date). . .~~

~~. . .(Initials of Issuing Official). . .~~

~~Stub No. 2~~

~~OFFICIAL PRESIDENTIAL PREFERENCE~~
~~PRIMARY BALLOT~~

~~. . . . Party~~

~~. . . . COUNTY, FLORIDA~~

~~Precinct No. . . . . .~~

~~. . .(Date). . .~~

~~Place a cross (X) in the blank space to the right of the name of the presidential candidate for whom you wish to vote,~~

~~For President~~

~~. . .(Name of Candidate). . .~~

~~. . .(Name of Candidate). . .~~

~~or place a cross (X) in the blank space to the right of the name of the delegate(s) for whom you wish to vote.~~

~~. . .(Name of Delegate). . .~~ ~~. . .(Name of Candidate). . .~~

Section 80. Effective September 2, 2002, section 104.30, Florida Statutes, is amended to read:

104.30 Voting *systems* ~~machine~~; unlawful possession; tampering.—

(1) Any unauthorized person who unlawfully has possession of any voting *system or component* ~~machine or key~~ thereof *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who tampers or attempts to tamper with or destroy any voting *system or equipment* ~~machine~~ with the intention of interfering with the election process or the results thereof *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 81. Effective September 2, 2002, section 138.05, Florida Statutes, is amended to read:

138.05 Form of ballot.—The clerk of the circuit court of any county in this state, when the names of the towns, villages*,* and cities required in s. 138.04 have been furnished him or her, shall have printed, at the expense of the county, a suitable ballot to be used in said election, said ballot to contain, in alphabetical order, the names of all such towns, villages*,* and cities, and no other places shall be printed on ~~the~~ said ballots*.*~~; provided, that in counties where the use of voting machines is now or may hereafter be authorized by law, the requirements of this section shall, insofar as practicable, be adapted to the use of said voting machines.~~

Section 82. *Sections 101.141, 101.181, 101.191, and 101.5609, Florida Statutes, are repealed.*

Section 83. *Effective September 2, 2002, sections 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, Florida Statutes, are repealed.*

Section 84. *The Division of Elections of the Department of State shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 15, 2001, detailing the progress that each county required by this act to upgrade a voting system has made toward the implementation of such system. This section shall take effect July 1, 2001.*

Section 85. *Funding for the implementation of this act shall be as provided for in the 2001-2002 General Appropriations Act. This section shall take effect July 1, 2001.*

Section 86. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 87. Except as otherwise provided herein, this act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: everything before the enacting clause

and insert in lieu thereof: A bill to be entitled An act relating to elections; amending s. 97.021, F.S.; defining the terms "error in the vote tabulation" and "provisional ballot"; revising the definition of "primary election"; amending s. 100.061, F.S.; providing for a single primary election, including the date for holding that election; providing that candidates receiving the highest number of votes in the primary election are declared nominated; providing a method for deciding tie votes; repealing s. 100.091, F.S., relating to the second primary election, to conform; repealing s. 100.096, F.S., relating to the holding of special elections in conjunction with the second primary election, to conform; amending ss. 97.055, 97.071, 97.1031, and 98.081, F.S., relating to restrictions on changing party affiliation between primary elections, to conform; amending s. 99.063, F.S.; revising the date to designate a Lieutenant Governor running mate, to conform; amending s. 101.62, F.S.; revising the dates for mailing absentee ballots to absent electors overseas and eliminating advance absentee ballots, to conform; amending ss. 10.1008, 99.061, 99.095, 99.103, 100.071, 100.081, 100.111, 100.141, 101.251, 101.252, 103.021, 103.022, 103.091, 105.031, 105.041, 105.051, 106.07, and 106.29, F.S.; revising and deleting references, to conform; amending s. 106.08, F.S.; increasing campaign contribution limits; providing penalties; revising and deleting references to the primary elections, to conform; creating s. 98.0977, F.S.; providing for development of a statewide voter registration database; providing for update of information in the database; requiring quarterly progress reports to the Legislature until fully implemented; providing for an operational date; providing for an appropriation; creating s. 98.0979, F.S.; providing that voter registration information is public except for information made confidential by law; providing requirements for securing copies of any voter registration information; creating s. 101.048, F.S.; authorizing and providing requirements for provisional ballots, including the canvassing thereof; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; authorizing the voting of a provisional ballot if eligibility cannot be determined; amending s. 101.5614, F.S., relating to the canvass of returns; providing for provisional ballots, to conform; providing a penalty for releasing the results of an election prior to the closing of the polls; amending s. 101.68, F.S.; allowing the processing of absentee ballots through electronic tabulating equipment prior to election day; prohibiting the release of the results of a canvassing or processing of absentee ballots prior to the closing of the polls; providing a penalty; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; revising membership of the Elections Canvassing Commission; revising provisions for filling vacancies on the commission; amending s. 102.112, F.S.; revising the deadline for submission of county returns to the Department of State following the general election; eliminating reference to the second primary election; providing that late returns shall be ignored; providing an exception due to an emergency; eliminating provisions establishing fines for late reporting; amending s. 102.141, F.S.; clarifying canvassing procedures relating to election recounts; providing conditions under which a manual recount is required; amending s. 102.166, F.S.; modifying protest procedures and deadlines for requesting a manual recount; providing for the use of certain standards for determining voter intent; amending s. 102.167, F.S.; providing the form of protest of election returns with the Elections Canvassing Commission; amending s. 102.168, F.S.; providing that an unsuccessful candidate is the proper party to bring an election contest for certain elections; providing that any elector is the proper party to bring an election contest for elections involving a referendum; clarifying the circumstances under which a person may bring an election contest; providing that the Elections Canvassing Commission is a defendant in certain contested elections; removing certain authority of circuit judges to fashion orders relating to contests; amending s. 99.096, F.S.; providing conditions for automatic ballot access for minor party candidates without having to pay a filing fee or qualify by the alternative method, if otherwise qualified; amending s. 106.31, F.S.; providing legislative intent with respect to public campaign financing; amending s. 106.33, F.S.; prohibiting the use of contributions from individuals who are not state residents to meet the eligibility threshold for receiving election campaign financing; amending s. 106.35, F.S.; providing that certain contributions may not be used as qualifying matching contributions; repealing s. 98.0975, F.S., relating to list maintenance of the central voter file; amending s. 98.255, F.S.; providing for nonpartisan voter education; requiring the supervisors of elections to report to the Division of Elections on voter-education programs; requiring the division to report to the Legislature on the effectiveness of voter-education programs; creating s. 102.014, F.S.; providing for pollworker recruitment and training; repealing s. 102.012(8) and (9), F.S., relating to pollworker training; amending s. 102.021, F.S., revising a cross reference, to conform; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 97.021, F.S.; revising certain definitions applicable to the Florida Election Code to remove provisions relating to voting systems that use voting machines or paper ballots and to restrict such definitions to electronic or electromechanical voting systems; amending s. 101.151, F.S.; providing general specifications for ballots; deleting provisions specific to certain elections and voting systems; requiring the Department of State to adopt rules prescribing uniform primary and general election ballots for each certified voting system; amending s. 101.5603, F.S.; revising definitions relating to the Electronic Voting Systems Act to specify touchscreen voting systems as electronic or electromechanical voting systems and to remove provisions relating to voting machines; amending s. 101.5604, F.S.; requiring any electronic or electromechanical voting system used by a county to be a precinct tabulation system; amending s. 101.5606, F.S.; providing additional requirements for electronic or electromechanical voting systems; creating s. 101.56062, F.S.; establishing a loan program for counties to purchase voting equipment; providing the terms and conditions of such loans; providing for a priority system based on county need; providing penalties for default or delinquent payments; providing for suspension of payment of principal and penalties under certain financial emergency conditions; providing rulemaking authority; amending s. 101.5607, F.S.; conforming a cross reference; amending s. 101.5608, F.S.; providing procedures to be followed after a vote tabulation device rejects a ballot; amending s. 101.5612, F.S.; providing standards and requirements for the testing of electronic or electromechanical voting systems; providing recordkeeping requirements; amending s. 101.5614, F.S.; removing references to the canvassing of returns at central or regional locations, to conform; revising requirements for the transmission of precinct returns; providing for adoption of security guidelines by rule; amending s. 101.292, F.S.; modifying the definition of "voting equipment," applicable to purchasing requirements, to remove provisions relating to voting machines; amending s. 104.30, F.S.; prohibiting any unauthorized person from unlawfully possessing any voting system or component thereof; prohibiting any person from tampering or attempting to tamper with or destroying any voting system or

equipment with the intention of interfering with the election process or the results thereof; providing penalties; removing references to voting machines, to conform; amending ss. 98.471, 100.071, 100.361, 101.21, 101.24, 101.34, 101.341, 101.43, 101.49, 101.58, 101.64, 101.71, 101.75, 102.012, 102.141, 103.101, and 138.05, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots and revising references to conform to changes made by the act; repealing ss. 101.141, 101.181, 101.191, and 101.5609, F.S., relating to the specifications and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, F.S., relating to voting systems that use voting machines or paper ballots, to conform; requiring the Division of Elections to provide the Governor and Legislature a progress report on the upgrading of county voting systems; providing that funding for implementation of the act shall be as provided for in the General Appropriations Act; providing severability; providing effective dates.

Rep. Goodlette moved the adoption of the amendment, which was adopted.

On motion by Rep. Goodlette, the rules were waived and CS for SB 1118, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 209

Yeas—71

The Chair	Bowen	Gibson	Mayfield
Alexander	Brown	Goodlette	Maygarden
Allen	Brummer	Green	Melvin
Andrews	Byrd	Haridopolos	Miller
Argenziano	Cantens	Harrell	Needelman
Arza	Carassas	Harrington	Negron
Attkisson	Clarke	Hart	Paul
Atwater	Davis	Hogan	Pickens
Baker	Detert	Johnson	Ross
Ball	Diaz de la Portilla	Jordan	Rubio
Baxley	Diaz-Balart	Kallinger	Russell
Bean	Dockery	Kilmer	Simmons
Bennett	Farkas	Kottkamp	Sorensen
Bense	Fasano	Kravitz	Spratt
Benson	Fiorentino	Littlefield	Trovillion
Berfield	Flanagan	Lynn	Wallace
Betancourt	Garcia	Mack	Waters
Bilirakis	Gardiner	Mahon	

Nays—37

Ausley	Greenstein	Lee	Slosberg
Bendross-Mindingall	Harper	Lerner	Smith
Bucher	Henriquez	Machek	Sobel
Bullard	Heyman	McGriff	Weissman
Cusack	Holloway	Rich	Wiles
Fields	Jennings	Richardson	Wilson
Frankel	Joyner	Ritter	Wishner
Gannon	Justice	Romeo	
Gelber	Kendrick	Ryan	
Gottlieb	Kosmas	Seiler	

Votes after roll call:
Yeas—Murman, Kyle

So the bill passed, as amended. On motion by Rep. Goodlette, the House requested the Senate to concur, or failing to concur, requested the Senate to appoint a committee of conference to meet with a like committee appointed by the House. The action, together with the bill and amendment thereto, was immediately certified to the Senate.

Rep. Goodlette moved that the House take up HB 1519, which was agreed to.

HB 1519—A bill to be entitled An act relating to disability services; creating s. 402.74, F.S; creating the Clearinghouse on Disability Information Office in the Department of Management Services; requiring the office to establish a statewide toll-free disability information and referral system; creating an advisory council; providing qualifications for staff of the office; providing for the sharing of information by state agencies; providing for an annual report; providing an effective date.

—was read the second time by title.

REPRESENTATIVE BALL IN THE CHAIR

The Committee on State Administration offered the following:

(Amendment Bar Code: 904451)

Amendment 1—On page 3, line 28,
remove from the bill: *TTY*

and insert in lieu thereof: *Telecommunication Devices for the Deaf*

Rep. Brummer moved the adoption of the amendment, which was adopted.

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 520959)

Amendment 2—On page 8, between lines 4 and 5, of the bill

insert: *(12) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.*

Rep. Berfield moved the adoption of the amendment, which was adopted.

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 621189)

Amendment 3—On page 4, line 4
remove from the bill: *20*

and insert in lieu thereof: *19*

Rep. Berfield moved the adoption of the amendment, which was adopted.

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 113911)

Amendment 4—On page 4, lines 16 through 19
remove from the bill: all of said lines

and insert in lieu thereof:

4. Providing a forum for exchanging information between the disability community and the office regarding important changes in disability services and systems and information and referral services offered by the office;

Rep. Berfield moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 853—A bill to be entitled An act relating to Pinellas County; providing for the composition of members of the Pinellas County Tourist Development Council appointed pursuant to section 125.0104, Florida Statutes, the "Local Option Tourist Development Act"; providing a contingent effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 074719)

Amendment 1—In the title, on page 1, line 7,
remove from the bill: contingent

Rep. Carassas moved the adoption of the amendment, which was adopted.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 332383)

Amendment 2—On page 2, line 5,
remove from the bill: all of said line

and insert in lieu thereof: mandated by this act are effective October 1, 2001, and shall not cause the interruption of the

Rep. Carassas moved the adoption of the amendment, which was adopted.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 112241)

Amendment 3—On page 1, line 17 through 31
remove from the bill: all of said lines

and insert in lieu thereof: *11 members who shall be appointed by the Pinellas County Board of County Commissioners. The chair of the Pinellas County Board of County Commissioners or any other member as designated by the chair shall serve on the council. Three members of the council shall be elected municipal officials, one of whom shall be from the most populous municipality in Pinellas County, and at least one of whom shall be from among the cities of Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island. Seven members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle*

Rep. Trovillion moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 1385—A bill to be entitled An act relating to public meetings and public records; creating s. 414.106, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings held by the Department of Children and Family Services, Workforce Florida, Inc., a regional workforce board, or a local committee at which personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member is discussed; creating s. 414.295, F.S.; providing an exemption from public records requirements for personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member held by the Department of Children and Family Services, the Agency for Workforce Innovation, Workforce Florida, Inc., the Department of Management Services, the Department of Health, the Department of Revenue, the Department of Education, a regional workforce board, a local committee, or service providers under contract with any of these entities; authorizing release of such information under specified circumstances; amending s. 445.007, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings held by Workforce Florida, Inc., a regional workforce board, or a local committee at which personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member is discussed; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1379—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1471—A bill to be entitled An act relating to food service employee training; amending s. 509.049, F.S.; requiring the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to adopt rules for the administration of a food safety training certificate program for food service employees; requiring the division to review specified food safety training programs at the request of a public food service establishment operator; providing for division approval of food safety training programs; providing for training to be administered by a certified food service manager; providing an effective date.

—was read the second time by title.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 942363)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 509.049, Florida Statutes, is amended to read:

509.049 Food service employee training.—

(1) The division shall adopt, by rule, minimum food safety protection standards for the training of all food service employees who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this chapter. These standards shall not include an examination, but shall provide for a food safety training certificate program for food service employees to be administered by a private nonprofit provider chosen by the division.

(2) The division shall issue a request for competitive sealed proposals which includes a statement of the contractual services sought and all terms and conditions applicable to the contract. The division shall award the contract to the provider whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals. The division shall contract with a provider on a 4-year basis and is authorized to promulgate by rule a per employee fee to cover the contracted price for the program administered by the provider. In making its selection, the division shall consider factors including, but not limited to, the experience and history of the provider in representing the food service industry, the provider's demonstrated commitment to food safety, and its ability to provide a statewide program with industry support and participation.

(3) Any food safety training program established and administered to food handler employees utilized at a public food service establishment prior to *July 1, 2000, may* ~~the effective date of this act shall~~ be submitted by the operator *or the provider* to the division for its review and approval. If the food safety training program is *found to be in substantial compliance with the division's required criteria and is* approved by the division, nothing in this section shall preclude any other operator of a

food service establishment from also utilizing the approved program or require the employees of any operator to receive training from or pay a fee to the division's contracted provider. Review and approval by the division of a program or programs under this section shall include, but *need* not be limited to, the minimum food safety standards adopted by the division in accordance with this section.

(4) Approval of a program is subject to the provider's continued compliance with the division's minimum program standards. The division may conduct random audits of approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with this section. The division may revoke a program's approval if it finds a program to be in noncompliance with this section or the rules adopted under this section.

(5) It shall be the duty of the licensee of the public food service establishment to provide training in accordance with the described rule to all employees under the licensee's supervision or control. The licensee may designate a certified food service manager to perform this function as an agent of the licensee. ~~Food service employees must receive certification pursuant to this section by January 1, 2001.~~ Food service employees ~~hired after November 1, 2000,~~ must receive certification within 60 days after employment. Certification pursuant to this section shall remain valid for 3 years.

(6) The division may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this section. The rules may require:

(a) The use of application forms, which may require, but need not be limited to, the identification of training components of the program and an applicant affidavit attesting to the accuracy of the information provided in the application;

(b) Providers to maintain information concerning establishments where they provide training pursuant to this section;

(c) Specific food-safety-related-subject-matter training program components;

(d) The licensee to be responsible for providing proof of employee training, and the division may request production of such proof upon inspection of the establishment.

Section 2. *Subsection (6) of section 561.32, Florida Statutes, is repealed.*

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2-15,
remove from the title of the bill:

and insert in lieu thereof: An act relating to public food service establishments and alcoholic beverage licenses; amending s. 509.049, F.S.; revising provisions related to food service employee training programs; providing for audits and revocation of training program approval; providing rulemaking authority; repealing s. 561.32(6), F.S., relating to special transfer restrictions and transfer fees pertaining to alcoholic beverage licenses issued after a specified date; providing an effective date.

Rep. Alexander moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

HB 941—A bill to be entitled An act relating to the City of Jacksonville; amending chapter 92-341, Laws of Florida, as amended; clarifying exemptions provided in the Charter of the City of Jacksonville to the civil service status of designated positions; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1785—A bill to be entitled An act relating to the City of Satellite Beach, Brevard County; amending s. 1 of the city's charter; redefining the boundaries of the city; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 873—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending section 16 of chapter 24981, Laws of Florida, as amended, relating to the West Palm Beach Police Pension Fund; revising the provision for age and service requirements for retirement; revising the provisions for early retirement; revising the provisions of the share accounts related to death of a member; revising the provisions of the deferred retirement option plan; revising the death benefit provisions; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 281—A bill to be entitled An act relating to financing for private not-for-profit institutions of higher education; creating the "Higher Educational Facilities Financing Act"; providing legislative findings and declarations; providing definitions; creating the Higher Educational Facilities Financing Authority; providing for membership of the authority; providing for its powers; providing criteria for and covenants relating to the authorization of the issuance of notes and revenue bonds not obligating the full faith and credit of the authority, any municipality, the state, or any political subdivision thereof; providing for loans from revenue bonds to participating institutions; providing for the validation of revenue bonds; providing for trust funds and remedies of bondholders; providing for a tax exemption; providing for agreement of the state; providing other powers and authorities incident thereto; requiring reports and audits; amending s. 196.012, F.S.; providing that institutions funded by the Higher Educational Facilities Financing Act are educational institutions for purposes of state taxation; providing an effective date.

—was read the second time by title.

The Council for Lifelong Learning offered the following:

(Amendment Bar Code: 915523)

Amendment 1—On page 13, lines 23 through 26
remove from the bill: all of said lines

insert: *maturity, not exceeding 30 years from issuance, and the interest rate of the bonds, which may be a variable rate, must be payable at a specified time;*

Rep. Alexander moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 795—A bill to be entitled An act relating to the City of St. Petersburg; providing for the relief of Alfred Brinkley Roberts; authorizing and directing the City of St. Petersburg to compensate him for injuries suffered due to the negligence of an employee of the city; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 649—A bill to be entitled An act relating to law enforcement officers' disabilities; amending s. 112.18, F.S.; including county law enforcement officers within special provisions creating a presumption relating to causes of certain disabilities; providing an effective date.

—was read the second time by title.

Representative(s) Bilirakis offered the following:

(Amendment Bar Code: 024815)

Amendment 1 (with title amendment)—On page 1, line 13, through page 2, line 11,
remove from the bill: all of said lines,

and insert in lieu thereof:

112.18 Firefighters*, correctional officers,* and state *or county* law enforcement officers; special provisions relative to disability.—

(1) Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter*, correctional officer as defined in s. 943.10(2) and (3),* or state *or county* law enforcement officer caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter*, correctional officer,* or state *or county* law enforcement officer shall have successfully passed a physical examination upon entering into any such service as a firefighter*, correctional officer,* or state *or county* law enforcement officer, which examination failed to reveal any evidence of any such condition. Such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

(2) This section shall be construed to authorize the above governmental entities to negotiate policy contracts for life and disability insurance to include accidental death benefits or double indemnity coverage which shall include the presumption that any condition or impairment of health of any firefighter caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death was accidental and suffered in the line of duty, unless the contrary be shown by competent evidence.

Section 2. *The Legislature finds that a proper and legitimate state purpose is served when county law enforcement officers, correctional officers, and correctional probation officers are included in the class that benefits from the presumption that tuberculosis, heart disease, or hypertension resulting in total or partial disability or death is accidental and suffered in the line of duty unless the contrary is shown by competent evidence. Therefore, the Legislature determines and declares that this act fulfills an important state interest.*

And the title is amended as follows:

On page 1, lines 4-7,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: including county law enforcement officers, correctional officers, and correctional probation officers within special provisions creating a presumption relating to causes of certain disabilities; providing a declaration of important state interest; providing an effective date.

Rep. Bilirakis moved the adoption of the amendment.

Representative(s) Kilmer offered the following:

(Amendment Bar Code: 070393)

Amendment 1 to Amendment 1 (with title amendment)—On page 1, line 18, through page 2, line 19, of the amendment,
remove from the amendment: all of said lines,

and insert in lieu thereof:

112.18 Firefighters*, correctional officers,* and state*, county, or municipal* law enforcement officers; special provisions relative to disability.—

(1) Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter*, correctional officer as defined in s. 943.10(2) and (3),* or state*, county, or municipal* law enforcement officer caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter*, correctional officer,* or state*, county, or municipal* law enforcement officer shall have successfully passed a physical examination upon entering into any such service as a firefighter*, correctional officer,* or state*, county, or municipal* law enforcement officer, which examination failed to reveal any evidence of any such condition. Such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

(2) This section shall be construed to authorize the above governmental entities to negotiate policy contracts for life and disability insurance to include accidental death benefits or double indemnity coverage which shall include the presumption that any condition or impairment of health of any firefighter caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death was accidental and suffered in the line of duty, unless the contrary be shown by competent evidence.

Section 2. *The Legislature finds that a proper and legitimate state purpose is served when county and municipal law enforcement*

And the title is amended as follows:

On page 3, line 5, of the amendment
remove from the title of the amendment: all of said line,

and insert in lieu thereof: including county and municipal law enforcement officers,

Rep. Kilmer moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of HB 1197 on Special Orders.

HB 1197—A bill to be entitled An act relating to legislative oversight of governmental programs; amending s. 11.40, F.S.; authorizing the Legislative Auditing Committee to direct the Auditor General and the Office of Program Policy Analysis and Government Accountability to conduct audits, reviews, and examinations of certain entities; authorizing the Legislative Auditing Committee to conduct investigations; authorizing the Legislative Auditing Committee to hold hearings; amending s. 11.42, F.S.; revising the requirements to become Auditor General; transferring report requirement; revising the employment restrictions for employees of the Auditor General; exempting the Auditor General from certain provisions; amending s. 11.45, F.S.; revising definitions; providing for duties of the Auditor General; transferring certain district school board authority; transferring the requirement that a charter school provide for an annual financial audit; transferring the requirement that certain district school boards have certain financial audits; providing for authority of the Auditor General; providing for scheduling and staffing of audits conducted by the Auditor General; requiring the Legislative Auditing Committee to direct an audit of a municipality by the Auditor General under certain circumstances; authorizing a local governmental entity to request an audit by the Auditor General; transferring the requirement that the Office of Program Policy Analysis and Government Accountability maintain a schedule of performance audits; deleting the requirement that the Office of Program Policy Analysis and Government Accountability identify and comment upon certain alternatives in conducting a performance audit; transferring a report distribution requirement; transferring the annual financial auditing provisions related to local governmental entities; transferring the auditor selection procedures for local governmental entities, district school boards, and charter schools; transferring the penalty provisions for failure to file an annual financial audit; providing for Auditor General reporting requirements; transferring the penalty provisions for failure by a local governmental entity to pay for the cost of an audit by the Auditor General; transferring the Legislative Auditing Committee's authority to

conduct investigations; deleting the content required within an audit report issued by the Auditor General; deleting the requirement that an agency head must file a report; deleting a report issued by the Auditor General and the Office of Program Policy Analysis and Government Accountability; transferring the authority for district school boards and district boards of trustees of community colleges for performance audits and financial audits; amending s. 11.47, F.S.; requiring certain officers to provide the Office of Program Policy Analysis and Government Accountability with information; requiring the staff of the Office of Program Policy Analysis and Government Accountability to make proper examinations; providing criminal penalties for false reports; providing penalties for persons who fail to provide the Office of Program Policy Analysis and Government Accountability with records; amending s. 11.51, F.S.; deleting the provision that the Office of Program Policy Analysis and Government Accountability is a unit of the Auditor General; redefining the duties of the office; eliminating the provision requiring the Auditor General to provide administrative support for the office; requiring the office to maintain a schedule of examinations; providing authority to the office to examine certain programs; requiring the office to deliver preliminary findings; providing deadlines for responses to preliminary findings; providing protection for office workpapers; requiring the office to conduct followup reports; amending s. 11.511, F.S.; redefining the duties of the director of the Office of Program Policy Analysis and Government Accountability; revising employment restrictions for the office staff; providing for postponement of examinations; amending s. 11.513, F.S.; correcting cross references; transferring the authority of the Legislative Auditing Committee; transferring and rewording the authority of the director of the Office of Program Policy Analysis and Government Accountability to postpone projects; amending ss. 14.29, 20.2551, 288.1226, 320.08058, and 943.2569, F.S.; providing for audits of programs; amending s. 20.055, F.S.; transferring the review of state agencies' internal audit reports conducted by the Auditor General; providing responsibilities to agencies' inspectors general; amending s. 20.23, F.S.; requiring the Department of Transportation to implement certain recommendations made by the Office of Program Policy Analysis and Government Accountability; amending ss. 24.105, 39.202, 119.07, 195.084, 213.053, 944.719, and 948.15, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to access confidential records; amending s. 24.120, F.S.; requiring the Department of the Lottery to provide access to the facilities of the department to the Office of Program Policy Analysis and Government Accountability; amending s. 27.3455, F.S.; deleting a reporting requirement; correcting cross references; amending ss. 30.51, 116.07, 122.03, 122.08, 145.022, 145.14, 154.331, 206.60, 212.08, 290.0056, 403.864, 657.008, and 946.31, F.S.; deleting obsolete provisions; amending ss. 110.109, 216.177, 216.178, 216.292, 334.0445, and 985.311, F.S.; designating the Office of Program Policy Analysis and Government Accountability as a recipient of information; amending s. 112.313, F.S.; expanding the definition of employees subject to postemployment restrictions to include the director of the Office of Program Policy Analysis and Government Accountability; amending s. 112.324, F.S.; expanding the list of persons subject to consequences regarding a breach of public trust to include the director and staff of the Office of Program Policy Analysis and Government Accountability; amending ss. 112.63, 175.261, 185.221, 189.4035, 189.412, 189.418, 189.419, 215.94, 230.23025, and 311.07, F.S.; correcting cross references; amending s. 125.01, F.S.; deleting a requirement that the Auditor General retain county audit reports for a specific period of time; amending ss. 154.11, 253.025, and 259.041, F.S.; revising provisions related to the Auditor General; amending s. 163.356, F.S.; deleting the Auditor General from the list of entities receiving a report from a community redevelopment agency; amending s. 189.428, F.S.; revising the criteria to be utilized by a local government conducting an oversight review of a special district; amending ss. 193.074 and 196.101, F.S.; requiring the Office of Program Policy Analysis and Government Accountability to maintain confidentiality of records; amending ss. 195.096, 228.056, 228.505, 455.32, and 471.038, F.S.; revising provisions related to certain audits; amending s. 215.44, F.S.; deleting the requirement that the Auditor General annually audit the State Board of Administration; revising provisions related to an examination by the Office of Program Policy Analysis and Government Accountability; creating s. 215.86, F.S.; providing for management systems and controls for state agencies; creating s. 215.98, F.S.; providing for audits of direct-support organizations and citizen support organizations; amending ss. 229.8021, 237.40, 240.299, 240.2995, 240.331, 240.3315, 240.5285, 240.711, 250.115, 266.0018, 267.17, 288.1229, 288.809, 372.0215, 413.615, 413.87, 446.609, 944.802, 960.002, and 985.4145, F.S.; providing for audits of direct-support organizations and citizen support organizations; amending s. 218.31, F.S.; providing additional definitions; amending s. 218.32, F.S.; providing that certain entities file an audit report with the Department of Banking and Finance; correcting a cross reference; providing for the Department of Banking and Finance to prescribe the format of local governmental entities that are required to provide for certain audits; transferring the penalty provisions relating to failure of a local governmental entity to file an annual financial report with the Department of Banking and Finance; amending s. 218.33, F.S.; revising provisions related to the establishment of uniform accounting practices and procedures; amending s. 218.38, F.S.; transferring penalty provisions for failure to verify or provide information to the Division of Bond Finance within the State Board of Administration; creating s. 218.39, F.S.; providing for audits of local governmental entities, district school boards, charter schools, and charter technical career centers; providing for the format of county audits; authorizing dependent special districts to be included within the audit of a county or municipality; prohibiting an independent special district from being included within the audit of a county or municipality; providing for a management letter within each audit report; providing for discussion of the auditor's findings and recommendations; providing for a response to the auditor's findings and recommendations; requiring that a predecessor auditor of a district school board provide the Auditor General with access to the prior year's working papers; requiring certain audits to be conducted in accordance with rules adopted by the Auditor General; creating s. 218.391, F.S.; providing for auditor selection procedures; amending s. 218.415, F.S.; correcting a cross reference; transferring responsibilities of the Auditor General; transferring penalty provisions; amending s. 228.093, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to access records; requiring the Office of Program Policy Analysis and Government Accountability to maintain confidentiality of records; requiring the office to destroy personally identifiable data under certain circumstances; amending s. 230.23, F.S.; authorizing school boards to employ an internal auditor; authorizing school boards to hire independent certified public accountants; amending s. 240.214, F.S.; clarifying that accountability reports are to be designed in consultation with the Office of Program Policy Analysis and Government Accountability; amending s. 240.311, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to require and receive supplemental data; creating s. 240.3631, F.S.; authorizing district boards of trustees of community colleges to hire an independent certified public accountant to conduct audits; amending s. 240.512, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to require and receive supplemental data; providing authority to the Office of Program Policy Analysis and Government Accountability to access confidential records; requiring the office to maintain confidentiality; amending s. 240.551, F.S.; providing for audits of direct-support organizations; deleting a paragraph which provides for audits of direct-support organizations; amending ss. 240.609, 288.9517, 296.17, 296.41, 403.1826, 550.125, 601.15, and 744.708, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to examine programs; amending s. 290.015, F.S.; providing responsibilities to the Office of Program Policy Analysis and Government Accountability regarding the Florida Enterprise Zone Act of 1994; amending ss. 320.023, 320.08062, and 322.081, F.S.; deleting provisions related to audits of certain organizations; requiring annual attestations of certain organizations; transferring the Auditor General's authority to conduct audits; amending s. 339.406, F.S.; revising provisions related to audits of transportation corporations; providing the Department of Transportation and the Auditor General with the authority to conduct audits of transportation corporations; amending s. 365.171, F.S.;

revising the provision related to auditing the 911 fees; correcting a cross reference; amending s. 373.45926, F.S.; replacing certain terms; amending s. 373.507, F.S.; deleting an obsolete provision; correcting a cross reference; providing for the distribution of audits of water management districts; amending ss. 402.73, 411.01, and 413.88, F.S.; deleting provisions related to an audit by the Auditor General; amending s. 403.8532, F.S.; replacing certain terms; amending s. 411.221, F.S.; adding reports issued by the Office of Program Policy Analysis and Government Accountability to the information considered in strategic plan revisions; amending s. 570.903, F.S.; transferring the authority for certain direct-support organizations to conduct business; providing for audits of direct-support organizations; amending s. 616.263, F.S.; providing the Auditor General with the authority to conduct audits; amending s. 943.25, F.S.; providing for the conduct of audits of the criminal justice trust fund; amending s. 944.512, F.S.; providing that certain costs are to be certified by a prosecuting attorney and an imprisoning entity and subject to review by the Auditor General; amending s. 957.07, F.S.; providing responsibilities for the Department of Corrections and the Auditor General; amending ss. 957.11 and 985.416, F.S.; transferring duties from the Auditor General to the Office of Program Policy Analysis and Government Accountability; repealing s. 11.149, F.S., relating to nonapplication of certain provisions to the Legislative Auditing Committee or the Auditor General; repealing s. 11.46, F.S., relating to accounting procedures; repealing s. 125.901(2)(e), F.S., relating to audits of independent special districts related to children's services; repealing ss. 215.56005(2)(l), 216.2815, 228.053(11), 228.082(6), 253.037(3), 288.906(2), 288.9616, 298.65, 348.69, 374.987(3), 380.510(8), 400.335, 403.1837(14), 440.49(14)(i), and 517.1204(14), F.S., relating to authority of the Auditor General to conduct audits; repealing s. 218.415(23), F.S., relating to local government investments; repealing s. 265.607, F.S., relating to audits of local cultural sponsoring organizations; repealing s. 331.419(3), F.S.; deleting obsolete provisions; repealing s. 339.413, F.S., relating to audits of transportation corporations; repealing s. 373.589, F.S., relating to audits of water management districts; repealing s. 388.331, F.S., relating to audits of mosquito control districts and mosquito control programs; repealing ss. 570.912, 581.195, 589.013, and 590.612, F.S., relating to direct support organizations within the Department of Agriculture; providing an effective date.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 774641)

Amendment 1—On page 18, lines 14-26,
remove from the bill: all of said lines,

and insert in lieu thereof:

(c) Annually conduct financial audits of all universities and district boards of trustees of community colleges.

(d) Annually conduct financial audits of the accounts and records of all district school boards in counties with populations of fewer than 125,000, according to the most recent federal decennial statewide census.

(e) Annually conduct an audit of the Wireless Emergency Telephone System Fund as described in s. 365.173.

(f) At least every 2 years, conduct operational audits of the accounts and records of state agencies and universities. In connection with these audits, the Auditor General shall give appropriate consideration to reports issued by state agencies' inspectors general or universities' inspectors general and the resolution of findings therein.

Rep. Berfield moved the adoption of the amendment, which was adopted.

The Committee on State Administration offered the following:

(Amendment Bar Code: 645699)

Amendment 2 (with title amendment)—On page 48, line 15, through page 50, line 4,
remove from the bill: all of said lines,

and insert in lieu thereof:

(1) There is hereby created the Office of Program Policy Analysis and Government Accountability as a unit of the Office of the Auditor General appointed pursuant to s. 11.42. *The* ~~Such~~ office shall perform *independent examinations, program reviews, and other projects as provided by general law, concurrent resolution, or as directed by the Legislative Auditing Committee, and shall provide recommendations, training, or other services as may assist the Legislature* ~~program evaluation and justification reviews as required by s. 11.513 and performance audits as defined in s. 11.45 and shall contract for performance reviews of school districts pursuant to ss. 11.515 and 230.2302~~.

(2) The Office of Program Policy Analysis and Government Accountability is independent of the Auditor General appointed pursuant to s. 11.42 ~~and the Public Counsel appointed pursuant to s. 350.061~~ for purposes of general policies established by the Legislative Auditing Committee.

(3) The Office of Program Policy Analysis and Government Accountability shall maintain a schedule of examinations of state programs.

(4)~~(3)~~ The ~~Auditor General shall provide administrative support and services to the~~ Office of Program Policy Analysis and Government Accountability *is authorized to examine all entities and records listed in s. 11.45(3)(a)* ~~to the extent required by the Legislative Auditing Committee~~.

(5) At the conclusion of an examination, the designated representative of the director of the Office of Program Policy Analysis and Government Accountability shall discuss the examination with the official whose office is examined and submit to that official the Office of Program Policy Analysis and Government Accountability's preliminary findings. If the official is not available for receipt of the preliminary findings, clearly designated as such, delivery thereof is presumed to be made when it is delivered to his or her office. Whenever necessary, the Office of Program Policy Analysis and Government Accountability may request the official to submit his or her written statement of explanation or rebuttal within 15 days after the receipt of the findings. If the response time is not requested to be within 15 days, the official shall submit his or her response within 30 days after receipt of the preliminary findings.

And the title is amended as follows:

On page 3, lines 11-24,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: with records; amending s. 11.51, F.S.; redefining the duties of the office; eliminating the provision requiring the Auditor General to provide administrative support for the office; requiring the office to maintain a schedule of examinations; providing authority to the office to examine certain programs; requiring the office to deliver preliminary findings; providing deadlines for responses to preliminary findings; requiring the office to

Rep. Berfield moved the adoption of the amendment, which was adopted.

Representative(s) Berfield offered the following:

(Amendment Bar Code: 280089)

Amendment 3 (with title amendment)—On page 59, lines 6-29,
remove from the bill: all of said lines,

And the title is amended as follows:

On page 4, lines 12-16,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: agencies' inspectors general;

Rep. Berfield moved the adoption of the amendment, which was adopted.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 962469)

Amendment 4 (with title amendment)—On page 71, line 6, of the bill

insert:

Section 26. Paragraph (b) of subsection (7) of s. 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(7) AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.—Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from time to time pursuant to paragraph (4)(d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the later of:

(a) Retirement of all bonds issued by the county for financing the same; or

(b) The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum. However, nothing herein shall preclude that county from amending the ordinance extending the tax to the extent that the board of the county determines to be necessary to provide funds with which to operate, maintain, repair, or renew and replace a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum or from enacting an ordinance *which shall take effect without referendum approval* pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

(Renumber subsequent sections)

And the title is amended as follows:

On page 5, line 21

after the word "time;" insert: amending s. 125.0104, F.S.; providing for reimposition of a tourist development tax without referendum approval under certain conditions;

Rep. Berfield moved the adoption of the amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 292465)

Amendment 5—On page 100, lines 3-7,
remove from the bill: all of said line,

and insert in lieu thereof:

(2) The county audit report shall be a single document that includes a financial audit of the county as a whole and, for each county agency other than a board of county commissioners, an audit of its financial accounts and records, including reports on compliance and internal control, management letters, and financial statements as required by rules adopted by the Auditor General. In addition to such requirements, if a board of county commissioners elects to have a separate audit of its financial accounts and records in the manner required by rules adopted by the Auditor General for other county agencies, such separate audit shall be included in the county audit report.

Rep. Berfield moved the adoption of the amendment, which was adopted.

On motion by Rep. Sorensen, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 853581)

Amendment 6 (with title amendment)—On page 171, between lines 29 and 30, of the bill

insert:

Section 132. Subsection (2) of section 189.4042, Florida Statutes, is amended to read:

189.4042 Merger and dissolution procedures.—

(2) The merger or dissolution of an independent special district or a dependent district created and operating pursuant to a special act may only be effectuated by the Legislature unless otherwise provided by general law. If an *inactive* independent district was created by a county or municipality *through a referendum*, the county or municipality that created the district may ~~merge or~~ dissolve the district *after publishing notice as described in s. 189.4044. If an independent district was created by a county or municipality by referendum or any other procedure, the county or municipality that created the district may merge or dissolve the district* pursuant to the same procedure by which the independent district was created.~~;~~ However, for any ~~such~~ independent district that has ad valorem taxation powers, the same procedure required to grant such independent district ad valorem taxation powers shall also be required to dissolve or merge the district.

Section 133. Paragraph (b) of subsection (1) of section 189.4044, Florida Statutes, is amended to read:

189.4044 Special procedures for inactive districts.—

(1) The department shall declare inactive any special district in this state by filing a report with the Speaker of the House of Representatives and the President of the Senate which shows that such special district is no longer active. The inactive status of the special district must be based upon a finding:

(b) That a notice of the proposed declaration has been published once a week for *2* 4 weeks in a newspaper of general circulation within the county or municipality wherein the territory of the special district is located, stating the name of said special district, the law under which it was organized and operating, a general description of the territory included in said special district, and stating that any objections to the proposed declaration or to any claims against the assets of said special district shall be filed not later than 60 days following the date of last publication with the department; and

Section 134. Subsections (3), (4) and (6) of s. 189.418, Florida Statutes, are amended and subsection (5) of s. 189.418, Florida Statutes, is created to read:

189.418 Reports; *budgets;* audits.—

(1) When a new special district is created, the district must forward to the department, within 30 days after the adoption of the special act, rule, ordinance, resolution, or other document that provides for the creation of the district, a copy of the document. In addition to the document or documents that create the district, the district must also submit a map of the district, showing any municipal boundaries that cross the district's boundaries, and any county lines if the district is located in more than one county. The department must notify the local government or other entity and the district within 30 days after receipt of the document or documents that create the district as to whether the district has been determined to be dependent or independent.

(2) Any amendment, modification, or update of the document by which the district was created, including changes in boundaries, must

be filed with the department within 30 days after adoption. The department may initiate proceedings against special districts as provided in ss. 189.421 and 189.422 for failure to file the information required by this subsection.

(3) The governing body of each special district shall adopt a budget by resolution each fiscal year. The total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total of appropriations for expenditures and reserves. The adopted budget must regulate expenditures of the special district, and it is unlawful for any officer of a special district to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations.

~~(3) Each special district shall file with the local general-purpose governing authority or authorities within the geographic boundaries of the district a copy of:~~

~~(a) The reports required by ss. 218.32 and 218.34;~~

~~(b) A complete description of all new bonds as provided in s. 218.38(1); and~~

~~(c) A map of the district and any subsequent boundary changes.~~

(4) The proposed budget of a dependent special district shall be presented in accordance with generally accepted accounting principles, contained within the general budget of the local governing authority, and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately.

~~(4) Each special district shall make provisions for an annual independent postaudit of its financial records as provided in s. 11.45. A copy of the audit shall be filed with the local governing authority or authorities.~~

(5) A local governing authority may, in its discretion, review the budget or tax levy of any special district located solely within its boundaries.

(6) All reports or information required to be filed with a local governing authority under ss. ~~11.45,~~ 189.416, 189.417, 218.32, and *218.39* ~~218.34 and~~ this section shall:

(a) When the local governing authority is a county, be filed with the clerk of the board of county commissioners.

(b) When the district is a multicounty district, be filed with the clerk of the county commission in each county.

(c) When the local governing authority is a municipality, be filed at the place designated by the municipal governing body.

Section 135. Section 189.419, Florida Statutes, is amended to read:

189.419 Effect of failure to file certain reports *or information*.—

(1) If a special district fails to file the reports *or information* required under ~~s. 11.45~~ s. 189.415, s. 189.416, s. 189.417, s. 189.418, s. 218.32, or *s. 218.39* ~~s. 218.34~~ and a description of all new bonds as provided in s. 218.38(1) with the local governing authority, the person authorized to receive and read the reports *or information* shall notify the district's registered agent and the appropriate local governing authority or authorities. At any time, the governing authority may grant an extension of time for filing the required reports *or information*, except that an extension may not exceed 30 days.

(2) If at any time the local governing authority or authorities or the board of county commissioners determines that there has been an unjustified failure to file the reports *or information* described in subsection (1), it may petition the department to initiate proceedings against the special district in the manner provided in s. 189.421.

(3) If a special district fails to file the reports *or information* required under~~s. 11.45,~~ s. 218.32, ~~s. 218.34, or~~s. 218.38*, or s. 218.39* with the appropriate state agency, the agency shall notify the department, and the department may initiate proceedings against the special district in the manner provided in s. 189.421 or assess fines of not more than $25, with an aggregate total not to exceed $50, when formal inquiries do not resolve the noncompliance.

Section 136. Section 189.429, Florida Statutes, is amended to read:

189.429 Codification.—

(1) Each district, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.418(2).

(2) The reenactment of existing law under this section shall not be construed as a grant of additional authority nor to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this section shall continue to apply.

(3) The reenactment of existing law under this section shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law under this section shall be construed to affect the ability of any district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

Section 137. Section 218.34, Florida Statutes, is repealed.

And the title is amended as follows:

On page 11, line 26,
remove from the title of the bill: all of said line

and insert in lieu thereof: Agriculture; amending s. 189.4042, F.S.; providing that an inactive independent special district that was created by a county or municipality through a referendum may be dissolved by the county or municipality after publication of notice as required for the declaration of the inactive status of a special district; amending s. 189.4044, F.S.; reducing the number of weeks such notice of declaration of inactive status must be published; amending s. 189.418, F.S.; providing that a dependent special district may only be budgeted separately with concurrence of the local governing authority upon which said dependent special district is dependent; deleting a requirement that the proposed budget of an independent special district located in one county be filed with the county; deleting requirements for each special district to file certain reports, information, and audits with the local governing authority; amending s. 189.419, F.S., to conform; amending s. 189.429, F.S.; providing the effect of the reenactment of existing law pursuant to the required codification of a special district charter; repealing s. 218.34, F.S.; providing an effective date.

Rep. Sorensen moved the adoption of the amendment, which was adopted.

On motion by Rep. Sorensen, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 782231)

Amendment 7—On page 77, line 3 through page 78, line 10,
remove from the bill: all of said lines

Rep. Sorensen moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 1263 on Special Orders.

CS/HB 1263—A bill to be entitled An act relating to mining; amending s. 378.035, F.S.; reserving certain funds in the Nonmandatory Land Reclamation Trust Fund for use by the Department of Environmental Protection for reclaiming lands; authorizing the department to use funds from the trust fund for the purpose of closing certain abandoned phosphogypsum stack systems; limiting the period of operation of the program; requiring the Bureau of Mine Reclamation to review the sufficiency of the trust fund to support certain objectives and make reports; amending s. 378.601, F.S.; removing limitations on an exemption from required development of regional impact review for certain heavy mineral mining operations; amending s. 403.4154, F.S.; defining the terms "phosphogypsum stack system" and "process wastewater"; authorizing the Department of Environmental Protection to take action to abate or reduce any imminent hazard caused by a phosphogypsum stack system; requiring the department to recover moneys from the owner or operator of the system; providing for attorney's fees and costs; authorizing the department to impose a lien for the recovery of such moneys; imposing certain fees upon an owner or operator who has not demonstrated financial responsibility; providing for the refund of the fee upon closure of the phosphogypsum stack; authorizing the department to expend moneys from the Nonmandatory Land Reclamation Trust Fund to close abandoned phosphogypsum stack systems; providing for a lien for the recovery of such moneys; amending s. 403.4155, F.S.; requiring the department to review certain rules and determine the adequacy of the rules; providing an appropriation; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of HB 25 on Special Orders.

HB 25—A bill to be entitled An act relating to offenses against children; amending s. 787.025, F.S.; revising provisions to prohibit certain previously convicted offenders from intentionally luring or enticing, or attempting to lure or entice, a child under age 15 into a structure, dwelling, or conveyance without consent of parent or legal guardian; providing penalties; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 840407)

Amendment 1 (with title amendment)—On page 2, between lines 11 and 12 of the bill

insert:

Section 2. Present paragraph (d) of subsection (1) of section 800.04, Florida Statutes, is redesignated as paragraph (e) and a new paragraph (d) is added to that section to read:

800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.—

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

(d) "Presence" means that the victim of an act in violation of this section is physically present where and when the act occurs. The term does not mean that the victim must actually see or have sensory awareness of the act.

And the title is amended as follows:

On page 1, line 9, after the second semicolon

insert: amending s. 800.04, F.S.; defining the term "presence";

Rep. Fiorentino moved the adoption of the amendment, which was adopted.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 145397)

Amendment 2 (with title amendment)—On page 1, line 23
remove from the bill: delete said line

and insert in lieu thereof: *child's parent or legal guardian, or who intentionally lures or entices, or attempts to lure or entice, a child under the age of 15 away from the child's parent or legal guardian without the consent of the child's parent or legal guardian,* ~~for other than a lawful~~

And the title is amended as follows:

On page 1, line 9,
remove from the title of the bill: said line

and insert in lieu thereof: legal guardian, or from intentionally luring or enticing, or attempting to lure or entice the child away from the child's parent or legal guardian; providing penalties; providing

Rep. Fiorentino moved the adoption of the amendment, which was adopted.

On motion by Rep. Fiorentino, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Crow and Fiorentino offered the following:

(Amendment Bar Code: 122015)

Amendment 3 (with title amendment)—On page 2, between lines 11 and 12, of the bill

insert:

Section 2. Paragraph (a) of subsection (7) of section 947.1405, Florida Statutes, is amended to read:

947.1405 Conditional release program.—

(7)(a) Any inmate who is convicted of a crime committed on or after October 1, 1995, or who has been previously convicted of a crime committed on or after October 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is subject to conditional release supervision, shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

1. A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and such alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

2. If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, *school bus stop,* or other place where children regularly congregate.

3. Active participation in and successful completion of a sex offender treatment program with therapists specifically trained to treat sex offenders, at the releasee's own expense. If a specially trained therapist is not available within a 50-mile radius of the releasee's residence, the offender shall participate in other appropriate therapy.

4. A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

5. If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the commission without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the commission.

6. If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or

other place where children regularly congregate, as prescribed by the commission.

7. Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

8. A requirement that the releasee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA database.

9. A requirement that the releasee make restitution to the victim, as determined by the sentencing court or the commission, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

10. Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

Section 3. Section 794.07, Florida Statutes, is created to read:

794.07 Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 for offenses which occur on or after October 1, 2001.

Section 4. Section 794.0701, Florida Statutes, is created to read:

794.0701 Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply retroactively to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 regardless of when the offense occurred.

And the title is amended as follows:

On page 1, line 9,

after "penalties;" insert: amending s. 947.1405, F.S.; prohibiting sexual offenders subject to conditional release supervision from living within a specified distance of certain places where children congregate; creating ss. 794.07 and 794.0701, F.S.; prohibiting persons convicted of certain sex crimes from residing within 1,000 feet of a school, day care center, park, or playground; providing penalties; providing for application;

Rep. Fiorentino moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 1819 on Special Orders.

CS/HB 1819—A bill to be entitled An act relating to insurance and illegal use of public records; amending s. 119.10, F.S.; providing a criminal penalty for use of certain report information for commercial solicitation; creating s. 456.0375, F.S.; providing a definition; requiring registration of certain clinics; providing requirements; requiring medical directors for certain clinics; providing duties and responsibilities of medical directors; authorizing the Department of Insurance to adopt rules for certain purposes; providing for enforcement; amending s. 626.989, F.S.; clarifying immunity from civil actions provisions; amending s. 627.732, F.S.; providing a definition; amending s. 627.736, F.S.; revising provisions relating to personal injury protection benefits; revising provisions for charges for treatments; providing for electronic access to certain information under certain circumstances; prohibiting compilation of and retention of such information; providing presuit notice requirements; providing for civil actions against persons convicted of fraud; amending s. 627.739, F.S.; providing limitations on certain charges by providers; amending s. 817.234, F.S.; prohibiting solicitation of specific persons involved in motor vehicle crashes; specifying certain charges as unlawful and unenforceable; amending s. 324.021, F.S.; correcting a cross reference; providing an appropriation; providing effective dates.

—was read the second time by title.

Representative(s) Waters, Brown, Wiles, McGriff, and Simmons offered the following:

(Amendment Bar Code: 160207)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Legislative findings.—The Legislature finds that the Florida Motor Vehicle No-Fault Law is intended to deliver medically necessary and appropriate medical care quickly and without regard to fault, and without undue litigation or other associated costs. The Legislature further finds that this intent has been frustrated at significant cost and harm to consumers by, among other things, fraud, medically inappropriate over-utilization of treatments and diagnostic services, inflated charges, and other practices on the part of a small number of health care providers and unregulated health care clinics, entrepreneurs, and attorneys. Many of these practices are described in the second interim report of the Fifteenth Statewide Grand Jury entitled "Report on Insurance Fraud Related to Personal Injury Protection." The Legislature hereby adopts and incorporates in this section by reference as findings the entirety of this Grand Jury report. The Legislature further finds insurance fraud related to personal injury protection takes many forms, including, but not limited to, illegal solicitation of accident victims; brokering patients among doctors, lawyers, and diagnostic facilities; unnecessary medical treatment of accident victims billed to insurers by clinics; billing of insurers by clinics for services not rendered; the intentional overuse or misuse of legitimate diagnostic tests; inflated charges for diagnostic tests or procedures arranged through brokers; and filing fraudulent motor vehicle tort lawsuits. As a result, the Legislature declares it necessary, among other things, to increase the punishment for certain offenses related to solicitation of accident victims and use of police reports, register certain clinics; subject certain diagnostic tests to maximum reimbursement allowances; prohibit the brokering of magnetic resonance imaging services; allow providers and insurers additional time to bill and pay claims in certain situations; require notification of insurers prior to initiating litigation for an overdue claim for benefits;*

and provide insurers with a civil cause of action for insurance fraud. The Legislature further declares the problem of fraud addressed in the Grand Jury report and in this act and matters connected therewith are matters of great public interest and importance to public health, safety, and welfare, and that the specific provisions of this act at the least-restrictive reasonable means by which to solve these problems.

Section 2. Subsection (3) is added to section 119.10, Florida Statutes, to read:

119.10 Violation of chapter; penalties.—

(3) Any person who willingly and knowingly violates s. 119.105 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Effective October 1, 2001, section 456.0375, Florida Statutes, is created to read:

456.0375 Registration of certain clinics; requirements; discipline; exemptions.—

(1)(a) As used in this section, the term "clinic" means a business operating in a single structure or facility, or in a group of adjacent structures or facilities operating under the same business name or management, at which health care services are provided to individuals and which tender charges for reimbursement for such services.

(b) For purposes of this section, the term "clinic" does not include and the registration requirements herein do not apply to:

1. Entities licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.

2. Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

3. Sole proprietorships, group practices, partnerships, or corporations that provide health care services by licensed health care practitioners pursuant to chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484, 486, 490, 491, or parts I, III, X, XIII, or XIV of chapter 468, or s. 464.012, which are wholly owned by licensed health care practitioners or the licensed health care practitioner and the spouse, parent, or child of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, no health care practitioner may supervise services beyond the scope of the practitioner's license.

(2)(a) Every clinic, as defined in paragraph (1)(a), must register, and must at all times maintain a valid registration, with the Department of Health. Each clinic location shall be registered separately even though operated under the same business name or management, and each clinic shall appoint a medical director or clinical director.

(b) The department shall adopt rules necessary to implement the registration program, including rules establishing the specific registration procedures, forms, and fees. Registration fees must be reasonably calculated to cover the cost of registration and must be of such amount that the total fees collected do not exceed the cost of administering and enforcing compliance with this section. Registration may be conducted electronically. The registration program must require:

1. The clinic to file the registration form with the department within 60 days after the effective date of this section or prior to the inception of operation. The registration expires automatically 2 years after its date of issuance and must be renewed biennially.

2. The registration form to contain the name, residence and business address, phone number, and license number of the medical director or clinical director for the clinic.

3. The clinic to display the registration certificate in a conspicuous location within the clinic readily visible to all patients.

(3)(a) Each clinic must employ or contract with a physician maintaining a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461 to serve as the medical director. However, if the clinic is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a health care practitioner licensed under that chapter to serve as a clinical director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinical director if the services provided at the clinic are beyond the scope of that practitioner's license.

(b) The medical director or clinical director shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinical director shall:

1. Have signs identifying the medical director or clinical director posted in a conspicuous location within the clinic readily visible to all patients.

2. Ensure that all practitioners providing health care services or supplies to patients maintain a current active and unencumbered Florida license.

3. Review any patient referral contracts or agreements executed by the clinic.

4. Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

5. Serve as the clinic records holder as defined in s. 456.057.

6. Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and rules adopted thereunder.

7. Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director shall take immediate corrective action.

(c) Any contract to serve as a medical director or a clinical director entered into or renewed by a physician or a licensed health care practitioner in violation of this section is void as contrary to public policy. This section shall apply to contracts entered into or renewed on or after October 1, 2001.

(d) The department, in consultation with the boards, shall adopt rules specifying limitations on the number of registered clinics and licensees for which a medical director or a clinical director may assume responsibility for purposes of this section. In determining the quality of supervision a medical director or a clinical director can provide, the department shall consider the number of clinic employees, clinic location, and services provided by the clinic.

(4)(a) All charges or reimbursement claims made by or on behalf of a clinic that is required to be registered under this section, but that is not so registered, are unlawful charges and therefore are noncompensable and unenforceable.

(b) Any person establishing, operating, or managing an unregistered clinic otherwise required to be registered under this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any licensed health care practitioner who violates this section is subject to discipline in accordance with chapter 456 and the respective practice act.

(d) The department shall revoke the registration of any clinic registered under this section for operating in violation of the requirements of this section or the rules adopted by the department.

(e) The department shall investigate allegations of noncompliance with this section and the rules adopted pursuant to this section.

Section 4. Paragraph (c) of subsection (4) of section 626.989, Florida Statutes, is amended to read:

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(4)

(c) In the absence of fraud or bad faith, a person is not subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports, without malice, or furnishing other information, without malice, required by this section or required by the department or division under the authority granted in this section, and no civil cause of action of any nature shall arise against such person:

1. For any information relating to suspected fraudulent insurance acts *or persons suspected of engaging in such acts* furnished to or received from law enforcement officials, their agents, or employees;

2. For any information relating to suspected fraudulent insurance acts *or persons suspected of engaging in such acts* furnished to or received from other persons subject to the provisions of this chapter; ~~or~~

3. For any such information furnished in reports to the department, *the* division, the National Insurance Crime Bureau, ~~or~~ the National Association of Insurance Commissioners*, or any local, state, or federal enforcement officials or their agents or employees; or*

4. For other actions taken in cooperation with any of the agencies or individuals specified in this paragraph in the lawful investigation of suspected fraudulent insurance acts.

Section 5. Section 627.732, Florida Statutes, is amended to read:

627.732 Definitions.—As used in ss. 627.730-627.7405*, the term*:

(1) "Broker" means any person not possessing a license under chapter 395, chapter 400, chapter 458, chapter 459, chapter 460, chapter 461, or chapter 641 who charges or receives compensation for any use of medical equipment and is not the 100-percent owner or the 100-percent lessee of such equipment. For purposes of this section, such owner or lessee may be an individual, a corporation, a partnership, or any other entity and any of its 100-percent-owned affiliates and subsidiaries. For purposes of this subsection, the term "lessee" means a long-term lessee under a capital or operating lease, but does not include a part-time lessee. The term "broker" does not include a hospital or physician management company whose medical equipment is ancillary to the practices managed, a debt collection agency, or an entity that has contracted with the insurer to obtain a discounted rate for such services; nor does the term include a management company that has contracted to provide general management services for a licensed physician or health care facility and whose compensation is not materially affected by the usage or frequency of usage of medical equipment or an entity that is 100-percent owned by one or more hospitals or physicians. The term "broker" does not include a person that certifies, upon the request of an insurer, and establishes that the person is in fact in compliance with all parts of the so-called "space rental," "equipment rental," and "personal service" safe harbors (C.F.R. Title 42, Chapter V, Subchapter B, Part 1001, Subpart 1001.952(b), (c), and (d)), as in effect and interpreted by United States federal courts and administrative enforcement agencies as of April 1, 2001. Any person making a false certification under this paragraph commits insurance fraud as defined in s. 817.234.

(2) "Medically necessary" refers to a medical service or supply that a prudent physician would provide for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or symptom in a manner that is:

(a) In accordance with generally accepted standards of medical practice;

(b) Clinically appropriate in terms of type, frequency, extent, site, and duration; and

(c) Not primarily for the convenience of the patient, physician, or other health care provider.

(3)~~(1)~~ "Motor vehicle" means any self-propelled vehicle with four or more wheels which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semitrailer designed for use with such vehicle and includes:

(a) A "private passenger motor vehicle," which is any motor vehicle which is a sedan, station wagon, or jeep-type vehicle and, if not used primarily for occupational, professional, or business purposes, a motor vehicle of the pickup, panel, van, camper, or motor home type.

(b) A "commercial motor vehicle," which is any motor vehicle which is not a private passenger motor vehicle.

The term "motor vehicle" does not include a mobile home or any motor vehicle which is used in mass transit, other than public school transportation, and designed to transport more than five passengers exclusive of the operator of the motor vehicle and which is owned by a municipality, a transit authority, or a political subdivision of the state.

(4)~~(2)~~ "Named insured" means a person, usually the owner of a vehicle, identified in a policy by name as the insured under the policy.

(5)~~(3)~~ "Owner" means a person who holds the legal title to a motor vehicle; or, in the event a motor vehicle is the subject of a security agreement or lease with an option to purchase with the debtor or lessee having the right to possession, then the debtor or lessee shall be deemed the owner for the purposes of ss. 627.730-627.7405.

(6)~~(4)~~ "Relative residing in the same household" means a relative of any degree by blood or by marriage who usually makes her or his home in the same family unit, whether or not temporarily living elsewhere.

(7)~~(5)~~ "Recovery agent" means any person or agency who is licensed as a recovery agent or recovery agency and authorized under s. 324.202 to seize license plates.

Section 6. Subsections (1), (4), (5), (7), and (8) of section 627.736, Florida Statutes, and paragraph (b) of subsection (6) of that section, are amended, and subsections (11) and (12) are added to that section, to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(1) REQUIRED BENEFITS.—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to the provisions of subsection (2) and paragraph (4)(d), to a limit of $10,000 for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) Medical benefits.—Eighty percent of all reasonable expenses for *medically* necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and *medically* necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his or her religious beliefs*; however, this sentence does not affect the determination of what other services or procedures are medically necessary*.

(b) Disability benefits.—Sixty percent of any loss of gross income and loss of earning capacity per individual from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his or her household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) Death benefits.—Death benefits of $5,000 per individual. The insurer may pay such benefits to the executor or administrator of the deceased, to any of the deceased's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and no such insurer shall require the purchase of any other motor vehicle coverage other than the purchase of property damage liability coverage as required by s. 627.7275 as a condition for providing such required benefits. Insurers may not require that property damage liability insurance in an amount greater than $10,000 be purchased in conjunction with personal injury protection. Such insurers shall make benefits and required property damage liability insurance coverage available through normal marketing channels. Any insurer writing motor vehicle liability insurance in this state who fails to comply with such availability requirement as a general business practice shall be deemed to have violated part X of chapter 626, and such violation shall constitute an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance; and any such insurer committing such violation shall be subject to the penalties afforded in such part, as well as those which may be afforded elsewhere in the insurance code.

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Agency for Health Care Administration provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by ss. 627.730-627.7405.

(b) Personal injury protection insurance benefits paid pursuant to this section shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. *When an insurer pays only a portion of a claim or rejects a claim, the insurer shall include with the partial payment or rejection an itemized specification of each item that the insurer had reduced, omitted, or declined to pay and any information that the insurer desires the claimant to consider related to the medical necessity of the denied treatment or to explain the reasonableness of the reduced charge, provided that this shall not limit the introduction of evidence at trial; and the insurer shall include the name and address of the person to whom the claimant should respond and a claim number to be referenced in future correspondence.* However, *notwithstanding the fact that written notice has been furnished to the insurer,* any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment~~, notwithstanding that written notice has been furnished to the insurer~~. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery. *This paragraph does not preclude or limit the ability of the insurer to assert that the claim was unrelated, was not medically necessary, or was unreasonable or that the amount of the charge was in excess of that permitted under, or in violation of, subsection (5). Such assertion by the insurer may be made at any time, including after payment of the claim or after the 30-day time period for payment set forth in this paragraph.*

(c) All overdue payments shall bear simple interest at the rate *established by the Comptroller under s. 55.03 or the rate established in the insurance contract, whichever is greater, for the year in which the payment became overdue, calculated from the date the insurer was furnished with written notice of the amount of covered loss. Interest shall be due at the time payment of the overdue claim is made* ~~of 10 percent per year~~.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a self-propelled vehicle if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state, but within the United States of America or its territories or possessions or Canada, by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1. or subparagraph 2., provided the relative at the time of the accident is domiciled in the owner's household and is not himself or herself the owner of a motor vehicle with respect to which security is required under ss. 627.730-627.7405.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a self-propelled vehicle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself or herself:

a. The owner of a motor vehicle with respect to which security is required under ss. 627.730-627.7405; or

b. Entitled to personal injury benefits from the insurer of the owner or owners of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person, the maximum payable shall be as specified in subsection (1), and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

~~(f) Medical payments insurance, if available in a policy of motor vehicle insurance, shall pay the portion of any claim for personal injury protection medical benefits which is otherwise covered but is not payable due to the coinsurance provision of paragraph (1)(a), regardless of whether the full amount of personal injury protection coverage has been exhausted. The benefits shall not be payable for the amount of any deductible which has been selected.~~

(f)~~(g)~~ It is a violation of the insurance code for an insurer to fail to timely provide benefits as required by this section with such frequency as to constitute a general business practice.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the ~~products,~~ services~~,~~ and *supplies* ~~accommodations~~ rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like ~~products,~~ services~~,~~ or *supplies* ~~accommodations~~ in cases involving no insurance.~~, provided that~~

(b)1. An insurer or insured is not required to pay a claim made by a broker or by a person making a claim on behalf of a broker.

2. Charges for *medically necessary* cephalic thermograms*,* ~~and~~ peripheral thermograms*, spinal ultrasounds, extremity ultrasounds, video fluoroscopy, and surface electromyography* shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule *or other payment methodology* established pursuant to s. 440.13.

3. Payments by an insurer for medically necessary nerve conduction testing when done in conjunction with a needle electromyography procedure and both are performed and billed solely by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 who is also certified by the American Board of Electrodiagnostic Medicine or by a board recognized by the American Board of Medical Specialties or who holds diplomate status with the American Chiropractic Neurology Board or its predecessors shall not exceed 175 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida.

4. Payments by an insurer for medically necessary nerve conduction testing that does not meet the requirements of subparagraph 3. shall not exceed the applicable fee schedule or other payment methodology established pursuant to s. 440.13.

5. Effective upon this act becoming a law and before November 1, 2001, payments for magnetic resonance imaging services shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001. Beginning November 1, 2001, payments for magnetic resonance imaging services shall not exceed 150 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida, except that payments for magnetic resonance imaging services provided in facilities accredited by the American College of Radiology or the Joint Commission on Accreditation of Healthcare Organizations shall not exceed 175 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida. This paragraph does not apply to charges for magnetic resonance imaging services and nerve conduction testing for inpatients and emergency services services and nerve conduction testing for inpatients and emergency services and care as defined in chapter 395 rendered by facilities licensed under chapter 395.

(c)~~(b)~~ With respect to any treatment or service, other than medical services billed by a hospital *or other provider* for *emergency* services *as defined in s. 395.002 or inpatient services* rendered at a hospital-owned facility, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph. Any agreement requiring the injured person or insured to pay for such charges is unenforceable. *If, however, the insured fails to furnish the provider with the correct name and address of the insured's personal injury protection insurer, the provider has 35 days from the date the provider obtains the correct information to furnish the insurer with a statement of the charges. The insurer is not required to pay for such charges unless the provider includes with the statement documentary evidence that was provided by the insured during the 35-day period demonstrating that the provider reasonably relied on erroneous information from the insured and either:*

1. A denial letter from the incorrect insurer; or

2. Proof of mailing, which may include an affidavit under penalty of perjury, reflecting timely mailing to the incorrect address or insurer.

For emergency services and care as defined in s. 395.002 rendered in a hospital emergency department or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401, the provider is not required to furnish the statement of charges within the time periods established by this paragraph; and the insurer shall not be considered to have been furnished with notice of the amount of covered loss for purposes of paragraph (4)(b) until it receives a statement complying with paragraph *(e)* ~~(5)(d)~~, or copy thereof, which specifically identifies the place of service to be a hospital emergency department or an ambulance in accordance with billing standards recognized by the Health Care Finance Administration. Each notice of insured's rights under s. 627.7401 must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS.—Florida Statutes provide that with respect to any treatment or services, other than certain hospital and emergency services, the statement of charges furnished to the insurer by the provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement.

(d)~~(c)~~ Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the claimant is the prevailing party.

2. When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the insurer is the prevailing party.

3. When neither subparagraph 1. nor subparagraph 2. applies, there is no prevailing party. For purposes of this paragraph, the amount of the offer or claim at arbitration is the amount of the last written offer or claim made at least 30 days prior to the arbitration.

4. In the demand for arbitration, the party requesting arbitration must include a statement specifically identifying the issues for arbitration for each examination or treatment in dispute. The other party must subsequently issue a statement specifying any other examinations or treatment and any other issues that it intends to raise in the arbitration. The parties may amend their statements up to 30 days prior to arbitration, provided that arbitration shall be limited to those identified issues and neither party may add additional issues during arbitration.

(e)~~(d)~~ All statements and bills for medical services rendered by any physician, hospital, clinic, or other person or institution shall be submitted to the insurer on a Health Care Finance Administration 1500

form, UB 92 forms, or any other standard form approved by the department for purposes of this paragraph. All billings for such services shall, to the extent applicable, follow the Physicians' Current Procedural Terminology (CPT) in the year in which services are rendered. No statement of medical services may include charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services. For purposes of paragraph (4)(b), an insurer shall not be considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph.

(6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.—

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, *and a response as to why certain items identified by the insurer are medically necessary and as to why certain items identified by the insurer are reasonable in amount,* together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for such treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or her or its records regarding such history, condition, treatment, dates, and costs of treatment*; provided that this shall not limit the introduction of evidence at trial*. Such sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of the physician-patient privilege or invasion of the right of privacy shall be permitted against any physician, hospital, clinic, or other medical institution complying with the provisions of this section. The person requesting such records and such sworn statement shall pay all reasonable costs connected therewith. If an insurer makes a written request for documentation *or information* under this paragraph within *30* ~~20~~ days after having received notice of the amount of a covered loss under paragraph (4)(a), *the amount or the partial amount which is the subject of the insurer's inquiry shall become overdue if the insurer does not pay* ~~the insurer shall pay the amount or partial amount of covered loss to which such documentation relates~~ in accordance with paragraph (4)(b) or within 10 days after the insurer's receipt of the requested documentation *or information*, whichever occurs later. For purposes of this paragraph, the term "receipt" includes, but is not limited to, inspection and copying pursuant to this paragraph. *Any insurer that requests documentation or information pertaining to reasonableness of charges or medical necessity under this paragraph without a reasonable basis for such requests as a general business practice is engaging in an unfair trade practice under the insurance code.*

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a *valid* report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary. *A valid report is one that is prepared and signed by the physician examining the injured person or reviewing the treatment records of the injured person and is factually supported by the examination and treatment records if reviewed and that has not been modified by anyone other than the physician. The physician preparing the report must be in active practice, unless the physician is physically disabled. Active practice means that during the 3 years immediately preceding the date of the physical examination or review of the treatment records the physician must have devoted professional time to the active clinical practice of evaluation, diagnosis, or treatment of medical conditions or to the instruction of students in an accredited health professional school or accredited residency program or a clinical research program that is affiliated with an accredited health professional school or teaching hospital or accredited residency program.*

(b) If requested by the person examined, a party causing an examination to be made shall deliver to him or her a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out the examining physician's findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled, upon request, to receive from the person examined every written report available to him or her or his or her representative concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered, or by taking the deposition of the examiner, the person examined waives any privilege he or she may have, in relation to the claim for benefits, regarding the testimony of every other person who has examined, or may thereafter examine, him or her in respect to the same mental or physical condition. If a person unreasonably refuses to submit to an examination, the personal injury protection carrier is no longer liable for subsequent personal injury protection benefits.

(8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S FEES.—With respect to any dispute under the provisions of ss. 627.730-627.7405 between the insured and the insurer, *or between an assignee of an insured's rights and the insurer,* the provisions of s. 627.428 shall apply*, except as provided in subsection (11)*.

(11) DEMAND LETTER.—

(a) As a condition precedent to filing any action for an overdue claim for benefits under paragraph (4)(b), the insurer must be provided with written notice of an intent to initiate litigation; provided, however, that, except with regard to a claim or amended claim or judgment for interest only which was not paid or was incorrectly calculated, such notice is not required for an overdue claim that the insurer has denied or reduced, nor is such notice required if the insurer has been provided documentation or information at the insurer's request pursuant to subsection (6). Such notice may not be sent until the claim is overdue, including any additional time the insurer has to pay the claim pursuant to paragraph (4)(b).

(b) The notice required shall state that it is a "demand letter under s. 627.736(11)" and shall state with specificity:

1. The name of the insured upon which such benefits are being sought.

2. The claim number or policy number upon which such claim was originally submitted to the insurer.

3. To the extent applicable, the name of any medical provider who rendered to an insured the treatment, services, accommodations, or supplies that form the basis of such claim; and an itemized statement specifying each exact amount, the date of treatment, service, or accommodation, and the type of benefit claimed to be due. A completed Health Care Finance Administration 1500 form, UB 92, or successor forms approved by the Secretary of the U.S. Department of Health and Human Services may be used as the itemized statement.

(c) Each notice required by this section must be delivered to the insurer by U.S. certified or registered mail, return receipt requested. Such postal costs shall be reimbursed by the insurer if so requested by the provider in the notice, when the insurer pays the overdue claim. Such notice must be sent to the person and address specified by the insurer for the purposes of receiving notices under this section, on the document denying or reducing the amount asserted by the filer to be overdue. Each licensed insurer, whether domestic, foreign, or alien, may file with the department designation of the name and address of the person to whom notices pursuant to this section shall be sent when such document does not specify the name and address to whom the notices under this section are to be sent or when there is no such document. The name and address on file with the department pursuant to s. 624.422 shall be deemed the authorized representative to accept notice pursuant to this section in the event no other designation has been made.

(d) If, within 7 business days after receipt of notice by the insurer, the overdue claim specified in the notice is paid by the insurer together with applicable interest and a penalty of 10 percent of the overdue amount paid by the insurer, subject to a maximum penalty of $250, no action for nonpayment or late payment may be brought against the insurer. To the extent the insurer determines not to pay the overdue amount, the penalty shall not be payable in any action for nonpayment or late payment. For purposes of this subsection, payment shall be treated as being made on the date a draft or other valid instrument that is equivalent to payment is placed in the United States mail in a properly addressed, postpaid envelope, or if not so posted, on the date of delivery. The insurer shall not be obligated to pay any attorney's fees if the insurer pays the claim within the time prescribed by this subsection.

(e) The applicable statute of limitation for an action under this section shall be tolled for a period of 15 business days by the mailing of the notice required by this subsection.

(f) Any insurer making a general business practice of not paying valid claims until receipt of the notice required by this section is engaging in an unfair trade practice under the insurance code.

(12) CIVIL ACTION FOR INSURANCE FRAUD.—An insurer shall have a cause of action against any person convicted of, or who, regardless of adjudication of guilt, pleads guilty or nolo contendere to insurance fraud under s. 817.234, patient brokering under s. 817.505, or kickbacks under s. 456.054, associated with a claim for personal injury protection benefits in accordance with s. 627.736. An insurer prevailing in an action brought under this subsection may recover compensatory, consequential, and punitive damages subject to the requirements and limitations of part II of chapter 768, and attorney's fees and costs incurred in litigating a cause of action against any person convicted of, or who, regardless of adjudication of guilt, pleads guilty or nolo contendere to insurance fraud under s. 817.234, patient brokering under s. 817.505, or kickbacks under s. 456.054, associated with a claim for personal injury protection benefits in accordance with s. 627.736.

Section 7. Effective October 1, 2001, subsections (8) and (9) of section 817.234, Florida Statutes, are amended to read:

817.234 False and fraudulent insurance claims.—

(8) It is unlawful for any 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 solicit *or cause to be solicited* any business *from a person involved in a motor vehicle accident by any means of communication other than advertising directed to the public* ~~in or about city receiving hospitals, city and county receiving hospitals, county hospitals, justice courts, or municipal courts; in any public institution; in any public place; upon any public street or highway; in or about private hospitals, sanitariums, or any private institution; or upon private property of any character whatsoever~~ for the purpose of making motor vehicle tort claims or claims for personal injury protection benefits required by s. 627.736. *Charges for any services rendered by a health care provider or attorney who violates this subsection in regard to the person for whom such services were rendered are noncompensable and unenforceable as a matter of law.* Any person who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) It is unlawful for any attorney to solicit any business relating to the representation of *a person involved* ~~persons injured~~ in a motor vehicle accident for the purpose of filing a motor vehicle tort claim or a claim for personal injury protection benefits required by s. 627.736. The solicitation by advertising of any business by an attorney relating to the representation of a person injured in a specific motor vehicle accident is prohibited by this section. Any attorney who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Whenever any circuit or special grievance committee acting under the jurisdiction of the Supreme Court finds probable cause to believe that an attorney is guilty of a violation of this section, such committee shall forward to the appropriate state attorney a copy of the finding of probable cause and the report being filed in the matter. This section shall not be interpreted to prohibit advertising by attorneys which does not entail a solicitation as described in this subsection and which is permitted by the rules regulating The Florida Bar as promulgated by the Florida Supreme Court.

Section 8. Effective October 1, 2001, paragraphs (c), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

Florida Statute	Felony Degree	Description
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234(8) & (9)	*3rd*	*Unlawful solicitation of persons involved in motor vehicle accidents.*
817.234(11)(a)	*3rd*	*Insurance fraud; property value less than $20,000.*
817.505(4)	*3rd*	*Patient brokering.*
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of university or public park.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of public housing facility.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
		(e) LEVEL 5
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.

Florida Statute	Felony Degree	Description
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	*2nd*	*Insurance fraud; property value $20,000 or more but less than $100,000.*
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility or school.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of university or public park.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of public housing facility.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.053	3rd	Dispensing hearing aids without a license.

Florida Statute	Felony Degree	Description
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by money transmitter.
560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.234(11)(c)	*1st*	*Insurance fraud; property value $100,000 or more.*
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
872.06	2nd	Abuse of a dead human body.

Florida Statute	Felony Degree	Description
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less then 5 kilograms.
893.135 (1)(j)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.

Section 9. Subsection (1) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any bicycle or moped. However, the term "motor vehicle" shall not include any motor vehicle as defined in *s. 627.732(3)* ~~s. 627.732(1)~~ when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, inclusive, unless the provisions of s. 324.051 apply; and, in such case, the applicable proof of insurance provisions of s. 320.02 apply.

Section 10. *The sum of $100,000 is appropriated from the registration fees collected from clinics pursuant to section 456.0375, Florida Statutes, to the Department of Health and one-half of one full-time-equivalent position is authorized for the purposes of regulating medical clinics pursuant to section 456.0375, Florida Statutes. These funds shall be deposited into the Medical Quality Assurance Trust Fund.*

Section 11. (1) Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

(2) Paragraph (1)(a), (4)(c), (7)(a), and subparagraph (4)(b)1. of s. 627.736, Florida Statutes, as amended by section 5 of this act, and the deletion of paragraph (4)(f) and redesignation of paragraph (4)(g) as (4)(f) by section 5 of this act shall apply to policies issued new or renewed on or after October 1, 2001.

(3) Paragraphs (5)(b) and (c) and subsection (6) of section 627.736, Florida Statutes, as amended by this act and subsection (11) of section 627.736, Florida Statutes, shall apply to treatment and services occurring on or after October 1, 2001, except that subsection (11) of section 627.736, Florida Statutes, shall apply to actions filed on or after the effective date of this act with regard to a claim or amended claim or judgment for interest only which was not paid or was incorrectly calculated.

And the title is amended as follows:

On page 1,
remove from the title of the bill: The entire title

and insert in lieu thereof: A bill to be entitled An act relating to insurance; providing legislative findings; amending s. 119.10, F.S.; providing a criminal penalty for use of certain report information for commercial solicitation; creating s. 456.0375, F.S.; defining the term "clinic"; imposing registration requirements for certain clinics; providing for medical directors or clinical directors; providing duties and responsibilities of medical directors or clinical directors; authorizing the Department of Health to adopt rules for certain purposes; providing for enforcement; providing penalties; amending s. 626.989, F.S.; clarifying immunity from civil actions provisions; amending s. 627.732, F.S.; defining the terms "broker" and "medically necessary"; amending s. 627.736, F.S.; revising provisions relating to personal injury protection benefits; revising provisions relating to interest on overdue claims; revising provisions for charges and payments for certain treatments; removing provisions specifying the use of medical payments insurance; making certain charges by a broker noncompensable; providing for a demand letter; providing demand letter requirements; providing for civil actions against certain persons; amending s. 817.234, F.S.; prohibiting solicitation of specific persons involved in motor vehicle crashes; specifying certain charges as unlawful and unenforceable; amending s. 921.0022, F.S.; ranking certain criminal offenses specified in that section; amending s. 324.021, F.S.; correcting a cross-reference; providing an appropriation; providing effective dates.

Rep. Waters moved the adoption of the amendment.

THE SPEAKER IN THE CHAIR

On motion by Rep. Melvin, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Harper and Melvin offered the following:

(Amendment Bar Code: 184091)

Amendment 1 to Amendment 1—On page 8, line 14 through page 9, line 13,
remove from the amendment: all of said lines

and insert in lieu thereof:

(1) "Broker" means any person not possessing a license or reporting under chapter 395, chapter 400, chapter 458, chapter 459, chapter 460, chapter 461, or chapter 641 who charges or receives compensation for any use of medical equipment. Broker shall be defined as: a person or entity which pays or receives a rebate or kickback in cash or in kind in exchange for the referral of a patient; a lessor, sublessor or other contractual arrangements for equipment where the payment for equipment varies based upon reimbursement by patient or insurance company is considered to be not at risk and is therefore a broker. A lessor, sublessor or other contractual arrangement for equipment where payments are made under such arrangements regardless of reimbursement is considered to be at risk and is therefore not a broker. For purposes of this section, such owner or lessee may be an individual, a corporation, a partnership, or any other entity. The term "broker" does not include a hospital or physician management company whose medical equipment is ancillary to the practices managed, a debt collection agency, or a magnetic resonance imaging (MRI) provider or magnetic resonance imaging (MRI) leasing company that has entered into a preferred provider agreement (PPO) through good faith bargaining and mutally acceptable terms and conditions to reduce costs and prevent fraud, nor does the term include a management company that has contracted to provide general management services for a licensed physician or health care facility and whose compensation is not materially affected by the usage or frequency of usage of medical equipment or an entity that is 100-percent owned by one or more hospitals or physicians.

Rep. Melvin moved the adoption of the amendment to the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 210

Yeas—35

Argenziano	Fiorentino	Holloway	Russell
Arza	Flanagan	Joyner	Seiler
Attkisson	Garcia	Kottkamp	Slosberg
Barreiro	Gelber	Lee	Smith
Bennett	Gottlieb	Machek	Sobel
Betancourt	Greenstein	Mahon	Wallace
Bucher	Harper	Melvin	Weissman
Bullard	Henriquez	Richardson	Wishner
Diaz de la Portilla	Heyman	Ritter	

Nays—68

The Chair	Bowen	Fields	Justice
Alexander	Brown	Gannon	Kallinger
Allen	Brummer	Gardiner	Kendrick
Andrews	Byrd	Gibson	Kilmer
Atwater	Cantens	Goodlette	Kosmas
Ausley	Carassas	Green	Kravitz
Baker	Clarke	Haridopolos	Kyle
Baxley	Davis	Harrell	Lerner
Bean	Detert	Harrington	Littlefield
Bense	Diaz-Balart	Hart	Mack
Berfield	Dockery	Jennings	Mayfield
Bilirakis	Farkas	Jordan	McGriff
Miller	Pickens	Ryan	Stansel
Murman	Rich	Simmons	Trovillion
Needelman	Romeo	Siplin	Waters
Negron	Ross	Sorensen	Wiles
Paul	Rubio	Spratt	Wilson

Due to a voting system malfunction the vote on Amendment 1 to Amendment 1 to CS/HB 1819 did not reflect that the Speaker was in the Chair and a vote for Speaker Feeney was not recorded. Speaker Feeney's vote was recorded as a Nay vote. Representative Ball's vote was recorded as a Nay vote.

Representative(s) Waters offered the following:

(Amendment Bar Code: 542949)

Amendment 2 to Amendment 1—On page 17, line 15 through page 18, line 20
remove from the amendment: all of said lines

and insert in lieu thereof:

3. Payments by an insurer for medically necessary nerve conduction testing when done in conjunction with a needle electromyography procedure and both are performed and billed solely by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 who is also certified by the American Board of Electrodiagnostic Medicine or by a board recognized by the American Board of Medical Specialties or who holds diplomate status with the American Chiropractic Neurology Board or its predecessors shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida.

4. Payments by an insurer for medically necessary nerve conduction testing that does not meet the requirements of subparagraph 3. shall not exceed the applicable fee schedule or other payment methodology established pursuant to s. 440.13.

5. Effective upon this act becoming a law and before November 1, 2001, payments for magnetic resonance imaging services shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001. Beginning November 1, 2001, payments for magnetic resonance imaging services shall not exceed 150 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida, except that payments for magnetic resonance imaging services provided in facilities accredited by the American College of Radiology or the Joint Commission on Accreditation of Healthcare Organizations shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida. This paragraph does not apply to charges for magnetic resonance imaging services and nerve conduction testing for inpatients and emergency services and care as defined in chapter 395 rendered by facilities licensed under chapter 395.

Rep. Waters moved the adoption of the amendment to the amendment.

Motion

Rep. Alexander moved the previous question on the amendments and the bill, which was agreed to.

The question recurred on the adoption of **Amendment 2 to Amendment 1**, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Conference Committee Appointments

The Speaker appointed the following Members as managers on the part of the House on CS for SB 1118 to serve with Rep. Byrd, Chair: Reps. Rubio, Goodlette, and Smith.

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 1:30 p.m., Monday, April 30. The motion was agreed to.

Recorded Votes

Rep. Crow:

Yeas—CS/CS/HB 681

Nays—motion to read CS/HB 83 the second time in full; motion to read CS/CS/HB 1533 the second time in full

Rep. Davis:

Yeas—HB 601; SB 1166; HB 1419; HB 1565; Amendment 1 to CS/HBs 1617 & 1487

Nays—Amendment 3 to Amendment 1 to CS/HBs 1617 & 1487

Rep. Gibson:

Nays—motion to read CS/CS/HB 1533 the second time in full after reconsideration

Rep. Mahon:

Yeas—Amendment 3 to Amendment 1 to CS/HBs 1617 & 1487; Amendment 1, as amended, to CS/HBs 1617 & 1487

Rep. Wiles:

Change from Yeas to Nays—SB 854

Prime Sponsors

HB 159—Benson
HB 621—Machek
HB 759—Gelber
HB 873—Bucher
CS/CS/HB 1193—Brutus
HB 1747—Pickens

Withdrawals as Prime Sponsor

HB 621—Fiorentino

Cosponsors

CS/HB 79—Ausley
CS/CS/HB 247—Heyman
CS/CS/HB 269—Brutus
CS/HB 427—Crow, Machek
HB 449—Negron
CS/HB 687—Lynn, Murman
HB 759—Detert, Heyman, Kyle, Needelman
HB 1055—Atwater, Barreiro, Heyman, Justice, Lerner, Machek
HB 1077—Bilirakis
HB 1089—Goodlette, Needelman
CS/HB 1375—Trovillion
HB 1799—Clarke
CS/HB 1889—Kilmer

Introduction and Reference

HR 9073—Adopted April 25

By Representative Brutus—

HR 9075—A resolution recognizing the Miami Edison Senior High School girls' basketball team for winning the State Class 6A Championship on March 3, 2001.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Murman—

HR 9077—A resolution designating August 19-25, 2001, "Community Health Center Week."

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Kendrick—

HR 9079—A resolution designating April 2001 "Florida Organ Donation Awareness Month."

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Hogan—

HR 9081—A resolution proclaiming November 1-4, 2001, as Ham Jam Week in Clay County.

First reading by publication (Art. III, s. 7, Florida Constitution).

Enrolling Reports

CS/HB 1 and HB 1003 have been enrolled, signed by the required constitutional officers, and presented to the Governor on April 27, 2001.

John B. Phelps, Clerk

Excused

Reps. Crow, Peterman

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time:

SBs 2000 and 2002 (appropriations): Rep. Lacasa, Chair; At Large—Reps. Fasano, Greenstein, Murman, Wallace, Wilson, and Sobel (alternate); Transportation & Economic Development Appropriations—Rep. Johnson, Chair, Reps. Bense, Hart, Jennings, Ritter, Rubio, Berfield (alternate), and Hogan (alternate); Health & Human Services Appropriations—Rep. Maygarden, Chair, Reps. Brummer, Farkas, Green, Rich, Slosberg, Benson (alternate), Brutus (alternate), and Garcia (alternate); Education Appropriations—Rep. Lynn, Chair, Reps. Alexander, Flanagan, Justice, Melvin, Stansel, Arza (alternate), Bucher (alternate), and Mealor (alternate); Criminal Justice Appropriations—Rep. Ball, Chair, Reps. Barreiro, Bilirakis, Mahon, Meadows, Seiler, and Bowen (alternate); General Government Appropriations—Rep. Dockery, Chair, Reps. Holloway, Kilmer, Miller, Siplin, Spratt, and Brown (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 8:38 p.m., to reconvene at 1:30 p.m., Monday, April 30.