Journal of the Senate

Number 32 **Friday, June 6, 1980**

The Senate was called to order by the President for the purpose of conducting the order of business of introduction and reference of resolutions, memorials, bills and joint resolutions pursuant to Rule 4.3.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1655 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Retirement, Personnel & Collective Bargaining—

HB 1655—A bill to be entitled An act relating to collective bargaining by public employees; amending s. 447.403(3) and (4), Florida Statutes, providing clarification of procedures for impasse resolution and providing for implementation of legislatively resolved impasse issues; providing an effective date.

—was read the first time by title and referred to Ways and Means Subcommittee E and the Committee on Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 1692 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Ethics & Elections—

HB 1692—A bill to be entitled An act relating to elections; amending ss. 97.021(8), (10), (19) and (20), 97.061(2) and (3), 97.064(1) and (2), and 97.091(1) and (2)(e), Florida Statutes, relating to registration of electors; renumbering s. 98.161, Florida Statutes, and amending subsection (5) thereof, renumbering s. 98.081, Florida Statutes, and amending subsections (3) and (4) thereof, and amending ss. 98.201(2) and 98.481, Florida Statutes, relating to registration office, officers and procedures; amending ss. 100.021, 100.041(1), 100.271 and 100.361(1)(a), Florida Statutes, relating to general, primary and special elections; renumbering s. 98.031, Florida Statutes, amending subsections (1) and (2) thereof, and adding a subsection thereto; renumbering s. 101.71, Florida Statutes, and amending subsection (1) and (2) thereof; amending and renumbering s. 101.121, Florida Statutes; renumbering s. 102.012, Florida Statutes, amending subsections (1) and (4) thereof, and adding a subsection thereto; renumbering s. 104.051, Florida Statutes, and amending subsections (1) and (4) thereof; renumbering s. 102.021, Florida Statutes, and amending subsection (2) thereof; amending and renumbering s. 102.081, Florida Statutes; relating to precincts, polling places and election officials; amending s. 101.151(7) and (9), Florida Statutes; amending and renumbering s. 99.121, Florida Statutes; renumbering s. 101.141, Florida Statutes, and adding a subsection thereto; amending s. 101.181(1), Florida Statutes; amending s. 101.21(2), Florida Statutes; renumbering s. 101.27, Florida Statutes, and amending subsection (4) thereof; amending and renumbering s. 101.43, Florida Statutes; renumbering s. 101.62, Florida Statutes, and adding a new subsection (5) thereto; renumbering s. 101.68, Florida Statutes, and amending subsection (1) thereof; renumbering s. 101.692, Florida Statutes, and amending subsection (2) thereof; renumbering s. 101.694, Florida Statutes, and amending subsection (2) thereof; relating to ballots; renumbering s. 101.23, Florida Statutes, and amending subsection (1) thereof; renumbering s. 101.51, Florida Statutes, and amending subsection (1) thereof; amending and renumbering s. 101.011, Florida Statutes; renumbering s. 102.061, Florida Statutes, and amending subsection (1) thereof; amending and renumbering s. 102.071, Florida Statutes; renumbering s. 101.32, Florida Statutes, and amending subsection (2) thereof; renumbering s. 104.30, Florida Statutes, and amending subsection (1) thereof; amending and renumbering s. 101.35, Florida Statutes; amending s. 101.47(10) and (12), Florida Statutes; adding a subsection to s. 101.54, Florida Statutes; renumbering s. 101.051, Florida Statutes, and amending subsection (3) thereof; renumbering s. 101.49, Florida Statutes, and amending subsection (2) thereof; relating to voting and voting equipment; renumbering s. 102.141, Florida Statutes, and amending subsection (2) thereof; amending and renumbering ss. 98.321, 102.168 and 102.169, Florida Statutes; relating to ascertaining results, protests and contests; amending s. 103.021(3) and (4), Florida Statutes; amending s. 103.091(4) and (5), Florida Statutes, and adding a subsection thereto; adding a subsection to s. 103.101, Florida Statutes; relating to political parties; amending s. 105.031(4), Florida Statutes, relating to judicial candidate's oath; renumbering s. 99.061, Florida Statutes, and amending subsections (1), (2) and (3) thereof; renumbering s. 99.021, Florida Statues, and amending subsections (1)(c) and (2) thereof; amending and renumbering s. 99.092, Florida Statutes; renumbering s. 99.095, Florida Statutes, and amending subsections (1) and (4) thereof; renumbering s. 99.0955, Florida Statutes, and amending subsection (3) thereof; renumbering s. 99.096, Florida Statutes, and amending subsections (3) and (4) thereof; renumbering s. 99.097, Florida Statutes, amending subsection (4) thereof and adding a subsection thereto; relating to candidate qualifying; creating s. 106.0112, Florida Statutes, relating to the authority of the Florida Elections Commission; amending s. 106.025(3), Florida Statutes; renumbering s. 100.371, Florida Statutes, and amending subsection (4) thereof; relating to testimonials and initiative petitions; amending ss. 106.22(6) and (7), 106.25, 106.26(12), 106.265(1), 106.27(1) and (3), and 106.28, Florida Statutes, relating to the duties of the Division of Elections and the jurisdiction of the Florida Elections Commission; amending ss. 112.312(4), 112.313(6), 130.03, 130.18, 163.566(4), 180.04, 180.10, 236.36, 342.04 and 582.18(1), Florida Statutes, conforming cross references; designating parts of chapter 101; renaming chapter 106 and designating parts thereof; renumbering various sections of the election code; repealing s. 100.051, Florida Statutes, relating to candidate's name on general election ballot; repealing s. 101.22, Florida Statutes, as amended, relating to paper ballot voting procedures; repealing ss. 101.251 and 101.252, Florida Statutes, relating to names on ballots; repealing s. 101.38, Florida Statutes, relating to disposition of voting machine keys; repealing s. 101.73, Florida Statutes, as amended, relating to description of election districts and precincts; repealing s. 102.031, Florida Statutes, relating to election boards; repealing s. 102.101, Florida Statutes, relating to sheriff and other officers not allowed in polling place; repealing ss. 104.101, 104.185, and 104.32. Florida Statutes, relating to violations and penalties; providing an effective date.

—was read the first time by title and referrred to the Committee on Judiciary-Civil.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1632 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Ethics & Elections—

HB 1632—A bill to be entitled An act relating to elections; amending s. 106.22(2), Florida Statutes, and adding new subsections (3), (4), and (5) thereto, relating to publications

provided by the Division of Elections; repealing s. 98.251, Florida Statutes, relating to copies of the Election Code; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary-Civil.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, HB 1637 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Transportation—

HB 1637—A bill to be entitled An act relating to economic development; creating s. 288.348, Florida Statutes; authorizing the Division of Economic Development of the Department of Commerce to make expenditures and enter into contracts with the Department of Transportation for certain transportation projects necessary to facilitate economic development of the state; providing requirements with respect to such contracts; providing for rules; providing an appropriation; providing an effective date.

—was read the first time by title and referred to the Committees on Commerce and Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, CS for HB 1425 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Education, K-12 and Representative Easley—

CS for HB 1425—A bill to be entitled An act relating to education; requiring the Department of Education, in cooperation with certain expert researchers, and certain school district personnel to conduct certain studies and develop and submit to the Legislature reports of program cost review procedures for evaluating program category cost, to be used in the Florida Education Finance Program; providing an appropriation; providing an effective date.

—was read the first time by title and referred to the Committees on Education and Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, CS for HB 276 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Commerce and Representative L. J. Smith—

CS for HB 276—A bill to be entitled An act relating to consumer protection; providing definitions; requiring the deposit in escrow accounts of advance payments on contracts for goods or services; requiring notice; providing for interest payments; providing for the awarding of attorney's fees under certain circumstances; prohibiting withdrawal from such accounts; providing an exception; providing a penalty; providing for the applicability of the act; providing an effective date.

—was read the first time by title and referred to the Committee on Economic, Community and Consumer Affairs.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, HB 440 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Silver—

HB 440—A bill to be entitled An act relating to personnel of the school system; amending ss. 231.40(2)(a) and 231.48, Florida Statutes, to authorize each district school board to provide terminal pay for accumulated sick leave to its employees at times other than normal retirement; providing that terminal pay for noninstructional staff shall be computed in the same manner as for instructional staff; providing for conditional repeal; providing an effective date.

—was read the first time by title and referred to the Committees on Education and Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1123 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Agriculture & General Legislation and Representative Meek—

CS for HB 1123—A bill to be entitled An act relating to agriculture; creating the Florida Community Gardening Pilot Program of 1980; providing definitions; providing that residents of specified pilot counties may be granted a permit to use vacant public land for gardening; providing duties of Commissioner of Agriculture; providing permit conditions; providing for liability; providing for compilation of a list of suitable vacant public land; providing that counties, municipalities, state agencies and departments may make public land available; providing for contracts with owners of private land; providing for liability; providing for rules; providing effective and expiration dates.

—was read the first time by title and referred to the Committee on Agriculture.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1783 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Thompson and others—

HB 1783—A bill to be entitled An act relating to Wakulla County; providing for the school board of Wakulla County to undertake capital improvement projects; authorizing said board to issue not exceeding $1,000,000 principal amount of revenue bonds for the payment of the costs thereof; providing for the payment of such bonds from race track funds and jai alai fronton funds accruing annually to Wakulla County and allocated to the board pursuant to law; providing for the rights of the holders of outstanding obligations payable from such funds; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1820 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Shackelford—

HB 1820—A bill to be entitled An act relating to Manatee County; amending Section 1 of Chapter 70-795, Laws of Florida, providing an exception for the taking of thread herring and Spanish sardines with a purse seine of specified size; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, HB 1352 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representatives Carlton and Batchelor—

HB 1352—A bill to be entitled An act relating to Orange County; authorizing municipal and county governments to enact certain ordinances with respect to licensees under the Beverage Law; providing for a referendum.

—was read the first time by title and referred to the Committee on Commerce.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 390 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Foster—

HB 390—A bill to be entitled An act relating to motor vehicles; creating s. 316.566, Florida Statutes, prohibiting persons from driving a motor vehicle without a valid operator's or chauffeur's license; amending s. 318.14(1) and s. 318.18(2), Florida Statutes, including reference to the display of license plates and possession of vehicle registration in provisions relating to noncriminal traffic infractions; deleting reference to a repealed section; creating s. 320.352, Florida Statutes, requiring the registration of motor vehicles and the display of license tags; providing an effective date.

—was read the first time by title and referred to the Committee on Transportation.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1819 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Shackelford—

HB 1819—A bill to be entitled An act relating to the Manatee County Civic Center Authority and Manatee County; amending subsection (1) of Section 6 of Chapter 78-556, Laws of Florida, providing for the issuance of bonds as authorized by the Board of County Commissioners of Manatee County, Florida, and providing that bonds secured by the full faith and credit of Manatee County shall be issued only after approval by a majority of the votes cast in an election; amending subsection (3) of Section 6, Chapter 78-556, Laws of Florida; providing for the issuance of revenue bonds; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, HB 262 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Girardeau and others—

HB 262—A bill to be entitled An act relating to personalized prestige license plates; amending s. 320.0805(9)(b), Florida Statutes, permitting state legislators to utilize personalized prestige license plates on leased motor vehicles under certain circumstances; providing an effective date.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, HB 394 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Davis—

HB 394—A bill to be entitled An act relating to motor vehicle registration; amending s. 320.05, Florida Statutes, requiring positive proof of identification as a prerequisite to inspection of registration records; requiring the Department of Highway Safety and Motor Vehicles to keep certain records for a specified period of time; providing an effective date.

—was read the first time by title and referred to the Committee on Transportation.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 572 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Young—

HB 572—A bill to be entitled An act relating to Regulatory Reform Act; amending section 16 of chapter 79-385, Laws of Florida, to clarify the intent of the Legislature with respect to the effect of said section upon the repeal of sections in chapters 231 and 246, Florida Statutes, relating to education, scheduled by the Regulatory Reform Act of 1976; providing an effective date.

—was read the first time by title and referred to the Committees on Education and Governmental Operations.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 775 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Kelly—

HB 775—A bill to be entitled An act relating to game and freshwater fish; amending s. 372.9903(1), Florida Statutes, increasing to a felony of the third degree the penalty for the possession or transportation of commercial quantities of freshwater game fish; providing an effective date.

—was read the first time by title and referred to the Committee on Natural Resources and Conservation.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, CS for CS for HB 12 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Criminal Justice and Representative Silver and others—

CS for CS for HB 12—A bill to be entitled An act relating to speed measurement devices; creating s. 316.1906, Florida Statutes, providing definitions; excluding the admission into evidence of certain automatic speed measuring devices with respect to speed violations, except under certain circumstances; adding subsection (10) to s. 943.14, Florida Statutes, requiring the Police Standards and Training Commission to develop and promulgate training standards for law enforcement officers operating speed measuring devices; creating s. 316.1907, Florida Statutes, creating a commission to establish minimum design criteria for radar units and to report its recommendations and findings; providing an effective date.

—was read the first time by title and referred to the Committees on Transportation and Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1624 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Finance & Taxation—

CS for HB 1624—A bill to be entitled An act relating to the municipal public service tax; amending s. 166.231(2), Florida Statutes; limiting the public service tax on metered or bottled gas (natural liquefied petroleum gas or manufactured); providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, HB 1240 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Brantley—

HB 1240—A bill to be entitled An act relating to termination of pregnancies; amending s. 390.012, Florida Statutes, relating to adoption of rules regulating abortion clinics; providing a penalty; providing an effective date.

—was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1831 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Appropriations—

HB 1831—A bill to be entitled An act relating to state institutions; amending s. 409.352(1), Florida Statutes, relating to the licensing requirements for physicians, osteopaths, and chiropractors employed by the Department of Health and Rehabilitative Services; providing for reports by said department and the Department of Corrections with respect thereto; restricting employment of such professionals by the departments; providing an effective date.

—was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1829 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Appropriations—

HB 1829—A bill to be entitled An act relating to teacher education; providing for continued development of a pilot program relating to teacher preparation; providing for a report; providing an effective date.

—was read the first time by title and referred to the Committees on Education and Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1830 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Appropriations—

HB 1830—A bill to be entitled An act relating to the Florida Endowment Trust Fund for Eminent Scholars; amending s. 240.257(2), (3), (4), and (6)(d), Florida Statutes; providing for administration of the fund by the Board of Regents and investment of appropriated funds by the State Board of Administration; specifying funds which a university may be eligible to match; requiring the establishment of an Eminent Scholars Trust Fund by each university foundation; providing for matching of certain pledged contributions; providing for the disposition of certain unmatched contributions; providing that proceeds of an endowment may be used for expenses directly related to the endowed chair's scholarly work; providing an effective date.

—was read the first time by title and referred to the Committees on Education and Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1840 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Judiciary—

HB 1840—A bill to be entitled An act relating to the Evidence Code; amending s. 90.103(2), Florida Statutes, providing that the code shall apply to all civil actions brought after July 1, 1980; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary-Civil.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1715 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Judiciary—

HB 1715—A bill to be entitled An act relating to sheriffs; amending s. 30.231, Florida Statutes, requiring delivery of original process to the sheriff for service; restricting the applicability of provisions exempting certain process from additional fees; amending s. 48.021(2) and (3), Florida Statutes, and adding a new subsection (3), restricting the jurisdiction and term of special process servers appointed by the sheriff; authorizing judicial appointment of special process servers; providing the terms and qualifications of such process servers; amending s. 48.031, Florida Statutes, changing the type of service applicable to process of witness subpoenas and to witness subpoenas in misdemeanor cases; amending s. 48.041(1), Florida Statutes, and the introductory paragraph thereof, requiring delivery of copies of process to incompetents and certain patients and their guardians; amending s. 56.22, Florida Statutes, providing alternate dispositions of property not sold at an initial sheriff's sale; amending s. 56.23, Florida Statutes, providing an alternate location for the sheriff's sale of certain property; amending s. 56.275, Florida Statutes, providing for the disposition of moneys collected by the sheriff under execution; amending s. 116.21(1) and (2), Florida Statutes, expanding the applicability of provisions relating to the disposition of moneys collected by sheriffs in their official capacity; amending s. 210.14(1) and (2), Florida Statutes, requiring entry of warrants for the collection of cigarette taxes in the circuit court prior to issuance to sheriffs; deleting provisions relating to duties of the clerk of the circuit court with respect to such warrants; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary-Civil.

The Senate recessed to reconvene at 9:00 a.m.

The Senate was called to order by the President at 9:00 a.m. A quorum present—40:

Mr. President	Frank	MacKay	Skinner
Anderson	Gordon	Maxwell	Steinberg
Barron	Gorman	McClain	Stuart
Beard	Grizzle	McKnight	Thomas
Carlucci	Hair	Myers	Tobiassen
Chamberlin	Henderson	Neal	Trask
Childers, D.	Hill	Peterson	Vogt
Childers, W. D.	Holloway	Poole	Ware
Dunn	Jenne	Scarborough	Williamson
Fechtel	Johnston	Scott	Winn

Excused: Senator Don Childers at 6:00 p.m.; periodically, Senators Hair, Gordon, Johnston, W. D. Childers, Vogt, Peterson, Scott, Maxwell, Myers, MacKay, Jenne, Tobiassen, Frank, Winn and Neal, conferees and alternates on SB 1362, and CS for CS for HB 1769, CS for SB 505 and HB 1635.

Prayer by Father Leslie Cann, Pastor, St. Francis of Assisi Catholic Church, Riviera Beach:

Father, pour out on us the spirit of understanding, truth and peace.

Help us to strive with all our hearts to know what is pleasing to you, and when we know your will, make us determined to do it.

We ask this in thy name. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, June 6, 1980:

HB 1758	HM 641	SB 1042
HB 536	CS for SB 884	CS for SB 785
HB 191	CS for SB 796 and	SB 169
HB 35	SB 914	CS for SB 1191
SB 378	HB 1517	SB 858
SB 889	CS for SB 119	CS for SB 1198
SB 509	CS for SB 168	HB 1745
CS for SB 735	HB 1677	SB 194
SB 605	SJR 670	SB 932
CS for SB 1256	CS for SB 667	SB 1246
SB 964	HB 1431	HB 1699
CS for SB 814	HB 1524	SB 1283
CS for SB 1096	SB 322	HB 1547
SB 841	SB 401	SB 710
CS for SB 701	CS for HB 27	SB 839
SB 1202	CS for SB 1131	SB 840
SB 1209	SB 810	SB 431
SB 327	SB 723	SJR 274
CS for SB 337	SB 976	SB 273
SB 419	SB 1204	SB 909
SB 487	SB 1126	HB 1829
CS for SB 666	CS for HB 63	CS for HB 345
SB 702	SB 1121	SB 1003
SB 864	SJR 824	HB 1451
SB 911	HB 325	
SB 1174	HB 1411	

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Rules and Calendar recommends the following bill be withdrawn from the Committee and placed on the local bill calendar for June 6, 1980: HB 1626, HB 1783, HB 1819, HB 1820

Respectfully submitted,
Dempsey J. Barron, Chairman

SUPPLEMENTAL LOCAL BILL CALENDAR

The Committee on Rules and Calendar submits the following bills, which under the requirements of Rule 4.6 are not local in nature, to be placed at the end of the Local Bill Calendar for June 6, 1980: SB 1365, HB 1514

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Commerce recommends the following pass: SB 1100

The bill was referred to the Committee on Economic, Community and Consumer Affairs under the original reference.

The Committee on Commerce recommends the following pass: HB 1638 with 2 amendments

The bill was placed on the calendar.

The Committee on Commerce recommends the following pass: CS for HB 595 with 2 amendments, HB 1751 with 2 amendments

The bills were referred to the Committee on Ways and Means under the original reference.

The Committee on Commerce recommends the following pass:

SB 333 with House Amendments
SB 343 with House Amendments
CS for SB 346 with 1 amendment to House amendment
CS for SB 348 with 8 amendments to House amendments
CS for SB 349 with House Amendments
SB 832 with 3 amendments
SB 1049
CS for HB 432
HB 1127
CS for HB 1733
HB 1773 with 2 amendments

The Committee on Commerce recommends the following pass:

HB 1677 with 8 amendments
HB 1699
HB 1745 with 3 amendments
CS for SB 347 with 8 amendments to House amendments

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Commerce recommends the following not pass: SB 174

The bill was laid on the table.

The Committee on Agriculture recommends that the Senate confirm the following appointments made by the Governor:

James Crocker, Plant City, Member, Florida Citrus Commission, District One, for term ending May 31, 1983

Richard Graves, Vero Beach, Member, Florida Citrus Commission, District Five, for term ending May 31, 1983

David Hamrick, Bradenton, Member, Florida Citrus Commission, State at Large, for term ending May 31, 1983

Walter Woolfolk, Lake Wales, Member, Florida Citrus Commission, District Seven, for term ending May 31, 1983

EXECUTIVE BUSINESS

Senator Carlucci presented the following report:

The Honorable Philip D. Lewis
President, The Florida Senate

June 6, 1980

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Executive Business for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Florida Citrus Commission, Members		
Appointees:	Crocker, James A.	5/31/83
	Graves, J. Richard, Jr.	5/31/83
	Hamrick, David O.	5/31/83
	Woolfolk, Walter W.	5/31/83

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to

attend and offer evidence concerning the qualifications, experience and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee, by a separate vote as to each appointee, respectively advises and recommends:

(1) That the executive appointment of the above-named appointees, to the office and for the term indicated, be *confirmed* by the Senate.

(2) That Senate action on said appointments be taken prior to adjournment of the 1980 Regular Session.

(3) That there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully Submitted,

Sherman S. Winn, Chairman
James A. Scott, Vice Chairman
Joe Carlucci
Pat Frank
Paul B. Steinberg

Senator Carlucci moved that the report be adopted and the Senate confirm the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The motion was adopted by the following vote:

Yeas—30

Mr. President	Gorman	McKnight	Tobiassen
Anderson	Grizzle	Neal	Trask
Beard	Henderson	Peterson	Vogt
Carlucci	Hill	Poole	Ware
Chamberlin	Holloway	Scarborough	Williamson
Childers, D.	Jenne	Skinner	Winn
Childers, W. D.	Johnston	Steinberg	
Dunn	Maxwell	Thomas	

Nays—None

By permission, Senator Hair was recorded as voting yea on SCR 1385, CS for HB 719, House Bills 448, 996 and 1623, which passed the Senate June 4; Senate Bills 1219, 430, 18, 1052, 91, 409, 687, 902, 898, 958, 1041, 1229, 326, 287, 1272; House Bills 995, 161, 556, 291, 1691, 497, 901, 638, 272, 449, 1621, 715, 721, 1023, 738, 653, 1592, 159, 431, CS for SB 189, CS for HB 769, CS for HB 1296, CS for SB 821, CS for SB 910, CS for HB 966, CS for SB 1293, CS for HB 724, CS for SB 1307 which passed the Senate June 3.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Dunn, by two-thirds vote HB 1180 was withdrawn from the Committee on Governmental Operations.

On motion by Senator Grizzle, by two-thirds vote SB 839 was removed from the special order calendar and indefinitely postponed.

On motion by Senator McKnight, by two-thirds vote SB 698 was withdrawn from the committees of reference and indefinitely postponed.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had transmitted to the office of the Secretary of State Senate Bills 649, 1147 and 1251 which he had approved June 4; and CS for SB 628, CS for SB 1052, CS for SB 1260 and SB 46 which he had approved June 5; CS for SB 93 and CS for SB 807 which he had approved June 6.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed SB 490 and SB 954.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed—

CS for SB 706	SB 885	SB 416
SB 766	SB 358	SB 599

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments 1 and 6 and passed SB 687, as amended.

Allen Morris, Clerk

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended—

CS for HB 1296	HB 1746	HB 940
HB 1572	HB 556	CS for HB 769

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Anderson—

SB 91—A bill to be entitled An act relating to insurance; creating s. 624.031, Florida Statutes, to define self-insurance; amending s. 627.551, Florida Statutes, to require self-insured plans to comply with the applicable provisions of part V of chapter 627; amending s. 627.651, Florida Statutes, to require self-insured plans to comply with the applicable provisions of part VII of chapter 627; renumbering s. 627.6675(6), Florida Statutes, and adding a new subsection (6) to said section; requiring insurers who issue conversion policies to offer those policies with prescribed renewal provisions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 3, lines 1-31, page 4, lines 1-31, and page 5, lines 1-21, strike all of said lines and insert:

624.031 Self-insurance defined.—For the purpose of sections 627.551 and 627.651, self-insurance includes any plan, fund or program which is communicated or its benefits described in writing to employees and which has heretofore been or is hereafter established by or on behalf of any individual, partnership, association, corporation, trustee, governmental unit, employer or employee organization, or any other organized group for the purpose of providing for employees or their beneficiaries through such individual, partnership, association, corporation, trustee, governmental unit, employer or employee organization, or any other group benefits in the event of sickness, accident, disability or death. Self-insurance shall not include:

(1) Any plan with respect to which benefits are insured or reinsured by an insurance company or a nonprofit hospital or medical service corporation, or are provided by a Health Maintenance Organization;

(2) Any plan covering fewer than ten employees in this state;

(3) Any plan established and maintained as a pension or profit-sharing plan for the exclusive benefit of employees and their beneficiaries;

(4) Any plan established and maintained for the purpose of complying with any workers' compensation law;

(5) Any plan administered by or for the federal government;

(6) Any plan with respect to payments by an employer continuing an employee's regular compensation, or part thereof, during an illness or disability, or

(7) Any plan which is primarily for the purpose of providing first-aid care and treatment, at a dispensary of an employer for injury or sickness of employees while engaged in their employment.

(8) Any plan established and maintained for the purpose of providing malpractice coverage or professional liability coverage.

Section 32. Section 627.551, Florida Statutes, is amended to read:

627.551 Group contracts *and plans of self-insurance* must meet group requirements.—

(1) No life insurance policy shall be delivered or issued for delivery in this state insuring the lives of more than one individual unless to one of the groups as provided for in ss. 627.552-s. 627.556 *and s. 627.572*, and unless in compliance with the other applicable provisions of part V of this chapter. *No plan of self-insurance providing benefits in the event of death to residents of this state shall be established or maintained unless in compliance with the applicable provisions of part V of this chapter relating to the rights of individuals to specified benefits and coverages.*

(2) Subsection (1) shall not apply to life insurance policies or plans of self-insurance:

(a) Insuring *or providing benefits to* only individuals related by blood, marriage or legal adoption; or

(b) Insuring *or providing benefits to* only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

(c) Insuring *or providing benefits to* only individuals otherwise having an insurable interest in each other's lives.

(3) Nothing in *s. 627.552* ~~this chapter~~ shall affect the provisions of ss. 112.08 to 112.14 *inclusive.*

(4) As used in part V of this chapter:

(a) The terms "policy," "insurance policy," and "group life insurance policy" are deemed to include plans of self-insurance providing death benefits thereunder.

(b) The terms "amount of insurance" and "insurance" are deemed to include the death benefits provided under a plan of self-insurance.

(c) The term "insurer" is deemed to include any person or governmental unit providing a plan of self-insurance.

Section 4. Section 627.651, Florida Statutes, is amended to read:

627.651 Group contracts *and plans of self-insurance* must meet group requirements.—

(1) No disability insurance policy shall be delivered or issued for delivery in this state insuring more than one individual unless to one of the groups as provided for in ss. 627.653-s. 627.655 and unless in compliance with the other applicable provisions of part VII of this chapter. *No plan of self-insurance providing disability benefits to residents of this state shall be established or maintained unless in compliance with the applicable provisions of part VII of this chapter relating to the rights of individuals to specified benefits and coverages.*

(2) Subsection (1) shall not apply to disability insurance policies *or plans of self-insurance:*

(a) Insuring *or providing benefits to* only individuals related by blood, marriage or legal adoption; or

(b) Insuring *or providing benefits to* only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

(c) Insuring *or providing benefits to* only individuals otherwise having an insurable interest in each other's lives; or

(d) Issued as blanket insurance pursuant to s. 627.659.

(3) Nothing in *s. 627.653* ~~this chapter~~ shall affect the provisions of ss. 112.08 to 112.14, inclusive.

(4) As used in part VII of this chapter:

(a) The terms "policy," "insurance policy," "disability insurance policy," "group disability policy," and "group disability insurance policy" are deemed to include plans of self-insurance providing disability benefits.

(b) The terms "amount of insurance" and "insurance" are deemed to include the benefits provided under a plan of self-insurance.

(c) The term "insurer" is deemed to include any person or governmental unit providing a plan of self-insurance.

Section 5. This act shall take effect upon becoming a law; except that sections 2-4 shall take effect July 1, 1981, and shall apply to all plans of self-insurance established or amended on or after July 1, 1981.

Amendment 2—On page 5, line 18, insert the following and renumber the subsequent section accordingly: Section 6. Paragraph (c) is added to subsection (2) of section 627.666, Florida Statutes, to read:

627.666 Liability of succeeding insurer on replacement of group policy or contract.—

(2) Each person not covered under the succeeding insurer's plan of benefits in accordance with subsection (1) must be covered by the succeeding insurer in accordance with the following provisions if such individual was validly covered (including benefit extension) under the prior plan on the date of discontinuance of the prior plan and if such individual is a member of the class or classes of individuals eligible for coverage under the succeeding insurer's plan.

(a) The minimum level of benefits to be provided by the succeeding insurer shall be the applicable level of benefits of the prior insurer's plan reduced by any benefits payable by the prior plan.

(b) Coverage must be provided by the succeeding insurer until at least the earliest of the following dates:

1. The date the individual becomes eligible under the succeeding insurer's plan as described in subsection (1);

2. The date the individual's coverage would terminate in accordance with the succeeding insurer's plan provisions applicable to individual termination of coverage (e.g., at termination of employment or ceasing to be an eligible dependent, etc.).

3. In the case of an individual who was totally disabled immediately prior to the date the succeeding insurer's coverage became effective, the end of any period of extension or accrued liability required of the prior insurer under s. 627.667, if s. 627.667 is applicable, or the end of any period of extension or accrued liability which would have been required of the prior insurer by s. 627.667, had s. 627.667 been applicable.

(c) In the event that the eligible class or classes provide for dependent children, a limiting age shall not waive the succeeding insurer's liability to provide coverage for handicapped children meeting the criteria of s. 627.6615(1) and (2), with the prior carrier and continuing to meet that criteria at the time of replacement of the group policy or contract.

Section 7. The repeal of section 627.666, Florida Statutes, by chapter 76-168, Laws of Florida, as amended, shall not be affected by the amendment of that section by this act.

Amendment 3—On page 1, line 14 in the title, insert after the semicolon: adding s. 627.666(2)(c), Florida Statutes; providing that a "limiting age" policy provision shall not prescribe a succeeding insurer's liability for certain dependent children on replacement of a group disability policy under certain conditions;

Amendment 4—On page 5, line 18, insert the following and renumber the subsequent section accordingly: Section 5. Section 626.341, Florida Statutes, is amended to read:

626.341 Additional licenses; life and disability agents.—

(1) At any time while his license is in force a disability agent or a life agent while his primary license is in force may

apply to the department for an additional license or licenses as life or disability agent for an additional insurer or insurers. The application shall set forth each insurer the applicant is then licensed to represent, and such other information as the department may require. The application shall include, or be accompanied by, appointment of the applicant as agent by each additional insurer as to which license is applied for. Upon receipt of the application and appointment and payment of the applicable license taxes and fees, the department may issue such additional license without, in its discretion, further investigation concerning the applicant.

(2) A disability agent with a license in force may solicit applications for policies of disability insurance on behalf of an insurer with respect to which he is not a licensed disability agent, unless otherwise provided by contract, provided that such agent submits an application for appointment as a disability agent of such insurer simultaneously with the submission to such insurer of the application for insurance solicited by him, and, provided further, that no commissions shall be paid by such insurer to the agent until such time as an additional license with respect to such insurer has been issued by the department to the agent pursuant to the provisions of subsection (1).

(3) A life agent with a license in force may solicit applications for policies of life insurance on behalf of an insurer with respect to which he is not a licensed life agent, unless otherwise provided by contract, provided that such agent submits an application for appointment as a life agent of such insurer simultaneously with the submission to such insurer of the application for insurance solicited by him, and, provided further, that no commissions shall be paid by such insurer to the agent until such time as an additional license with respect to such insurer has been issued by the department to the agent pursuant to provisions of subsection (1).

Section 6. Section 626.342, Florida Statutes, is created to read:

626.342 Furnishing supplies to unlicensed life, disability or general lines agent prohibited; civil liability and penalty.—

(1) No insurer, general agent, or agent, directly or through any representative, shall furnish to any agent any blank forms, applications, stationery or other supplies to be used in soliciting, negotiating or effecting contracts of insurance on its behalf unless such blank forms, applications, stationery or other supplies relate to a class of business with respect to which such agent is a licensed agent, whether for said insurer or another insurer.

(2) Any insurer, or any officer, director or agent thereof, violating the provision of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any insurer, general agent, or agent that furnishes any of the supplies specified in subsection (1) to any agent or prospective agent not licensed to represent the insurer and accepts from, or writes any insurance business for such agent or agency shall be subject to civil liability to any insured of such insurer to the same extent and in the same manner as if such agent or prospective agent had been appointed, licensed, or authorized by the insurer or such agent to act in its or his behalf by the Department of Insurance. The provisions of this subsection shall not apply to insurance risk apportionment plans under s. 627.351.

Section 7. Section 626.746, Florida Statutes, is hereby repealed.

Section 8. If parts I-IV of chapter 626, Florida Statutes, are repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.

Amendment 5—On page 1, line 14 in the title, insert after the semicolon: amending s. 626.341, Florida Statutes, providing conditions under which certain insurers may solicit applications for certain types of insurance; creating s. 626.342, Florida Statutes, providing that the furnishing of insurance supplies to an unlicensed agent is prohibited; providing penalties; repealing s. 626.746, Florida Statutes, relating to the prohibition against furnishing supplies to unlicensed insurance agents; providing for conditional repeal;

On motions by Senator Anderson, the Senate concurred in the House Amendments.

SB 91 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Gorman	Neal	Trask
Anderson	Grizzle	Peterson	Vogt
Beard	Henderson	Poole	Ware
Carlucci	Hill	Scarborough	Williamson
Chamberlin	Jenne	Skinner	Winn
Childers, W. D.	Maxwell	Steinberg	
Dunn	McKnight	Thomas	
Fechtel	Myers	Tobiassen	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By the Committee on Judiciary-Civil and Senator Thomas—

CS for SB 200—A bill to be entitled An act relating to tax collections and tax sales; amending s. 197.062(1), Florida Statutes, as amended; providing requirements for advertising the sale of real or personal property with delinquent taxes; amending s. 197.116(2), Florida Statutes, as amended; providing that no homestead exemption property be sold at public auction for delinquent taxes; amending ss. 197.151(2) and 197.156(1), Florida Statutes, as amended; deleting language requiring payment for costs incurred in personal service of notice; amending s. 197.241(3), Florida Statutes, as amended; providing redemption of property by titleholder prior to issuance of tax deed; deleting procedure for bidding by titleholder of homestead exemption property; amending s. 197.256(1), (2), Florida Statutes, as amended; requiring additional notice to certain individuals of application for tax deed; deleting the requirement that titleholders residing out of state be notified of delinquent taxes on homestead exemption property; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 29, strike everything after the enacting clause and insert:

Section 1. Subsection (1) of section 197.116, Florida Statutes, is amended to read:

197.116 Sale of tax certificates for unpaid taxes.—(1) On the day and approximately at the time designated in the notice of the sale, the tax collector shall commence the sale of tax certificates on those lands on which taxes have not been paid, and shall continue same from day to day until each parcel is sold to pay the taxes, interest, costs, and charges thereon. *All county officers, employees or their spouses are prohibited from purchasing any tax certificate sold under this section.* ~~;~~ ~~and~~ *In* ~~in~~ case there are no bidders, each parcel shall be bid off by the tax collector for the county. The tax collector shall offer all the lands as assessed.

Section 2. Subsection (5) of section 195.106, Florida Statutes, is amended to read:

195.106 Department of Revenue to pass upon and order refunds.—

(5) The provisions of this section shall apply with respect to refunds of amounts paid for tax certificates which are subsequently determined to be void, as provided in s. 197.116*(9)*~~(8)~~.

Section 3. Subsections (1) and (3) of section 197.062, Florida Statutes, as amended by chapter 79-584, Laws of Florida, are amended to read:

197.062 Advertisement of real or personal property with delinquent taxes.—

(1) The board of county commissioners shall, whenever legal advertisements are required, select and advertise *as provided in chapter 50.* ~~in a newspaper of paid general circulation in the county. Such advertisements shall appear in a newspaper that is published at least 5 days a week unless the only newspaper of general circulation in the county is published less than 5 days a week. The newspaper shall be one of general interest and readership in the community, and not one of limited subject matter.~~ The office of the tax collector shall pay all newspaper charges, and the proportionate cost of the advertisements shall be added to the delinquent taxes when they are collected.

(3) The tax collector shall advertise *at least once but not more than four times* ~~once each week for 4 weeks~~ and shall sell tax certificates except as provided in s. 197.116(2), on all real property with taxes due on or before June 1 of each year. He shall make a list of such properties specifying the amount due on each parcel, including interest at the rate of 18 percent per year from April 1 to the date of sale, provided that the minimum charge for any taxes redeemed prior to the sale of a tax certificate shall be 3 percent regardless of the time of redemption, with the cost of advertising and expense of sale in the same order in which the lands were assessed.

Section 4. Section 50.061, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 50.061, F.S., for present text.)

50.061 Amounts chargeable.—

(1) The publisher of any newspaper publishing any and all official public notices or legal advertisements shall charge therefor an amount not to exceed the regular established minimum commercial rate per square inch of the newspaper.

(2) All official public notices and legal advertisements shall be charged and paid for on the basis of 6-point type on 6-point body.

(3) Any person violating a provision of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Violation of this section shall in no way affect the validity of any official public notice or legal advertisement and shall not subject same to legal attack upon such grounds.

Section 5. Subsection (2) of section 197.241, Florida Statutes, and subsection (3) of said section, as amended by chapter 79-584, Laws of Florida, are amended to read:

197.241 Application for obtaining tax deed by holder of tax sale certificates; fees.—

(2) Any certificate holder, other than the county, making application for a tax deed shall pay the collector all amounts required for redemption or purchase of all other outstanding tax certificates, plus interest, any omitted taxes, plus interest, and delinquent taxes, plus interest, covering the land. *In addition to these charges, for all property that was granted a homestead exemption for the year in which the delinquent taxes were assessed, the certificate holder shall pay to the collector an amount equal to one-half of the assessed value of the homestead property as listed on the current year's tax roll. However, payment of one-half of the assessed value of the homestead property shall not be required if the tax certificate to which the application relates was sold prior to January 1, 1981.* The distribution to certificate holders of record of tax certificates redeemed or purchased shall be made as prescribed by the Department of Revenue. The tax collector shall then deliver to the clerk of the circuit court a statement certifying the names and addresses of all persons the clerk is required by law to notify prior to the sale of the property and that payment has been made to the collector for all outstanding certificates or if the certificate is held by the county that all appropriate fees have been deposited. The clerk shall advertise and administer the sale and receive such fees for the issuance of the deed and sale of the property as is provided in s. 28.24. The certificate shall be signed by the collector and his seal affixed. The collector may purchase a reasonable bond for errors and omissions of his office in making such certificates.

(3) The county shall make application for a deed on all certificates 2 years from the date the taxes to which they relate were due. A county shall apply for a deed on all certificates in its possession that have been in its possession for more than 2 years. Upon application for a tax deed, the county shall deposit with the collector all applicable costs and fees, but shall not deposit any money to cover the redemption of other outstanding certificates covering the land. The opening bid on nonhomestead property shall be the sum of the value of all outstanding certificates against the land, plus omitted years' taxes, delinquent taxes, interest, and all costs and fees paid by the county. The opening bid on property assessed on the latest tax roll as homestead property shall include, in addition to the amount of money required for an opening bid on nonhomestead property, an amount equal to one-half of the latest assessed value of the homestead, provided that the ~~opening bid for~~ titleholders of record of the property shall *have the right to redeem the property prior to the issuance of a tax deed by the clerk of the circuit court, by making payment to the tax collector for all outstanding certificates, omitted years' taxes, delinquent taxes, interest, and all costs of sale and fees. Payment of one-half of the assessed value of the homestead property shall not be required if the tax certificate to which the application relates was sold prior to January 1, 1981.* ~~be the same as bids for nonhomestead property.~~

Section 6. Section 197.256, Florida Statutes, as amended by chapter 79-584, Laws of Florida, is amended to read:

197.256 Notice to owner where application is made by holder.—

(Substantial rewording of subsection (1). See s. 197.256 (1), F.S., as amended, for present text.)

(1)(a) The clerk of the circuit court shall notify, by certified mail with return receipt requested, the following persons that an application for a tax deed has been made:

1. Legal titleholders of record.

2. Lienholders of record.

3. Mortgagees of record.

4. Vendees of recorded contracts for deed, or if the contract is not recorded, vendees who have applied to receive notice pursuant to s. 197.072(2).

5. Other lienholders who have applied to the tax collector to receive notice.

Such notice shall be mailed at least 20 days prior to the date of sale to each of said persons at his last known address. If, upon diligent search, no address can be found, then no notice shall be required.

(b) The clerk shall enclose with every copy mailed a statement as follows: "WARNING: There are unpaid taxes on property which you own or in which you have a legal interest. The property will be sold at public auction on ... (date) ... unless the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court immediately at ... (address) ... (telephone number) ...."

(c) The clerk shall complete and attach to the affidavit of the publisher a certificate containing the names and addresses of those persons notified and the date the notice was mailed. The certificate shall be signed by the clerk and his official seal affixed. The certificate shall be prima facie evidence of the fact that the notice was mailed. If no address can be found for any person listed in paragraph (a), the clerk shall execute a certificate to this effect.

(d) The failure of the owner, lienholder, mortgagee, contract for deed vendee, or municipality or other taxing district to receive the notice shall not affect the validity of the tax deed issued pursuant to the notice.

(e) A printed copy of the notice as published in the newspaper, accompanied by the warning statement described in paragraph (b), shall be deemed sufficient notice.

(2) In addition to the notice provided in subsection (1), the sheriff of the county in which the legal titleholder resides shall, at least 20 days prior to the date of sale, notify the legal titleholder of record of the property on which the tax certificate is outstanding. *The original notice and sufficient copies shall be prepared by the clerk and provided to the sheriff.*

Such notice shall be served by personal service of process as specified in chapter 48, and if the sheriff is unable to make personal service, he shall *post a copy of the notice in a conspicuous place at the legal titleholder's last known address. The inability of the sheriff to personally serve notice on the legal titleholder shall not affect the validity of the tax deed issued pursuant to the notice. A legal titleholder of record who resides outside the state may be notified by certified mail with return receipt requested, as provided in subsection (1).* ~~mail the notice by certified mail, with return receipt requested, to the legal titleholder of record at his last known address, and shall post a copy of the notice in a conspicuous place on the residence.~~ The notice shall be in substantially the following form:

WARNING

"There are unpaid taxes on the property which you own. The property will be sold at public auction on ... (date) ... unless the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court at ... (address) ... (telephone number) ...."

~~However, a legal titleholder of record residing outside the state may be notified by certified mail with return receipt requested.~~ In addition, a copy of such notice shall be posted in a conspicuous place on the property by the sheriff of the county in which the property is located. *However, no posting of notice shall be required if the property to be sold is classified for assessment purposes as non-agricultural acreage or as vacant land.*

(3) Nothing in this chapter shall be construed to prevent the tax collector or other public official in his discretion from giving additional notice in any form concerning tax certificates and tax sales beyond the minimum requirements of this chapter.

Section 7. Subsections (1) and (2) of section 197.291, Florida Statutes, are amended to read:

197.291 Disbursement of proceeds of sale.—

(1) If the property is purchased by any person other than the certificate holder, the clerk shall forthwith pay to the certificate holder all of the sums he has paid, including the amount required for the redemption of the certificate or certificates together with any and all subsequent unpaid taxes plus the costs and expenses of the application for deed, with interest on the total of such sums for *the period running from the date of application for the deed to the date of sale* ~~1 month~~ at the rate of 18 percent per year. The clerk shall distribute the amount required to redeem the certificate or certificates and the amount required for the redemption of other tax certificates on the same land with omitted taxes and with all costs, plus interest thereon at the rate of 18 percent per year for *the period running from the date of application for the deed to the date of sale* ~~1 month~~, in the same manner as he distributes money received for the redemption of tax certificates owned by the county.

(2) If the property is purchased for an amount in excess of the statutory bid of the certificate holder, the excess shall be paid over and disbursed by the clerk. *If the property purchased is homestead property and the statutory bid includes an amount equal to one-half of the assessed value of the homestead, that amount shall be treated as excess and distributed in the same manner.* The clerk shall distribute the excess to the governmental units for the payment of any lien of record held by a governmental unit against the property. In the event the excess is not sufficient to pay all of such liens in full, the excess shall then be paid to each governmental unit pro rata. If, after all liens of record of the governmental units upon the property are paid in full, there remains a balance of undistributed funds, the balance of the purchase price shall be retained by the clerk for the benefit of the *persons described in s. 197.256(1)(a), as their interests may appear.* ~~person who on the day of the sale was the legal titleholder of record.~~ The clerk shall mail *notices to such persons notifying them* ~~a notice to the legal titleholder of record notifying him~~ of the funds held for *their* ~~his~~ benefit ~~and shall pay to him upon demand the entire balance less a service charge at the same rate as prescribed in s. 28.24(14) and less the cost of mailing~~. *Any service charges, at the same rate as prescribed in s. 28.24(14), and costs of mailing notices shall be paid out of the excess balance held by the clerk.* Excess proceeds shall be held and disbursed in the same manner as unclaimed redemption moneys in s. 197.186 [F. S. 1973]. In the event excess proceeds are not sufficient to cover the service charge and mailing costs, the clerk shall receive the total amount of excess proceeds as a service charge.

Section 8. Paragraph (a) of subsection (1) of section 195.106, Florida Statutes, is amended to read:

195.106 Department of Revenue to pass upon and order refunds.—

(1)(a) Except as provided in paragraph (b), the Department of Revenue shall pass upon and order refunds when payment has been made voluntarily or involuntarily of taxes assessed on the county tax rolls by reason of any of the following circumstances:

1. Any over-payment;

2. Payment when no tax was due;

3. When a bona fide controversy exists between the tax collector and the taxpayer as to the liability of the taxpayer for the payment of the tax claimed to be due, the taxpayer pays the amount claimed by the tax collector to be due, and it is finally adjudged by a court of competent jurisdiction that the taxpayer was not liable for the payment of the tax or any part thereof.

4. Any payment made in error by a taxpayer to the tax collector, provided that within twenty-four months of the date of the erroneous payment, and prior to any transfer of the assessed property to a third person for consideration, the party seeking a refund makes demand for reimbursement of the erroneous payment upon the owner of the property on which the taxes were erroneously paid and reimbursement of the erroneous payment is not received within 45 days of such demand. The demand for reimbursement shall be sent by certified mail, return receipt requested, and a copy thereof shall be sent to the tax collector.

Section 9. Subsection (1) of section 197.266, Florida Statutes, as amended by chapter 79-584, Laws of Florida, is amended to read:

197.266 Sale at public auction.—

(1) The lands advertised for sale to the highest bidder as a result of an application filed under s. 197.241 shall be sold at public auction by the clerk of the circuit court, or his deputy, of the county where the lands are located, on the date, at the time, and at the courthouse door as set forth in the published notice, which shall be during the regular hours his office is open. At the time and place the clerk shall read the notice of sale, and shall offer the lands described in the notice for sale to the highest bidder for cash at public outcry. The amount required to redeem the tax certificate, plus the amounts paid by the holder to the clerk of the circuit court in charges for costs of sale, redemption of other tax certificates on the same lands, and all other costs to the applicant for tax deed, plus interest thereon at the rate of 18 percent per year for *the period running from the date of application for the deed to the date of sale* ~~one month~~, *and costs incurred for the personal service of notice provided for in s. 197.256(2),* shall be considered the bid of the certificate holder for the property. If there are no higher bids, the land shall be struck off and sold to the certificate holder. If there are other bids, the certificate holder shall have the right to bid as other present may bid, and the property shall be struck off and sold to the highest bidder.

Section 10. This act shall take effect upon becoming a law.

Senator Thomas moved the following amendment to House Amendment 1 which was adopted:

Amendment 1—On pages 1-12, strike all of pages 1 through and including page 12 and insert: Section 1. Subsection (2) of section 197.151, Florida Statutes, as amended by chapter 79-584, Laws of Florida, is amended to read:

197.151 Tax sale certificates belonging to the county held by the tax collector; redemption.—

(2) The tax collector of the county is authorized and directed to allow the redemption or purchase, in whole or in part, when the part to be redeemed or purchased can be ascertained by legal description, of any tax certificates held by the county,

at any time before the vesting of title in the county. The property appraiser shall, within 15 days after request from the collector, apportion the property into the parts sought to be redeemed or purchased. The payment of the amount of the tax certificate or certificates, or the part thereof as the part to be redeemed or purchased bears to the whole, and any and all subsequent unpaid or omitted taxes due on the land to be redeemed or purchased shall be paid with interest thereon at the rate of 18 percent per annum for the period of time from the date of the certificate. For each certificate redeemed, each county certificate purchased, or each omitted year, the collector shall receive a fee of $5. ~~Payment shall be made at the time of redemption for costs incurred for the personal service of notice provided for in s. 197.256(2).~~

Section 2. Subsection (1) of section 197.156, Florida Statutes, as amended by chapter 79-584, Laws of Florida, is amended to read:

197.156 Redemption of tax sale certificates sold to purchaser other than county.—

(1) Any person owning or claiming lands upon which a tax sale certificate has been sold, or any part or parcel thereof or any interest therein, or the creditor of any owner or claimant, may redeem the lands at any time after the issuance of the tax sale certificate and before a tax deed is issued by paying to the tax collector in the county where the land is situated the face amount of the certificate of sale, or the part thereof as the part or interest redeemed shall bear to the whole, upon the collector's being furnished within 15 days by the property appraiser with a certificate apportioning the value to the part or parts sought to be redeemed and to the remaining land or lands under said certificate or certificates, according to their respective part or parts, the apportionment to be made upon the basis of valuation. Upon redemption being made, the person redeeming the tax sale certificate shall pay all taxes, interest, costs, charges, and omitted taxes, if any, as provided by law upon the part or parts of the certificate so redeemed or purchased, with interest as stated in the certificate from the date of the certificate to the date of redemption. ~~In addition, payment shall be made for costs incurred for the personal service of notice provided for in s. 197.256(2).~~ When a tax sale certificate is redeemed and the interest earned on the tax sale certificate is less than 5 percent of the face amount of the certificate, then a mandatory charge of 5 percent shall be levied upon the tax sale certificate. The person redeeming the tax sale certificate shall pay the interest rate bid or the 5 percent mandatory charge, whichever is greater. This shall apply to all tax sale certificates except those with an interest rate bid of zero percent.

Section 3. Subsection (3) of section 197.241, Florida Statutes, as amended by chapter 79-584, Laws of Florida, is amended to read:

197.241 Application for obtaining tax deed by holder of tax sale certificate; fees.—

(3) The county shall make application for a deed on all certificates 2 years from the date the taxes to which they relate were due. A county shall apply for a deed on all certificates in its possession that have been in its possession for more than 2 years. Upon application for a tax deed, the county shall deposit with the collector all applicable costs and fees, but shall not deposit any money to cover the redemption of other outstanding certificates covering the land. The opening bid on nonhomestead property shall be the sum of the value of all outstanding certificates against the land, plus omitted years' taxes, delinquent taxes, interest, and all costs and fees paid by the county. The opening bid on property assessed on the latest tax roll as homestead property shall include, in addition to the amount of money required for an opening bid on nonhomestead property, an amount equal to one-half of the latest assessed value of the homestead, provided that the ~~opening bid for~~ titleholders of record of the property shall *have the right to redeem the property prior to the issuance of a tax deed by the clerk of the circuit court, by payment of all outstanding certificates, omitted years' taxes, delinquent taxes, interest, and all costs and fees* ~~be the same as bids for nonhomestead property~~.

Section 4. Subsections (1) and (2) of section 197.256, Florida Statutes, as amended by chapter 79-584, Laws of Florida, are amended to read:

197.256 Notice to owner where application is made by holder.—

(1) In addition to the publication of the notice provided for by s. 197.246, the clerk of the circuit court shall notify, by certified mail with return receipt requested, the legal titleholder and lienholders of record of the property if the name and address of such persons appear on the record of the conveyance of the lands to the owner, and each lienholder as listed in the collector's certification who claims a lien thereon at the date of the filing of the application for obtaining tax deed. If *the owner of the property as indicated on the tax roll for the year in which the property was last assessed is different from the titleholder on the record of conveyance,* ~~the address of the owner does not appear on the record of conveyance then~~ the notice shall *also* be mailed, by certified mail with return receipt requested to the owner to whom the property was assessed on the tax roll for the year in which the property was last assessed. If *the person last paying taxes upon the lands is different from the titleholder on the record of conveyance,* ~~the name and address of such person do not appear thereon, then~~ the notice shall *also* be mailed, by certified mail with return receipt requested, to the person last paying taxes upon the lands. If, upon diligent search, no address can be found, then no notice shall be required. The collector shall also mail, by certified mail with return receipt requested, notices to other lienholders who make application to his office. The clerk shall mail, by certified mail with return receipt requested, a copy of the notice to each mortgagee whose mortgage upon such lands is recorded in the county in which the property is located. The clerk shall also mail, by certified mail with return receipt requested, a notice to vendees of recorded contracts for deed or those who have made application to receive tax notices, including those making application for homestead exemption. The clerk shall enclose with every copy mailed a statement as follows: "WARNING: There are unpaid taxes on property which you own or in which you have a legal interest. The property will be sold at public auction on . . . (date) . . . unless the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court immediately at . . . (address) . . . telephone number . . . ." The clerk shall make out and attach to the affidavit of the publisher a certificate containing the names and addresses of those persons to whom the copy was sent and the date thereof. The certificate shall be signed by the clerk and his official seal affixed. The certificate shall be prima facie evidence of the fact that the notice was mailed. In the event the addresses of the owners, if any, do not appear on the tax roll and the address of the person last paying taxes upon the lands is not shown, the clerk shall execute a certificate to this effect. The failure of the owner, contract vendee, mortgagee, or municipality or other taxing district to receive the notice shall not affect the validity of the tax deed issued pursuant to the notice. The notice referred to in this subsection may be sent any time not later than 20 days prior to the date of sale and a printed copy of the notice as published in the newspaper shall be sufficient.

(2) *On property on which a homestead exemption has been granted for the year in which the delinquent taxes were assessed, or on which there is a current homestead exemption granted,* in addition to the notice provided in subsection (1), the sheriff of the county in which the legal titleholder resides shall, at least 20 days prior to the date of sale, notify the legal titleholder of record of the property on which the tax certificate is outstanding. *The original notice and sufficient copies shall be prepared by the clerk and provided to the sheriff.* Such notice shall be *prepared by the clerk of court and forwarded to the sheriff for* ~~served by~~ personal service of process as specified in chapter 48, and if the sheriff is unable to make personal service, he shall mail the notice by certified mail, with return receipt requested, to the legal titleholder of record at his last known address, and shall post a copy of the notice in a conspicuous place on the residence. The notice shall be in substantially the following form.

WARNING

"There are unpaid taxes on the property which you own. The property will be sold at public auction on . . . (date) . . . unless the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court at . . . (address) . . . telephone number . . . ."

~~However, a legal titleholder of record residing outside the state may be notified by certified mail with return receipt~~

~~requested. In addition, a copy of such notice shall be posted in a conspicuous place on the property by the sheriff of the county in which the property is located.~~

Section 5. This act shall take effect upon becoming a law.

Amendment 2—On page 1, line 1-25, strike all of said lines and insert: A bill to be entitled An act relating to tax sales; amending s. 197.116(1), Florida Statutes; prohibiting all county officers, employees or their spouses from purchasing tax certificates on lands on which taxes have not been paid at public sales; amending s. 195.106(5), Florida Statutes; correcting a cross reference; amending s. 197.062(1) and (3), Florida Statutes, as amended; revising requirements with respect to advertisement of property with delinquent taxes; amending s. 50.061, Florida Statutes; specifying minimum charges for public notices or legal advertisements; providing a penalty; amending s. 197.241(2) and (3), Florida Statutes, as amended; specifying that certificate holders other than the county making application for tax deed shall pay an amount equal to one-half the assessed value for homestead property; specifying time limitation with respect to said requirement for all certificate holders; providing right of titleholder to redeem homestead property prior to issuance of a tax deed when certificate is held by county; amending s. 197.256, Florida Statutes, as amended; providing requirements with respect to notice of application for a tax deed; specifying that inability to personally serve notice shall not affect validity of tax deed; providing that posting of notice is not required for certain property; amending s. 195.106(1)(a), Florida Statutes; providing for a refund of any payment made in error by a tax payer to tax collector; amending s. 197.266, Florida Statutes; increasing the amount of interest allowed on funds deposited at the time of application; amending s. 197.291(1) and (2), Florida Statutes; providing for distribution of the portion of the proceeds of sale represented by one-half the assessed value of homestead property; providing an effective date.

Senator Thomas moved the following Amendment to House Amendment 2 which was adopted:

Amendment 1—On pages 1 and 2, in title, strike all of pages 1 and 2 and insert: A bill to be entitled An act relating to tax collections and tax sales; amending ss. 197.151(2) and 197.156 (1), Florida Statutes, as amended; deleting language requiring payment for costs incurred in personal service of notice; amending s. 197.241(3), Florida Statutes, as amended; providing redemption of property by titleholder prior to issuance of tax deeds; deleting procedure for bidding by titleholder of homestead exemption property; amending s. 197.256(1), (2), Florida Statutes, as amended, requiring additional notice to certain individuals of application for tax deed; deleting the requirement that titleholders residing out of state be notified of delinquent taxes on homestead exemption property; providing an effective date.

On motions by Senator Thomas, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 200 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—28

Mr. President	Grizzle	Peterson	Thomas
Beard	Hill	Poole	Tobiassen
Carlucci	Jenne	Scarborough	Trask
Chamberlin	Johnston	Scott	Vogt
Dunn	McKnight	Skinner	Ware
Fechtel	Myers	Steinberg	Williamson
Gorman	Neal	Stuart	Winn

Nays—None

Vote after roll call:

Yea—Hair

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Judiciary-Criminal—

SB 287—A bill to be entitled An act relating to public defenders; amending s. 27.50, Florida Statutes; prescribing qualifications for public defenders; amending s. 27.51, Florida Statutes; prescribing duties of public defenders; specifying the persons whom a public defender is required or permitted to represent; requiring the appointment of a public defender or private counsel to represent certain persons; requiring specified public defenders to handle certain appeals at the request of other specified public defenders; prescribing conditions of service of public defenders and assistant public defenders; amending s. 27.52, Florida Statutes; prescribing standards for the determination of indigency; providing that the parents of certain minors are liable for certain costs of representation and providing for liens against the property of such parents; providing that any funds recovered with respect to represented defendants who are not indigent be remitted to the county fine and forfeiture fund to defray certain costs; amending s. 27.53, Florida Statutes; providing that assistant public defenders shall serve at the pleasure of the public defender; authorizing investigators to serve witness subpoenas and court orders under certain conditions; providing for appointment and payment of a member of The Florida Bar to represent an indigent defendant; requiring such appointment and payment in certain circumstances; providing method of making appropriations for the office of public defender; amending s. 27.5301, Florida Statutes; providing for the salaries of public defenders; amending s. 27.54, Florida Statutes; authorizing a county or municipality to contribute funds to a public defender's office for certain purposes; specifying the extent of services to be provided the public defender by counties; amending s. 27.55, Florida Statutes; providing for compensation of a public defender of a newly created circuit and for expenditures for his office; amending s. 27.56, Florida Statutes; authorizing the court to assess, against a defendant, attorney's fees and certain costs; providing for imposition of liens against property of certain persons receiving certain services and against the property of parents of certain minors; amending s. 27.561, Florida Statutes; providing remedies against parents in default in paying attorney's fees or costs; amending s. 27.59, Florida Statutes; granting public defenders and assistant public defenders access to certain prisoners; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 17 between lines 15 and 16, insert: Section 11. 925.036 Appointed counsel; compensation.—An attorney appointed pursuant to s. 925.035 or s. 27.53 shall, at the conclusion of the representation, be compensated at an hourly rate fixed by the chief judge or senior judge of the circuit in an amount not to exceed the prevailing hourly rate for similar representation rendered in the circuit. Such attorney shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the court. The compensation for representation shall not exceed the following per case per defendant:

(1) For misdemeanors and juveniles represented at the trial level: $500*; provided that the maximum amount specified in subsections (2), (3), and (4) shall apply to the representation at the trial level of a juvenile charged with an offense which would constitute a felony if committed by an adult.*

(2) For noncapital, nonlife felonies represented at the trial level: $1,500.

(3) For life felonies represented at the trial level: $2,000.

(4) For capital cases represented at the trial level: $2,500.

(5) For representation on appeal: $1,000.

—and renumber subsequent sections.

Amendment 2—On page 2, line 26 in title, strike after the semi-colon ";" and insert: amending s. 295.036, Florida Statutes, relating to the maximum compensation for attorneys appointed to represent juveniles charged with felonies;

Amendment 3—On page 17, line 11, strike "such assistance as may be appropriate" and insert: *advice and counsel*

Amendment 4—On page 5, line 13, insert after the comma: *after the record on appeal is transmitted to the appellate court by the office of the public defender which handled the trial and*

On motions by Senator Myers, the Senate concurred in House Amendments 3 and 4, refused to concur in House Amendments 1 and 2 and the House was requested to recede.

SB 287 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Grizzle	Myers	Stuart
Anderson	Henderson	Neal	Thomas
Beard	Hill	Peterson	Tobiassen
Carlucci	Holloway	Poole	Trask
Chamberlin	Jenne	Scarborough	Vogt
Dunn	Johnston	Scott	Ware
Fechtel	McClain	Skinner	Williamson
Gorman	McKnight	Steinberg	Winn

Nays—None

Vote after roll call:

Yea—Hair

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Carlucci and others—

SB 270—A bill to be entitled An act relating to unemployment compensation; amending s. 443.08(3)(a), Florida Statutes; providing that under specified circumstances the account of an employer will not be charged benefit payments if the employee is discharged for unsatisfactory performance during an initial probationary period; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, strike everything after the enacting clause and insert: Section 1. Paragraph (a) of subsection (3) of section 443.08, Florida Statutes, is amended to read:

443.08 Contributions.—

(3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(a) The benefit payments made to any eligible individual shall be charged to the employment record of each employer who paid such individual wages equal to $100 or more with the base period of said individual in the proportion to which wages paid by each such employer to such individual within the base period bears to total wages paid by all such employers to such individual within the base period. Provided, that no benefit charges shall be made to the employment record of any employer who has furnished part-time work to an individual who, because of loss of employment with one or more other employers, becomes eligible for partial benefits while still being furnished part-time work by such employer on substantially the same basis and in substantially the same amount as has been made available to such worker during his base period, whether the employments were simultaneous or successive. Provided, further, that benefit payments will not be charged to the accounts of employers when such employers have furnished the division with such notices regarding separations of individuals from work and the refusal of individuals to accept offers of suitable work as are required by the provisions of this chapter and the regulations of the division, if one or more of the following conditions are found to be applicable:

1. When an individual has left his job without good cause attributable to his employer or has been discharged by his employer for misconduct connected with his work, no benefits subsequently paid to him on the basis of wages paid to such individual by such employer prior to such separation shall be charged to such employer's account.

2. When an individual has been discharged by an employer for unsatisfactory performance during an initial employment "probationary period," no benefits subsequently paid to the individual on the basis of wages paid to such individual in the "probationary period" by the employer prior to employment separation shall be charged to the employer's account, providing the employer has so notified the division in writing within 10 days from the mailing date of the notice of initial determination of a claim. As used in this paragraph the term "probationary period" means an established probationary plan which applies to all employees or a specific group of employees and does not exceed 60 calendar days from the first day a new employee begins work. The employee must be informed of the "probationary period" within the first 7 work days. There must be conclusive evidence to establish that the individual was separated due to unsatisfactory work performance and not separated because of lack of work due to temporary, seasonal, casual or other similar employment not of a regular, permanent, year-round nature.

~~3.~~ 2. Benefits which are paid to any individual subsequent to the refusal without good cause by such individual of an offer of suitable employment from an employer will not be charged to the account of such employer when all or any part of such benefits are upon the basis of wages paid to such individual by such employer prior to the refusal by such individual to accept such offer of suitable work. (The division shall determine with respect to the payment of all benefits whether this proviso shall be applied without regard to whether a disqualification pursuant to the provisions of s. 443.06 has or may be invoked against a claimant or claimants for benefits.)

~~Section 2. Paragraph (b) of subsection (2) of section 443.06, Florida Statutes, is amended to read:~~

~~443.06 Disqualification for benefits. An individual shall be disqualified for benefits:~~

~~(2) If the division finds that the individual has failed without good cause either to apply for available suitable work when so directed by the division or employment office, or to accept suitable work when offered to him, or to return to his customary self employment when so directed by the division, such disqualification shall continue for the week in which such failure occurred and for not more than 5 weeks immediately following such week, or a reduction by not more than 3 weeks from the duration of benefits, as determined by the division in each case. However, disqualification under this subsecton shall continue for the full period of unemployment next ensuing after he has failed without good cause either to apply for available suitable work, or to accept suitable work, or to return to his customary self-employment, pursuant to this subsection, and until such individual has become reemployed and has earned wages equal to or in excess of 17 times his weekly benefit amount. The division shall by rule provide criteria for determining the suitability of work, as used in this section. The division in developing such rules shall consider the duration of a claimant's unemployment in determining the suitability of work and the suitability of proposed rates of compensation for available work. Further, after an individual has received 25 weeks of benefits in a single year, suitable work shall be a job which pays the minimum wage and is 120 percent or more of the weekly benefit amount the individual is drawing.~~

~~(b) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:~~

~~1. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;~~

~~2. If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; however, in these instances where the work is seasonal no benefits shall be payable to these persons refusing to accept work at a lesser wage provided the wage is prevailing for work in the area and when the prospects of securing his customary work in his locality is minimal;~~

~~3. If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.~~

Section 3. This act shall take effect October 1, 1980; provided that in the event the amendment to paragraph (a) of subsection (3) of section 443.08, Florida Statutes, as set forth in section 1 of this act ~~or the amendment to paragraph (b) of subsection (2) of section 443.06, Florida Statutes, as set forth in~~

~~section 2 of this act~~, has the effect of placing Florida out of compliance with the Federal Unemployment Compensation Law as determined by the appropriate court of law by affecting the amount of federal funds due to the State of Florida or adversely affecting the unemployment compensation tax rate then the amendatory language as set forth in section 1 ~~or section~~ 2 of this act shall be null and void and shall stand repealed upon the date which any of such conditions occur.

Amendment 2—On page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to unemployment compensation; amending s. 443.08 (3)(a), Florida Statutes, providing that benefit payments shall not be charged to the account of any employer who has discharged an employee during an initial probationary employment period under certain conditions; ~~amending s. 443.06(2)(b), Florida Statutes, relating to the qualification for benefits of persons who refuse to accept certain seasonal employment~~; providing an effective date; providing for conditional repeal.

On motions by Senator Carlucci, the Senate concurred in the House Amendments.

SB 270 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	McClain	Steinberg
Anderson	Gorman	McKnight	Stuart
Barron	Grizzle	Myers	Thomas
Beard	Henderson	Neal	Tobiassen
Carlucci	Hill	Peterson	Trask
Chamberlin	Holloway	Poole	Vogt
Childers, W. D.	Jenne	Scarborough	Ware
Dunn	Johnston	Scott	Williamson
Fechtel	Maxwell	Skinner	Winn

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 4 amendments—

By Senator Neal—

SB 1363—A bill to be entitled An act relating to Manatee County; creating the Manatee County Transportation Authority; providing definitions; providing for appointment of members by the Governor; providing procedures; providing powers of the authority; authorizing the issuance of bonds by the authority; authorizing the issuance of general obligation bonds by the Board of County Commissioners of Manatee County; authorizing Manatee County and the governing bodies of any municipality to make certain contributions or conveyances to the authority; authorizing the authority to issue industrial revenue bonds; providing remedies for any bondholder and any trustee under any trust agreement; providing that the authority is a political subdivision for the purposes of certain tax exemptions; providing that the authority shall be considered an agency subject to the provisions of chapter 120, Florida Statutes; requiring an appropriation by Manatee County; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 1-28, strike everything after the enacting clause and insert: Section 1. Short title. This act shall be known and may be cited as the "Manatee County Transportation Authority Act."

Section 2. Definitions. As used in this act, the following words and terms shall have the following meanings:

(a) "Authority" means the authority created by this act, or, if such authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the authority shall be given by law.

(b) "Port Facilities" means and shall include harbor, shipping, and port facilities and improvements of every kind, nature, and description, including (but without limitation) channels, turning basins, jetties, breakwaters, public landings, wharves, docks, structures, buildings, piers, storage facilities, public buildings and plazas, anchorages, utilities, bridges, tunnels, roads, railroads, causeways and any and all property and facilities necessary or useful in connection with the foregoing, and any one or more of any combination thereof and any extension, addition, betterment or improvement of any thereof.

(c) "Airport Facilities" means airport facilities of all kinds and shall include (but without limitation) landing fields, hangars, shops, restaurants and catering facilities, industrial facilities, airport industrial parks, terminals, buildings, parking facilities and all other facilities necessary or desirable for the landing, taking off, operating, servicing, repairing and parking of aircraft, the unloading and handling of mail, express and freight, and the accommodation, convenience and comfort of passengers, together with related transportation facilities including highways, public transportation facilities, roadways and all such facilities appurtenant to or providing an access to airport facilities, all necessary appurtenances, machinery and equipment and all lands, properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority in connection therewith.

(d) "Public Transportation System" means (without limitation) any combination of real and personal property, structures, improvements, buildings, equipment, plants, vehicle parking or other facilities, and rights-of-way, or any combination thereof, used or useful for the purpose of providing a means of transportation of passengers for hire by means (without limitation) of a street railway, elevated railway or driveway, subway, motor vehicle, motor bus, or any bus or other means of conveyance operating as a common carrier within Manatee County, Florida.

(e) "Cost" means the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping port, airport or public transportation system facilities, the cost of all labor, materials, machinery, and equipment, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for one year after the completion of construction, cost of engineering, legal and other professional services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to the determining of the feasibility or practicability of any such acquisition, construction, reconstruction, improvement, extension, enlargement, and equipment of port, airport, or public transportation system facilities, administrative expenses, and such other expenses, including reasonable provision for working capital and reserves, as may be necessary or incident to the financing herein authorized, to the acquisition, construction, reconstruction, improvement, extension, enlargement, and equipment of port, airport, or public transportation system facilities and to the placing of the same in operation by the authority. Any obligation or expenses heretofore or hereafter incurred by Manatee County and/or the Manatee County Transportation Authority in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to Manatee County and/or the Manatee County Transportation Authority out of the proceeds of port, airport, or public transportation system facilities bonds issued under the provisions of this act.

Section 3. Creation and membership of authority.

(a) There is hereby created a body politic and corporate to be known as the "Manatee County Transportation Authority" for the purpose of acquiring, constructing, improving, financing, operating and maintaining port, airport, and public transportation system facilities. This provision shall not take effect except by proper Resolution by the Board of Manatee County Commissioners, which Resolution shall declare a need for the authority provided in this act. Said Resolution may declare the need for airport facilities, port facilities, or transportation facilities as defined herein or any combination thereof. If no such Resolution is passed prior to October 1, 1981, then the powers granted hereunder as they relate to airport facilities, as defined herein, including power to authorize industrial revenue

development bonds as provided in Section 13 of this act, shall take effect notwithstanding this provision.

(b) The authority shall consist of five members appointed by the Governor from a list of nominations submitted by the Manatee County legislative delegation. Each member shall be a resident of Manatee County at the time of his appointment and for the duration of his term. Members shall serve four year terms, except that of those members initially appointed, two shall serve two year terms, and three shall serve four year terms. Each vacancy shall be filled in the same manner as regular appointments, and the appointee shall serve for the unexpired portion of the term.

(c) In the event that any member ceases to be a resident of Manatee County before his term expires, that position shall be declared vacant and a replacement shall be appointed as provided in subsection (b).

(d) The authority shall select one of its members as chairman, to serve as such at the pleasure of the authority. The authority shall also select one of its members to act as secretary of the authority. The authority shall employ a treasurer and may employ an assistant treasurer, neither of whom shall be employed as port, airport, or public transportation system manager. The treasurer shall be responsible directly to the authority. The treasurer, or in his absence, the assistant treasurer, shall sign all checks paid out by the authority, these to be countersigned by the chairman of the authority or, in the absence of the chairman, by the vice chairman as provided in subsection (u) of Section 4. The treasurer shall assist the port, airport, and public transportation system managers in the preparation of their annual budgets, which budgets shall be approved by the authority prior to becoming effective. Such persons shall act as secretary of the authority and as treasurer of the authority, respectively, at the pleasure of the authority.

(e) A majority of the members of the authority shall constitute a quorum and the affirmative vote of a majority of all the members of the authority shall be necessary for any action taken by the authority. The members of the authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. All travel expenses, subsistence and lodging expenses of members of the authority and of authority employees shall not exceed those prescribed by s. 112.061, Florida Statutes, unless actual reasonable expenses in excess of those prescribed by s. 112.061, Florida Statutes, are specifically authorized prior to the incurring of such expenses by action of the authority taken in a regular monthly meeting in which the question of such expenses appears as a separate item on the agenda.

Section 4. Powers of the authority. The authority is hereby authorized and empowered:

(a) To adopt bylaws, and to prescribe and promulgate necessary rules and regulations, for the regulation of its affairs and the conduct of its business consistent with the provisions of this act.

(b) To adopt an official seal and alter the same at pleasure.

(c) To maintain an office at such place or places as it may designate within Manatee County.

(d) To sue and be sued in its own name, plead and be impleaded.

(e) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any port, airport or public transportation system facilities within Manatee County.

(f) To lease as lessor for other than port, airport or public transportation system purposes or to sell or otherwise dispose of any land or other port, airport or public transportation system facilities which it has determined are no longer used or useful for port, airport or public transportation system purposes, subject, however, to any limitations which may be imposed on such leasing or disposition by any bonds issued by the authority hereunder or by any proceedings taken in connection with the issuance of such bonds or by any contracts entered into hereunder with Manatee County.

(g) To construct within Manatee County any bridge, tunnel, road or railroad line, or any combination thereof, to, from, or between any port, airport or public transportation system facilities.

(h) To issue bonds of the authority as hereinafter provided to pay the cost of such acquisition, construction, reconstruction, improvement, extension, enlargement or equipment.

(i) To issue refunding bonds of the authority as hereinafter provided.

(j) To combine any port, airport or public transportation system facilities for the purpose of operation and financing.

(k) To fix and revise from time to time and to collect rates, fees and other charges for the use of or for the services furnished by any port, airport or public transportation facilities now or hereafter acquired, owned or constructed by the authority excluding state bar pilots.

(l) To develop transportation plans, and to coordinate its planning and programs with those of appropriate municipal, county, and state agencies or other political subdivisions of the State.

(m) To acquire in the name of the authority by gift, purchase or the exercise of the right of eminent domain in accordance with the laws of the state of Florida which may be applicable to the exercise of such powers by counties or municipalities, including (without limitation) the leasehold interest of lessees under leases made by the authority as lessor, and to acquire such personal property, as it may deem necessary in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, operation, maintenance or repair of any port, airport or public transportation system facilities, and to hold and dispose of all such real and personal property under its control. The power granted herein is limited to lands located within Manatee County.

(n) To exercise the right of eminent domain in accordance with the provisions of chapter 74, Florida Statutes, as from time to time amended, or any successor statute, in the same manner as therein provided for the acquiring of right-of-way for the state highway system and to take title to lands in fee simple absolute or such lesser estate as may be specified in the declaration of taking, upon the deposit of such sum as the court shall determine will fully secure and fully compensate the persons lawfully entitled to compensation.

(o) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys, and such employees and agents as may, in the judgment of the authority, be deemed necessary and to fix and pay their compensation, and with regard to such superintendents, managers, accountants, and employees to provide for deferred compensation, health, accident, and disability payments, and other fringe benefits, and to remove any employee at any time upon such notice as the authority shall deem fair and reasonable by a majority vote of the members of the authority; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this act. This shall specifically include the right to contract with Cities Transit Inc. to insure the continued operation of a bus system within Manatee County by said company and specifically include the right to expend public funds to accomplish said purpose.

(p) To accept grants of money or materials or property of any kind for any port, airport or public transportation system facilities from any federal or state agency, political subdivision or other public body or from any private agency or individual, upon such terms and conditions as may be imposed and to enter into contracts and grants agreements with the Federal aviation agency, or any successor or successors thereof, and with the State of Florida or any of its agencies, in the capacity of sponsor or co-sponsor of any port, airport or public transportation system development project involving the acquisition, construction, reconstruction, improvement, extension, enlargement or equipment of any port, airport or public transportation system facilities owned or operated by the authority, pursuant to any federal or state law providing for aid to ports, airports, or public transportation systems.

(q) To make purchase money mortgages on any additional property purchased by the authority, or to purchase property

subject to mortgages, provided, however, that the security instrument evidencing any such mortgage shall expressly limit and confine the lien of the mortgage to the property so purchased.

(r) To borrow money from time to time, and to procure one or more lines of credit from time to time in furtherance thereof, for any corporate purpose of the authority and to secure any such loan by executing a promissory note or notes in the name of the authority pledging any revenues of the authority, provided that any such promissory note shall be, and shall state on its face that it is, subordinate and subject in right to payment from the revenues of any port, airport or public transportation system facilities (but not subordinate and subject in right to payment from federal or state grants unless so provided in any resolution or trust agreement as mentioned hereinafter) to all bonds and bond anticipation notes theretofore or thereafter issued by the authority pursuant to this act or any other statutes for the purpose of paying the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping any port, airport or public transportation system facilities, except to the extent otherwise provided in any resolution or trust agreement authorizing or securing, respectively, said bonds or bond anticipation notes.

(s) To exercise and perform all of the powers and prerogatives conferred upon "political subdivisions" by Chapter 333, Florida Statutes as from time to time amended, or any successor statute, with respect to the adoption, promulgation and enforcement of port, airport or public transportation system zoning regulations under the provisions of said chapter, and that when, as, and if the authority shall adopt or promulgate or cause to be adopted or promulgated port, airport or public transportation system zoning regulations pursuant to said chapter, the regulations so adopted shall supersede the regulations theretofore adopted by the port, airport or public transportation system zoning board(s) of Manatee County, Florida insofar as such regulations of the said board(s) of Manatee County pertain to ports, airports or public transportation systems which are under the jurisdiction of the authority.

(t) To construct, maintain, operate, lease and regulate motor vehicle parking facilities for the agents, employees, guests and business invitees of the authority or its tenants and the visiting public. The authority may enter into lease and franchise agreements with private persons or corporations as tenants or operators of such facilities upon such terms and for such periods of time as the authority may deem appropriate. The authority shall hold a public hearing, after the publication of a notice of such hearing in a newspaper of general circulation in Manatee County at least one (1) time no less than ten (10) nor more than twenty-five (25) days prior to such hearing to: (1) consider the establishment of rates or fees, if any, which shall be charged to persons who utilize any such parking facility or (2) consider any subsequent revisions therein which increase such rates or fees. The authority is authorized to pledge the income and revenues derived from such leases and franchise agreements as security for the repayment of loans extended to the authority or as security for the payment of any bonds of the authority issued pursuant to section 5 of this act as it may deem necessary or desirable from time to time.

(u) To adopt a budget prior to September 30 of each year for the ensuing fiscal year commencing on October 1. The budget after adoption, may be amended or altered only by action of the authority taken at a regular or special meeting. In any fiscal year, the authority shall not authorize the expenditure of authority funds in excess of those budgeted, except to the extent that the actual or anticipated receipts exceed the budgeted income. All checks for disbursement of funds of the authority shall be signed by the treasurer or in the absence of the treasurer by the assistant treasurer and countersigned by the chairman, or in the absence of the chairman, by the vice chairman. The authority, through its bylaws, shall establish the procedure for determining the "absence" of the chairman or treasurer for purposes of countersigning of checks by the vice chairman or the assistant treasurer, respectively.

(v) To have and to exercise all of the powers, rights, and authority now vested by the Statutes of the State of Florida in the office of the board of pilot commissioners.

(w) To appoint, regulate, control, and prescribe the powers, duties, and compensation of harbor masters, and any other employees necessary to carry out the powers granted by this act.

(x) To appoint and license such number of pilots as the authority shall, in its sole discretion, determine to be necessary to properly conduct the business of the port, the provisions of Florida Statute 310.03 notwithstanding. Provided that nothing contained herein shall be construed as prohibited the authority from appointing and licensing pilots who at the time of appointment are also serving any other port on Tampa Bay.

(y) To publicize, advertise and promote the activities and projects authorized by this act, to make known to users, potential users, and public in general, the advantages, facilities, resources, products, attractions and attributes of the activities and projects authorized by this act; to further create a favorable climate of opinion concerning the activities and projects authorized and indicated by this act; to cooperate, including the grant or expenditure of funds, to and with other agencies, both public and private, in accomplishing the purposes enumerated and indicated by this act; and in furtherance thereof, to authorize reasonable expenditures by supporting voucher to be filed for audit for the purposes herein enumerated including, but not limited to, meals, hospitality and entertainment of persons in the interest of promoting and engendering good will towards the activities and projects herein authorized.

(z) To do all acts and things necessary or convenient to carry out the powers granted by this act.

Section 5. Bonds. The authority is hereby authorized to issue, at one time or from time to time, bonds of the authority for the purpose of paying all or any part of the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping any port, airport, or public transportation system facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the authority, but which shall not exceed by more than 1 percent the maximum rate then specified in s. 215.685, Florida Statutes, unless a higher rate is approved by the State Board of Administration pursuant to such section, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be investment securities under chapter 678, Florida Statutes. The bonds may be issued in coupon or registered form without coupons or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interest of the authority.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than the amount required for such purpose, additional bonds may in like manner be issued to provide the amount of such deficit and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional bonds as the authority may deem proper, and such additional bonds shall be

issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the state or of any political subdivision, and without any other proceeding or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Section 6. Rates, fees and other charges. The authority is hereby authorized to fix and revise from time to time, either by agreement with a user or by resolution of the authority, rates, fees, including, without limitation, landing fees, and other charges for the use of and for the services furnished or to be furnished by any port, airport or public transportation system facilities owned or operated by the authority. Such rates, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the state or of any political subdivision. Such rates, fees and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the port, airport or public transportation system facilities owned or operated by the authority, including reserves for such purposes, and (b) to pay the principal of and premium, if any, and interest on all bonds issued by the authority under the provisions of this act to pay the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping any port, airport or public transportation system facilities as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the use of or for the services furnished or to be furnished by any port, airport or public transportation system facilities which shall not be subject to revision except in accordance with their terms.

Section 7. Contracts for borrowing money. The authority may contract with any person, firm corporation, or public body or with the United States or any agency or instrumentality thereof for the borrowing of money for paying all or any part of the cost of any one or more port, airport, or public transportation system facilities, and any such contract may contain such terms, conditions, or provisions as the authority may determine not in conflict with the provisions of this law (chapter). The provisions of section 5 applicable to bonds shall be applicable also to contracts entered into under the above provisions of this section. Any such contract may be hypothecated by the authority and the authority may borrow money under such terms and conditions as it shall determine in anticipation of the receipt of funds under such contract.

Section 8. Trust agreement or resolution. In the discretion of the authority, each or any issue of bonds may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. The resolution authorizing the issuance of bonds or any trust agreement securing such bonds may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the authority may deem reasonable and proper for the security of the bondholders. The authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any port, airport, or public transportation system facilities to such officer, board, or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

The resolution authorizing the issuance of bonds to pay the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping any port, airport, or public transportation system facilities or any trust agreement securing bonds issued for such purpose may pledge the revenues to be received from any port, airport, or public transportation system facilities of the authority but shall not convey or mortgage any of such facilities, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limitation, convenants setting forth the duties of the authority in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation and insurance of any such facilities, the fixing and revising of rates, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, operation or insurance.

Any pledge of revenues of any port, airport, or public transportation system facilities under the provisions of this act shall be valid and binding from the time when such pledge is made. Any such revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further action, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise, against the authority, irrespective of whether such parties have notice thereof.

Section 9. Bonds, legal investment. Bonds issued under the provisions of this law (chapter) are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or county officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of Manatee County is now or may hereafter be authorized by law.

Section 10. Refunding bonds. The authority is hereby authorized to issue from time to time refunding bonds for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The authority is further authorized to issue from time to time bonds of the authority for the combined purpose of (a) refunding any bonds of the authority then outstanding, including the payment or any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of acquiring, constructing, reconstructing, improving, extending, enlarging or equipping any port, airport, or public transportation system facilities or engaging in any additional industrial project, as the case may be, provided that no refunding bonds issued with respect to any industrial project shall be payable from the revenues of any port, airport, or public transportation system facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the authority with respect to the same, shall be governed by the foregoing provisions of this act in so far as the same may be applicable.

Section 11. Action by resolution. All action required or authorized to be taken under the provisions of this law (chapter) by the authority may be by resolution, which resolution may be adopted at the meeting of the authority at which such resolution is introduced and shall take effect immediately upon such adoption. Except as otherwise provided in this law (chapter), no resolution under this law (chapter) need be published or posted, nor shall any such resolution require for its passage more than a majority of all the members of the authority then in office.

Section 12. Contributions of certain political subdivisions. The governing bodies of the city of Bradenton and Manatee County are hereby authorized to make grants of money to the authority and to lease, lend, grant or convey to the authority,

with or without consideration, real or personal property, for use by the authority for the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, maintenance or operation of any port, airport, or public transportation system facilities; provided, however, that if the approval at an election by the qualified electors of any such city or county shall be required by the constitution of the state, such election shall be called, noticed and conducted, and the result thereof determined and declared, in the manner required by the Florida Election Code, title IX, Florida Statutes, as from time to time amended, or any successor statute.

Section 13. Industrial development revenue bonds.

(a) It is the purpose of this section to authorize the authority to foster and encourage the development of industrial facilities, including pollution control facilities, to create or preserve employment opportunities, protect the physical environment, preserve and increase the prosperity of Manatee County and promote the general welfare of all its citizens without the use of public funds by issuing industrial development revenue bonds to assist the financing of such facilities. It is hereby declared that there are a number of industrial facilities on lands presently owned by the authority which are greatly in need of reconstruction, improvement, remodeling, replacement or enlargement in order that these lands and facilities may be best utilized pending any future use of such lands and facilities for port, airport or public transportation system purposes and that the financing of such reconstruction, improvement, remodeling, replacement or enlargement, as provided in this section, will enable the authority to maintain or increase its income from such lands and facilities. It is further declared that the actions authorized by this section of the act serve a public purpose and that in carrying out the provisions of this section the authority shall be regarded as performing an essential governmental function.

(b) As used in this section of the act the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(1) "bond" means an evidence of indebtedness issued by the authority under this act to finance an industrial project in whole or in part or to refund indebtedness incurred for that purpose.

(2) "debt service" means the amounts required to pay bonds according to their terms and includes amounts representing principal, premium and interest.

(3) "Financing document" means a written instrument establishing the rights and responsibilities of the authority and the user with respect to an industrial facility financed by the issue of bonds under this act.

(4) "industrial facility" means any property financed or to be financed under the provisions of this Section 14 of the act which may include structures and appurtenances incidental to any of the hereinafter detailed purposes such as utility lines, storage accommodations or transportation facilities on any property owned by the authority on the effective date of this act, whether real or personal or a combination of both types of property, which shall be suitable:

(A) for manufacturing, processing, assembling or warehousing goods or materials for sale or distribution, but shall not include raw materials, work in process or stock in trade;

(B) for the conduct of research and development activities;

(C) for collecting or processing any kind of waste material for re-use or disposal;

(D) for reducing, mitigating or eliminating pollution of land, air or water by substances, heat or sound; or

(E) for any combination of the foregoing activities, uses or purposes.

(5) "industrial project" means the creation, establishment, acquisition, construction, expansion, remodeling or replacement of an industrial facility financed by the issue of bonds under this act.

(6) "project costs" means any costs or expenses reasonably incidental to an industrial project and may, without limitation, include the costs of:

(A) issuing bonds to finance an industrial project;

(B) acquiring land, buildings, structures and facilities whether by lease, purchase, construction or otherwise;

(C) acquiring rights in or over land, air or water;

(D) improving land and improving buildings, structures and facilities by remodeling, reconstruction, replacement or enlargement;

(E) acquiring and installing machinery and equipment;

(F) obtaining professional or advisory services;

(G) interest prior to and during construction and until one year after the completion of a project; and

(H) creating reserves.

(7) "security document" means a written instrument establishing the rights and responsibilities of the authority and the holders of bonds issued to finance an industrial facility.

(8) "user" means the person entitled to the use or occupancy of an industrial facility and primarily responsible for making payments sufficient to meet the debt service on the bonds issued to finance the facility.

(c) Powers of the authority. The authority is hereby authorized and empowered:

(1) To engage in industrial projects, to acquire and dispose of ownership or possessory interests in industrial facilities located on land owned by the authority on the effective date of this act; provided, however, that in the exercise of its powers granted under this section, the authority shall have no power to sell or convey such land or to encumber its fee simple title to such land by way of mortgage, deed of trust, subordination agreement or other similar instrument.

(2) To issue bonds:

(A) to pay project costs;

(B) to reimburse a user or a related person for payments for project costs made before or after the bonds are issued; or

(C) to refund bonds previously issued.

(3) To execute financing documents and security documents and to perform obligations and exercise powers created thereby.

(4) To dispose of all or part of any industrial facility by sale or otherwise for the benefit of the bondholders in the event of default by a user under a financing document, but only to the extent authorized by the financing document or security document.

(5) To make contracts or take any other action which is necessary or desirable in connection with the exercise of the powers granted under this section.

(d) Nothing in this section shall be construed to authorize the authority to operate an industrial facility itself or to conduct any business enterprise therewith except to the extent the authority is authorized to do so by any other provision of this act or by any other law.

(e) The authority's ownership or possessory interest in the industrial facility under a financing document may, subject to the provisions of section 9(c)(3) of this act, be that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee or otherwise.

(f) Every financing document shall:

(1) Provide for payments by the user at such times and in such amounts as are necessary in order to pay the debt service on all bonds issued to finance the industrial project as they become due.

(2) Obligate the user to pay all costs and expenses of operation, maintenance and upkeep of the industrial facility and to pay reasonable rentals to the authority for the use of any lands and other property of the authority not constituting an industrial facility or part thereof.

(g) Any financing document may:

(1) Bear any appropriate title.

(2) Involve property in addition to the property financed by the bonds.

(3) Be in the nature of:

(A) a lease,

(B) a sale and leaseback,

(C) a lease purchase,

(D) a conditional sale,

(E) an installment sale with a purchase money mortgage, or

(F) other similar transaction.

(4) Provide for payments by the user which include amounts in addition to the amounts required to pay debt service.

(5) Obligate a user to make payments before the industrial facility exists or becomes functional and to make payments after the industrial facility has ceased to exist or be functional to any extent and from any cause whatsoever.

(6) Obligate a user to make payments regardless of whether the user is in possession or is entitled to be in possession of the industrial facility.

(7) Allocate responsibility between the authority and the user for making purchases and contracts required for the project.

(8) Provide that some or all of the user's obligations thereunder shall be unconditional and shall be binding and enforceable in all circumstances whatsoever notwithstanding any other provision of law.

(9) Contain such other provisions and covenants relating to the use, maintenance and replacement of the industrial facility as the authority and the user deem necessary for the user for making purchases and contracts required for the protection of themselves or others.

(h) A security document may:

(1) Contain an assignment, pledge, mortgage, or other encumbrance of all or part of the authority's interest in, or right to receive payments with respect to, an industrial facility under a financing document.

(2) Bear any appropriate title.

(3) Provide for a trustee for the benefit of holders of bonds issued to finance an industrial facility.

(4) Be combined with a financing document as one instrument.

(5) Contain covenants of the authority as to:

(A) The creation and maintenance of reserves.

(B) The issuance of other bonds with respect to the industrial facility.

(C) The custody, investment and application of moneys.

(D) The disposition of insurance or condemnation proceeds.

(E) The use of surplus bond proceeds.

(F) Action by the authority in the event of a default by the user under the financing document.

(G) The subjecting of additional property to the lien of the security document.

(H) Any other matter which affects the security for the bonds in any way.

(6) Limit the rights of bondholders to enforce obligations of the authority thereunder or under the financing document.

(I) Any assignment, pledge, mortgage or other encumbrance of all or part of the authority's right to receive payments with respect to an industrial facility contained in a security document shall be valid and binding from the time when such security document is executed or adopted and the payments so assigned, pledged, mortgaged or otherwise encumbered and thereafter received by the authority shall immediately be subject to the lien of such assignment, pledge, mortgage or other encumbrance with or without any physical delivery thereof or further action, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof.

(J) Bonds of the authority may be issued pursuant to the provisions of this section in the same manner as provided in sections, 5, 11, 12 and 13 of this act. The term "trust agreement" as used in such sections shall mean and include in the case of bonds issued pursuant to this section any security document.

(K) Bonds issued under the provisions of this section shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any political subdivision, but such bonds shall be obligations of the authority payable solely from the funds herein provided therefor, and a statement to that effect shall be recited on the face of the bonds.

(1) The financing document and the security document shall provide that under no circumstances will the authority be obligated directly or indirectly to pay the cost of any industrial project, the expenses of operation or maintenance of any industrial facility, or the debt service on any bonds issued to finance an industrial project except from the proceeds of such bonds or from funds received under the financing document, exclusive of any funds received thereunder by the authority for its own use.

Section 14. Remedies. Any holder of bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of rates, fees and charges for the use of, or for the services furnished by any port, airport, or public transportation system facilities.

Section 15. Tax exemption. The authority as a public body corporate shall be deemed a political subdivision within the meaning of the exemptions granted under s. 196.199, Florida Statutes.

Any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state, except that income derived from such bonds shall be subject to any tax imposed on such bonds by chapter 220, Florida Statutes, as from time to time amended, or any successor statute.

Section 16. Additional method. This act shall be deemed to provide an additional and alternative method for the going of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or any repealing any powers now existing under any other law, whether general, special or local; provided, however, that the issuance of bonds or refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds.

Section 17. Provisions of act severable. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction the decision of such court shall not affect or impair any of the remaining provisions.

Section 18. Liberal construction. This act, being necessary for the welfare of the inhabitants of the state, shall be liberally construed to affect the purposes thereof.

Section 19. Inconsistent laws inapplicable. All other special or local laws or parts thereof inconsistent herewith are hereby declared to be inapplicable to the provisions of this act.

Section 20. Administrative procedure. In accordance with the provisions of s. 120.52(1)(c), Florida Statutes, the authority shall be considered an agency subject to the Administrative Procedures Act under chapter 120, Florida Statutes, to the

extent that the authority is made subject to such act by general law, existing judicial decision, or by other special laws.

Section 21. This act shall take effect on July 1, 1980.

Amendment 2—On page 1, strike the entire title and insert: A bill to be entitled An act relating to public transportation in Manatee County; to provide for the creation of the Manatee County Transportation Authority; providing definitions; establishing membership; defining powers; authorizing certain bonding powers; providing for the setting of rates; providing for contracts for borrowing of money; providing for trust agreements or resolutions; providing for bonds and legal investments; providing for action by resolution; providing for contributions of certain political subdivisions; providing for industrial development revenue bonds; providing for remedies; providing for refunding bonds; definition as an additional method; providing that provisions are severable; providing for liberal construction; providing that inconsistent laws shall be declared inapplicable; providing for a tax exemption; mandating compliance with Chapter 120, Florida Statutes; providing an effective date.

Amendment 3—On page 4 of House Amendment 1, lines 19 & 20, strike "If no such Resolution" and insert: However, if no such Resolution pertaining to airport facilities

Amendment 4—On page 13 of House amendment 1, lines 1-3, 8-15, strike all of said lines

On motions by Senator Neal, the Senate concurred in the House Amendments.

SB 1363 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	McClain	Steinberg
Anderson	Gorman	McKnight	Thomas
Barron	Grizzle	Myers	Tobiassen
Beard	Henderson	Neal	Trask
Carlucci	Hill	Peterson	Vogt
Childers, D.	Holloway	Poole	Ware
Childers, W. D.	Jenne	Scarborough	Williamson
Dunn	Johnston	Scott	Winn
Fechtel	Maxwell	Skinner	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 4 amendments— .

By Senators Jenne and Scott—

SB 903—A bill to be entitled An act relating to sale of liquid fuels; amending s. 526.06, Florida Statutes; authorizing the sale at retail service stations of alcohol blended fuels meeting certain specifications for a designated period; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 11, strike everything after the enacting clause and insert: Section 1. Section 206.415, Florida Statutes, is created to read:

206.415 Gasohol, exemption from first gas tax.—The sale or distribution for use in this state of motor fuel which contains a minimum of 10 percent blend by volume of ethyl alcohol with a purity of 99 percent, commonly known as "gasohol," shall be exempt from the first gas tax levied pursuant to s. 206.41(4)(a), as follows:

(1) Commencing July 1, 1980, each gallon of such gasohol sold in Florida shall be exempt from the entire 4 cents of such tax.

(2) Commencing July 1, 1985, each gallon of such gasohol sold in Florida shall be exempt from the first 2 cents of such tax. Thereafter, as of July 1, 1987, the first gas tax of 4 cents per gallon shall again become applicable pursuant to s. 206.41 (4)(a).

Section 2. Subsection (1) of section 206.60, Florida Statutes, is amended to read:

206.60 Additional seventh cent tax upon motor fuel.—

(1) Every distributor of motor fuel, in addition to all other taxes required by law, shall pay an additional tax of 1 cent per gallon for every gallon of motor fuel sold or used by him on which the tax herein provided has not been paid or the payment thereof has not been assumed by a person preceding him in the handling of said lot of products. Delivery shall be deemed to be made at the point of destination. This additional license tax of 1 cent per gallon on motor fuel shall be paid to the department monthly as provided in s. 206.43. *However, alcohol blended fuels which contain a minimum of 10 percent blend by volume of ethyl alcohol with a purity of 99 percent, commonly known as "gasohol," shall be exempt from the imposition of such additional tax of 1 cent per gallon from July 1, 1980, to July 1, 1983. Thereafter, said additional tax of 1 cent per gallon shall again become applicable pursuant to this section.*

Section 3. The Department of Transportation and the counties shall be reimbursed each year for all revenues lost due to the exemptions contained in this act from the trust fund created by the Florida Energy Assistance Act of 1980. In the event there is not enough money in such trust fund, or no fund exists. The Legislature shall appropriate from General Revenue the amount necessary for reimbursement.

Section 4. The Department of Revenue shall establish and administer a procedure by which the state taxes collected on gasoline which is subsequently blended with ethyl alcohol can be refunded to the appropriate distributor blendor, or wholesaler in accordance with the exemptions for gasohol contained in this act. The Department of Revenue is empowered to promulgate rules necessary to establish and administer this refund provision.

Section 5. Subsection (6) is added to section 220.02, Florida Statutes, to read:

220.02 Legislative intent.—

(6) The Legislature finds and declares the encouragement of the development, production and utilization of ethyl alcohol for use in motor fuels to be in the best interest of the citizens of Florida. It is the intent of the Legislature that the gasohol development tax incentive credit provided by s. 220.18 shall be applicable to those new or expanded businesses engaged in the distillation of ethyl alcohol for use in motor fuels or in the manufacture of equipment for the processing or distillation of ethyl alcohol for use in motor fuels.

Section 6. Paragraphs (o) and (p) are added to subsection (1) of section 220.03, Florida Statutes, 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:

(o) "New business" means a productive business operation, which heretofore did not exist in this state, engaged in the distillation of ethyl alcohol for use in motor fuels or in the manufacture of equipment for the processing and distillation of ethyl alcohol for use in motor fuels.

(p) "Expansion of an existing business" refers to capital investment in productive business operation not defined as a new business which results in a net increase in the amount of real or tangible personal property owned by it or, in the case of government-owned real property, leased by it, for the purpose of engaging in the distillation of ethyl alcohol for use in motor fuels or in the manufacture of equipment for the processing and distillation of ethyl alcohol for use in motor fuels.

Section 7. Section 220.18, Florida Statutes, is created to read:

220.18 Gasohol development tax incentive credit.—

(1) There shall be allowed a credit against the tax imposed by this chapter to any new or expanded business engaged in the distillation of ethyl alcohol for use in motor fuels or in the manufacture in this state of equipment for the processing and distillation of ethyl alcohol for use in motor fuel. In the case of new businesses engaged solely in the distillation or manufacturing of distillation equipment, the credit shall be computed annually as the full amount of the ad valorem taxes paid on the real or tangible personal property acquired for such distillation or manufacture. When an existing business is expanded to facilitate the distillation or the manufacture of equipment for the processing and distillation of ethyl alcohol for use in motor fuel, the credit shall be computed annually as the amount of additional ad valorem tax paid in Florida resulting from assessments on additional real or tangible personal property acquired to facilitate such expansion, but not including any land or business thereon qualifying for or receiving preferential assessment or tax treatment or other tax credits in accordance with any state law.

(2) The credit shall be available to a new business for a period not to exceed the year in which ad valorem taxes are first levied against it and the 7 years immediately thereafter. The credit shall be available to an expanded existing business for a period not to exceed the year in which ad valorem taxes are first levied on additional real or tangible personal property acquired to facilitate said expansion and the 7 years immediately thereafter.

(3) The credit shall be available to new or expanded businesses first subject to Florida ad valorem taxes between January 1, 1981, and January 1, 1988.

(4) To be eligible for a gasohol development tax incentive credit, an expanded business shall file a notice of expansion with the property appraiser of the county in which the business property is located. The notice shall be filed no later than April 1 of the year in which the additional real or tangible personal property acquired to facilitate such an expansion is first subject to assessment. The notice shall be made on a form prescribed by the department and shall include separate descriptions of:

(a) Real and tangible personal property owned or leased by the business prior to expansion.

(b) Net additional real and tangible personal property acquired to facilitate the expansion.

(5) When filing for a gasohol development tax incentive credit as a new business, a new business shall include a copy of its receipt indicating payment of ad valorem taxes for the current year.

(6) When filing for a gasohol development tax incentive credit as an expanded business, an expanded business shall include copies of its receipts indicating payment of ad valorem taxes for the current year for prior existing property and for expansion-related property.

(7) The receipts described in subsections (5) and (6) shall indicate the assessed value of the property, taxes paid, a brief description of the property, and an indication, if applicable, that the property was separately assessed as expansion-related property.

(8) The department shall promulgate rules to implement and administer this act.

(9) It shall be the responsibility of the taxpayer to affirmatively demonstrate to the satisfaction of the department that he meets the requirements of this act.

Section 8. Section 193.076, Florida Statutes, is created to read:

193.076 Notice of expansion.—

(1) The property appraiser shall accept notices of expansion on or before April 1 of the year in which net additional real or personal property acquired to facilitate a business expansion as defined in s. 220.03(1)(p) is first subject to assessment. The notice shall be filed on a form prescribed by the department by any business seeking to qualify for a gasohol development tax incentive credit as an expanded business pursuant to s. 220.18(4).

(2) Upon determining that the real or tangible personal property described in the notice is in fact a net physical addition to the existing property of the business and that it is useful in the distillation of ethyl alcohol for use in motor fuels or in the manufacture of equipment for the processing and distillation of ethyl alcohol for use in motor fuels, the property appraiser shall so state on the notice and shall provide a copy to the expanded business and to the department.

(3) Within 10 days of extension of the assessment rolls pursuant to s. 193.122(2), the property appraiser shall forward to the department a list of all property separately assessed as expansion-related property pursuant to s. 193.085(5). The list shall include the name and address of the corporation to which the property is assessed, the assessed value of the property, total taxes levied against the property, the identifying number for the property as shown on the assessment roll, and a description of the property.

Section 9. Subsection (5) is added to section 193.085, Florida Statutes, to read:

193.085 Listing all property.—

(5) Beginning in the year in which a notice of expansion is accepted and certified pursuant to s. 193.076 and for the 7 years immediately thereafter, the property appraiser shall separately assess the prior existing property and the expansion-related property of each business having submitted said notice pursuant to s. 220.18(4). The listing of expansion-related property on an assessment roll shall immediately follow the listing of prior existing property for each expanded business. However, beginning with the first assessment roll following receipt of a notice from the department that a business has been disallowed a gasohol development tax incentive credit as an expanded business, the property appraiser shall singly list the property of said business.

Section 10. Subsection (6) of section 195.027, Florida Statutes, is amended to read:

195.027 Rules and regulations.—

(6) *The fees and costs of the sale or purchase and terms of financing shall be presumed to be usual unless the buyer or seller or agent thereof files a form which discloses the unusual fees and costs and terms of financing. Such form shall be filed with the clerk of the circuit court at the time of recording.* The rules and regulations shall prescribe an information form *to be used for this purpose.* ~~that will provide the property appraiser with adequate data on the transfer of interests in real property to enable him to evaluate the transfer, its terms, and consideration. The clerk of the circuit court shall require at the time of recording of a conveyance in real property either a properly executed information form or a copy of the closing statement in lieu thereof, provided that said statement shall contain no less information than that required on the form.~~ Either the buyer or the seller or the agent of either shall complete the information form ~~or supply the closing statement~~ and certify that the form ~~or statement~~ is accurate to the best of his knowledge and belief. The information form ~~or closing statement~~ shall be confidential in the hands of all persons after delivery to the clerk, except that the Department of Revenue and the Auditor General shall have access to such in the execution of their official duties. The information form ~~or closing statement~~ may be used in any judicial proceeding, upon a motion to produce duly made by any party to such proceedings. Failure of the clerk to obtain an information form ~~or closing statement~~ with the recording shall not impair the validity of the recording or the conveyance. The form shall provide for a notation by the clerk indicating the book and page number of the conveyance in the official record books of the county. The clerk shall promptly deliver all information forms ~~and closing statements~~ received by him to the property appraiser for his custody and use.

Section 11. Subsection (4) is added to section 195.073, Florida Statutes, to read:

195.073 Classification of property.—All items required by law to be on the assessment rolls shall receive a classification based upon the use of the property. The department shall promulgate uniform definitions for all classifications. The de-

partment may designate other subclassifications of property. No assessment roll may be approved by the department which does not show proper classifications.

(4) Rules adopted pursuant to this section shall provide for the separate identification of property as prior existing property or expansion-related property for the purpose of carrying out the provisions of s. 220.18, if applicable, in addition to classification according to use.

Section 12. Section 817.405, Florida Statutes, is created to read:

817.405 False representation with regard to certain credit cards; prohibition; penalty.—It shall be unlawful and shall be deemed a deceptive trade practice for any producer, refiner or a subsidiary of any producer or refiner to distribute credit cards, as defined in s. 501.011, intended to be used by credit card holders for the purchase of motor fuel, goods or services from retail service stations, whether owned or operated by the producer, refiner or a subsidiary thereof or not, unless such credit card is valid for purchases of all motor fuel at each such retail service station. It shall be unlawful for any producer, refiner or a subsidiary thereof to include any restrictions on credit card sales in any franchise agreements with retail service stations which are not equally applicable to sales of all types of motor fuels sold at such retail service stations. Any person violating the provisions of this section shall be guilty of a felony of the third degree, punishable as provided in s. 775.082 or 775.083. The Department of Legal Affairs or any state attorney is authorized to seek an injunction to prevent the distribution or continued use of credit cards in violation of this section during any litigation contesting the validity thereof. The penalties provided by this section are in addition to any civil remedies otherwise provided by law.

Section 13. Section 526.06, Florida Statutes, is amended to read:

526.06 Mixing, blending or compounding liquid fuels of same manufacturer prohibited.—It is unlawful for any person to mix, blend, compound or adulterate the liquid fuel, lubricating oil, grease, or similar product of a manufacturer or distributor with a liquid fuel, lubricating oil, grease or similar product of the same manufacturer or distributor of a character or nature different from the character or nature of the liquid fuel, lubricating oil, grease or similar product so mixed, blended, compounded or adulterated, and expose for sale, offer for sale, or sell the same as the unadulterated product of such manufacturer or distributor, or as the unadulterated product of any other manufacturer or distributor; provided, however, that nothing in this chapter shall be construed to prevent the lawful owner of such products from applying his or its own trademark, trade name or symbol to any product or material. *Alcohol blended fuels which contain 90 percent unleaded gasoline and 10 percent ethyl alcohol, minimum of 198 proof, maximum fifty parts per million acetic acid, commonly known as "gasohol" may be sold at retail service stations for use in motor vehicles as long as the gasoline component complies with current state specifications until the American Society for Testing and Materials approves specifications for gasohol.*

Section 14. Sections 1 through 4 of this act shall take effect July 1, 1980.

Section 15. Sections 5-13 of this act shall take effect upon becoming a law, provided that gasohol development tax incentive credits shall first be available for ad valorem taxes levied against 1981 assessments.

Amendment 2—On page 1, line 2, strike lines 2 through 7 and insert: An act relating to motor fuels; creating s. 206.415, Florida Statutes, exempting the sale or distribution of certain motor fuels blended with alcohol from the first gas tax for a designated period; amending s. 206.60(1), Florida Statutes, exempting the sale or distribution of certain motor fuels blended with alcohol from the seventh cent tax for a designated period; providing for certain reimbursement for lost revenues; adding subsection (6) to s. 220.02, Florida Statutes, and adding paragraphs (o) and (p) to s. 220.03(1), Florida Statutes; providing legislative intent and definitions; creating s. 220.18, Florida Statutes; providing for a gasohol development tax incentive credit to be allowed against the tax imposed under the Florida Income Tax Code to corporations which establish a new business or expand an existing business engaged in the distillation of ethyl alcohol or manufacture of equipment for the processing and distillation of ethyl alcohol for use in motor fuels; providing for computation of the credit based on ad valorem taxes paid; providing a limitation; creating s. 193.076, Florida Statutes, adding subsection (5) to s. 193.085, Florida Statutes, and adding subsection (4) to s. 195.073, Florida Statutes; providing for filing of notice of expansion with the property appraiser; providing for classification and listing of expansion-related property; amending subsection (6) of s. 195.027, Florida Statutes, providing a presumption of usual costs and terms unless a form is filed; providing duties of Department of Revenue and property appraisers; creating s. 817.405, Florida Statutes; prohibiting certain deceptive trade practices through the use of credit cards; providing a penalty; providing for injunction; amending s. 526.06, Florida Statutes; authorizing the sale at retail service stations of alcohol blended fuels meeting certain specifications for a designated period; providing an effective date.

Amendment 3—On page 12, line 6, following Section 15 insert:

Section 16. Section 525.065, Florida Statutes, is created to read:

525.065 Required sale of gasohol; prohibition; penalty.—After July 1, 1987, every distributor and every dealer, as defined in section 206.01, who sells gasoline at retail in this state, and who has three or more separate gasoline storage tanks and three or more separate pumps dispensing gasoline at the same location, shall provide and maintain at least one pump at said location through which gasohol, fuel alcohol or synthetic petroleum products shall be available. Any person violating the provisions of this section shall be guilty of a first degree misdemeanor, punishable as provided in ss. 775.082, 775.083, or 775.084. The Department of Legal Affairs or any state attorney is authorized to seek an injunction to prevent the sale, offer for sale, or distribution of gasoline in violation of this act during any litigation contesting the validity thereof. The penalties provided by this act shall be in addition to any civil remedies otherwise provided by law. Provided however that every distributor and every dealer dispensing less than 5000 gallons of gasoline each month shall be exempt from the requirements of s. 525.065. The full amount of the motor fuel tax exemptions provided by this act shall be passed through to the retail consumer. The department shall promulgate the necessary rules to carry out the intent of this provision.

Section 17. Section 16 of this act shall take effect on becoming a law.

Amendment 4—On page 1, line 9 in the title, following the semi-colon insert: requiring, after July 1, 1987, persons who sell gasoline at retail who have a certain number of gasoline pumps and storage tanks to also sell certain other motor fuels; providing penalties; providing for injunctions;

On motions by Senator Scott, the Senate concurred in House Amendments 1 and 2, refused to concur in House Amendments 3 and 4 and the House was requested to recede.

SB 903 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Fechtel	Johnston	Scarborough
Anderson	Frank	Maxwell	Scott
Beard	Gorman	McClain	Skinner
Carlucci	Grizzle	McKnight	Stuart
Chamberlin	Henderson	Myers	Trask
Childers, D.	Hill	Neal	Vogt
Childers, W. D.	Holloway	Peterson	Ware
Dunn	Jenne	Poole	Williamson

Nays—None

Votes after roll call:

Yea—Hair, Winn

On motion by Senator Johnston, by two-thirds vote HB 1111, which was inadvertently omitted from the special order calendar, was placed on the special order calendar following CS for SB 884.

On motion by Senator Anderson, by two-thirds vote Senate Bills 741 and 134, which were inadvertently omitted from the special order calendar, were placed on the special order calendar following HB 1111.

On motion by Senator Winn, by two-thirds vote HB 30 was placed at the end of the special order calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Peterson and others—

SB 828—A bill to be entitled An act relating to individual sewage disposal facilities; amending s. 381.272(1) and (5), Florida Statutes, and adding subsection (11) thereto; providing that variances shall apply to the entire section; defining the term "acre"; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 23, insert after the "period" (.), the following:

No variance shall be granted pursuant to this section until the applicant affirmatively shows the following:

(a) That the hardship was not caused intentionally by the action of the applicant; and

(b) That no reasonable alternative exists for the treatment of the sewage; and

(c) That discharge from the individual sewage disposal system will not adversely effect the health of the applicant or other members of the public, or degrade the quality of the receiving ground or surface waters.

Amendment 2—On page 1, line 6 in title, strike the entire section and insert: subsections (2), (3), (4), and (7), providing standards

On motions by Senator Peterson, the Senate concurred in the House Amendments.

SB 828 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	McClain	Thomas
Anderson	Gorman	Neal	Tobiassen
Beard	Hair	Peterson	Trask
Carlucci	Henderson	Poole	Vogt
Chamberlin	Hill	Scarborough	Ware
Childers, D.	Holloway	Scott	Williamson
Childers, W. D.	Jenne	Skinner	Winn
Dunn	Johnston	Steinberg	
Fechtel	Maxwell	Stuart	

Nays—2

Grizzle	McKnight

Vote after roll call:

Nay—Myers

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Trask and others—

SB 326—A bill to be entitled An act relating to ad valorem tax exemptions; creating s. 196.1986, Florida Statutes; granting an exemption with respect to community centers owned and operated by private, nonprofit corporations and used predominately for educational, literary, scientific, religious, or charitable purposes; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 23, strike everything after the enacting clause and insert: Section 1. Section 196.1986, Florida Statutes, is created to read:

196.1986 Additional provisions for exempting property used as community centers.—A single general purpose structure represented as a community center owned and operated by a private non-profit organization and used predominantly for educational, literary, scientific, religious, or charitable purposes is hereby defined as property within the purview of s. 3(a), Art. VII of the State Constitution and shall be exempt from ad valorem taxes imposed by taxing authorities. Provided, however, no use shall be considered to serve an exempt purpose if, in conjunction with said use, alcoholic beverages are served or consumed on the premises. Any portion of such property used for nonexempt purposes may be valued and placed upon the tax roll separately from any portion entitled to exemption pursuant to this section. This exemption shall not apply to condominium common elements, and shall not apply to any structure unless it is generally open and available for use by the general public.

Section 2. This act shall take effect January 1, 1981, and shall first apply to taxes levied against the 1981 assessment rolls.

Amendment 2—On page 1, lines 1-9, strike all of said lines and insert: A bill to be entitled An act relating to ad valorem tax exemptions; creating s. 196.1986, Florida Statutes; granting an exemption with respect to community centers; providing exceptions; providing an effective date.

On motions by Senator Trask, the Senate concurred in the House Amendments.

SB 326 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Dunn	Maxwell	Skinner
Anderson	Fechtel	McClain	Steinberg
Barron	Frank	McKnight	Thomas
Beard	Gorman	Neal	Tobiassen
Carlucci	Grizzle	Peterson	Trask
Chamberlin	Henderson	Poole	Vogt
Childers, D.	Hill	Scarborough	Williamson
Childers, W. D.	Jenne	Scott	Winn

Nays—2

Johnston	Stuart

Votes after roll call:

Yea—Hair, Myers

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Johnston—

SB 958—A bill to be entitled An act relating to mental health; amending s. 2, chapter 77-90, Laws of Florida; delaying the effective date of the requirement for separate treatment facilities for criminally charged or convicted mentally ill persons; providing an exception; providing a retroactive effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 3—On page 1, line 20, after the period "." insert: Section 3. The Department of Health and Rehabilitative Services is directed to develop a plan for the provision of continuity of mental health care, through the provision of case management, including clients referred from state treatment facilities to community mental health facilities. Such plan shall include the creation of a case management system throughout the state designed to:

(1) Reduce the possibility of a client's admission or readmission to a state treatment facility.

(2) Provide for the creation or designation of an agency in each county to provide single intake services for each person seeking mental health services. Such agency shall provide information and referral services necessary to insure that clients receive the most appropriate and least restrictive form of care, based on the individual needs of the person seeking treatment. Such agency shall have a single telephone number, manned 24 hours per day, 7 days per week, where practical, at a central location, where each client will have a central record.

(3) Advocate on behalf of the client to insure that all appropriate services are afforded to the client in a timely and dignified manner.

The department shall submit a copy of the plan to the Legislature no later than Feb. 1, 1980, including a request for state funding for the 1981-1983 biennium to implement the provisions of this plan.

Section 4. The department is directed to develop and include in contracts with the district mental health boards measures of performance with regard to goals and objectives as specified in the state plan. Such measures shall use to the extent practical, existing data collection methods and reports shall not require, as a result of this section, additional reports on the part of service providers. The department is also directed to combine, where practical, reports and reporting requirements with the data requirements of district mental health boards and shall plan monitoring visits of community mental health facilities with other state, federal, and local government and private agencies charged with monitoring of such facilities.

Section 5. Beginning in 1982, the department is directed to submit a report to the Legislature, prior to April 1 of each year, outlining departmental progress towards the implementation of the minimum staffing patterns' standards in the state's mental health treatment facilities. Such report shall contain, by treatment facility, information regarding goals and objectives, and departmental performance toward meeting each such goal and objective.

And renumber subsequent sections.

Amendment 4—On page 1, line 6, after the semi-colon ";" insert: directing the Department of Health and Rehabilitative Services to develop a plan for provision of mental health services through a case management system; specifying criteria; providing for measures of performance; providing for annual reports to the Legislature

On motions by Senator Johnston, the Senate concurred in the House Amendments.

SB 958 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gorman	McKnight	Tobiassen
Anderson	Grizzle	Myers	Trask
Beard	Henderson	Neal	Vogt
Carlucci	Hill	Peterson	Ware
Chamberlin	Holloway	Poole	Williamson
Childers, D.	Jenne	Scott	Winn
Dunn	Johnston	Steinberg	
Fechtel	Maxwell	Stuart	
Frank	McClain	Thomas	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has reconsidered and failed House amendment 3; amended Senate amendment 5 and concurred in same as amended and has passed as further amended—

By Representative McPherson—

HB 294—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 370.021(7), Florida Statutes, conforming to general public record provisions, the authority of the department to retain and destroy certain documents and records; providing that copies of such reproduced records shall be admissible in evidence as originals; amending ss. 253.025(1), (3) and (6), Florida Statutes, relating to land acquisition procedures of the Board of Trustees of the Internal Improvement Trust Fund; amending s. 375.021, Florida Statutes, relating to the management of recreation and park lands by the department; amending s. 375.031, Florida Statutes, relating to the acquisition of lands by the department for outdoor recreational and conservation purposes; amending ss. 375.041 (1) and (4), Florida Statutes, relating to administration of the Land Acquisition Trust Fund; amending s. 375.051, Florida Statutes, relating to the issuance of revenue bonds by the department; amending ss. 375.065(2), (3), and (4), Florida Statutes, relating to the authority of the department to aid local governments in the acquisition of public beaches; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

House Amendment 1 to Senate Amendment 5—Strike all of said Senate Amendment 5 and insert:

Section 7. Definitions.—As used in this act:

(1) "Cave" means any void, cavity, recess, or system of interconnecting passages which naturally occurs beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems but not including any mine, tunnel, aquaduct, or other man-made excavation, and which is large enough to permit a person to enter. The word "cave" includes any cavern, natural pit or sinkhole which is an extension of an entrance to a cave.

(2) "Gate" means any structure or device located to limit or prohibit access or entry to any cave.

(3) "Sinkhole" means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, limesink, or sink.

(4) "Person" means any individual, partnership, firm, association, trust, corporation, or other legal entity.

(5) "Owner" means a person who owns title to land where a cave is located, including a person who holds a leasehold estate in such land, the state or any of its agencies, departments, boards, bureaus, commissions, or authorities, or any county, municipality, or other political subdivision of the state.

(6) "Speleothem" means a natural mineral formation or deposit occurring in a cave, including, but not restricted to, stalagmite, stalactite, helictite, anthodite, gypsum flower, gypsum needle, angel hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, or flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, calestite, or other similar minerals.

(7) "Speleogen" means an erosional feature of the cave boundary, including, but not restricted to, anastomoses, scallops, rills, flutes, spongework, or pendants.

(8) "Cave life" means any life form which is indigenous to a cave or to a cave ecosystem.

Section 8. Vandalism.—It is unlawful for any person, without the prior written permission of the owner, to:

(1) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein, whether attached or broken, including speleothems, speleogens, or sedimentary deposits. This subsection does not prohibit minimal disturbance or removal for scientific inquiry.

(2) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

(3) Remove, deface, or tamper with a sign stating that a cave is posted or citing provisions of this act.

Section 9. Sale of speleothems.—It is unlawful for any person to sell or offer for sale any speleothems in this state, or to transport them for sale outside this state.

Section 10. Pollution and littering.—It is unlawful to store in any cave any chemical or other material which may be detrimental or hazardous to the cave, to the mineral deposits therein, to the cave life therein, to the waters of the state, or to the persons using such cave for any purposes. It is also unlawful to dump, litter, dispose of, or otherwise place any refuse, garbage, dead animal, sewage, trash, or other similar waste materials in any cave. This section shall not apply to activity which is regulated pursuant to s. 373.106, Florida Statutes, regarding the intentional introduction of water into an underground formation, or chapter 377, Florida Statutes, regarding the injection of fluids into subsurface formations in connection with oil or gas operations.

Section 11. Cave life.—It is unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism within any cave, except for safety or health reasons. The provisions of this section do not prohibit minimal disturbance or removal of organisms for scientific inquiry.

Section 12. Penalties.—Any person who violates section 2, 3, 4, or 5 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Section 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the 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 14. Subsection (12) is added to section 253.03, Florida Statutes, to read:

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

(12) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized to administer, manage, control, conserve and protect all real property forfeited to the state pursuant to ss. 943.46-943.464. The board is directed to immediately determine the value of all such property and shall ascertain whether the property is in any way encumbered. If the board determines that it is in the best interest of the state to do so, funds from the Land Acquisition Trust Fund may be used to satisfy any such encumbrances. All property acquired by the board pursuant to ss. 943.46-943.464 shall be sold as soon as commercially feasible. The proceeds of the sale shall be distributed as follows: any moneys used to satisfy encumbrances and expended as cost of administration, appraisal, management, conservation, protection and sale shall be replaced in the Land Acquisition Trust Fund, and the remainder distributed as set forth in s. 943.464.

Section 15. Present subsections (4) through (10) of section 253.023, Florida Statutes, are renumbered as subsections (5) through (11), respectively, and a new subsection (4) is added to said section to read:

253.023 Conservation and Recreation Lands Trust Fund established; purpose.—

(4) The Board of Trustees may allocate, in any year, an amount not to exceed 5 percent of the money credited to the fund in that year, such allocation to be used for the initiation and maintenance of a natural areas inventory to aid in the identification of areas to be acquired pursuant to this section.

House Amendment 2 to Senate Amendment 5—At end of the Amendment add: On page 1, lines 1-2, strike title as amended by House Amendments 2 and 4 and Senate Amendments 3 and 4 and insert: A bill to be entitled an act relating to the Department of Natural Resources; amending s. 370.021(7), Florida Statutes, conforming to general public record provisions, the authority of the department to retain and destroy certain documents and records; providing that copies of such reproduced records shall be admissible in evidence as originals; amending s. 375.021, Florida Statutes, relating to the management of recreation and park lands by the department; amending s. 375.031, Florida Statutes, relating to the acquisition of lands by the department for outdoor recreational and conservation purposes; amending ss. 375.041(1) and (4), Florida Statutes, relating to administration of the Land Acquisition Trust Fund; amending s. 375.051, Florida Statutes, relating to the issuance of revenue bonds by the department; amending ss. 375.065(2), (3), and (4), Florida Statutes, relating to the authority of the department to aid local governments in the acquisition of public beaches; amending ss. 253.025(1), (3) and (6), Florida Statutes, relating to land acquisition procedures of the Board of Trustees of the Internal Improvement Trust Fund; prohibiting any person from defacing, damaging, or disturbing the surfaces of any cave or similar formation, from disturbing any obstruction designed to control or prevent access thereto, and from tampering with certain signs relating thereto; prohibiting any person from selling, offering for sale, or transporting speleothems; prohibiting any person from storing or dumping in caves or other formations certain chemicals or materials; prohibiting any person from removing, killing, harming, or otherwise disturbing certain organisms within a cave or other formation; providing exceptions; providing penalties; providing severability; adding a subsection to s. 253.03, Florida Statutes, authorizing the Board of Trustees of the Internal Improvement Trust Fund to administer real property forfeited to the state pursuant to certain racketeering provisions; authorizing the board to satisfy encumbrances thereon; providing for the sale of such property and for the distribution of proceeds of the sale; adding a new subsection (4) to s. 253.023, Florida Statutes, authorizing the Board of Trustees of the Internal Improvement Trust Fund to allocate funds for a natural areas inventory; providing an effective date.

On motions by Senator Vogt, the Senate concurred in the House Amendments to Senate Amendment 5.

HB 294 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gordon	Maxwell	Stuart
Anderson	Gorman	McClain	Thomas
Beard	Grizzle	McKnight	Tobiassen
Carlucci	Hair	Myers	Trask
Chamberlin	Henderson	Neal	Vogt
Childers, D.	Hill	Peterson	Williamson
Dunn	Holloway	Poole	Winn
Fechtel	Jenne	Scott	
Frank	Johnston	Steinberg	

Nays—None

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Tobiassen—

SB 415—A bill to be entitled An act relating to revolving funds; adding s. 216.271(5), Florida Statutes; providing that

reimbursement to revolving funds for certain losses may be made from the fund in which the responsible operating department is budgeted; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 19 insert new sections 2 and 3 and renumber subsequent sections:

Section 2 Paragraph (q) of subsection (1) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, the following terms shall have the meaning indicated:

(q) "Operating capital outlay" means equipment, ~~including bound books,~~ fixtures and other tangible personal property of a *nonconsumable and* nonexpandable nature, the *value or cost of which is $50 or more, and the* normal expected life of which is 1 year or more *and hardback covered bound books, the value or cost of which is $25 or more.*

Section 3. Section 273.02, Florida Statutes, is amended to read:

273.02 Record and inventory of certain property.—The word "property" as used in this section means *equipment,* fixtures and other tangible personal property of a nonconsumable *and nonexpendable* nature the value *or cost* of which is *$50* ~~$100~~ or more, and the normal expected life of which is 1 year or more *and hardback covered bound books, the value or cost of which is $25 or more.* Each item of property which it is practicable to identify by marking shall be marked in the manner required by the Auditor General. Each custodian shall maintain an adequate record of property in his custody, which record shall contain such information as shall be required by the Auditor General. Once each year, on July 1, or as soon thereafter as shall be practicable, and whenever there is a change of custodians, each custodian shall take an inventory of property in his custody. The inventory shall be compared with the property record and all discrepancies shall be traced and reconciled. All publicly supported libraries shall be exempt from this section.

Amendment 2—On page 1, line 6 in title, after "budgeted;" insert: amending s. 216.011(1)(q), Florida Statutes, redefining the term "operating capital outlay" with respect to state law dealing with planning and budgeting; amending s. 273.02, Florida Statutes, redefining the term "property" with respect to state law dealing with state-owned tangible personal property;

On motions by Senator Tobiassen, the Senate concurred in the House Amendments.

SB 415 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gorman	McKnight	Tobiassen
Anderson	Grizzle	Myers	Trask
Beard	Henderson	Neal	Vogt
Carlucci	Holloway	Peterson	Ware
Chamberlin	Jenne	Poole	Williamson
Childers, D.	Johnston	Scarborough	Winn
Dunn	MacKay	Skinner	
Fechtel	Maxwell	Steinberg	
Frank	McClain	Thomas	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has again refused to concur in Senate Amendment 2 to HB 449 and requests the Senate to recede.

Allen Morris, Clerk

By the Committee on Community Affairs—

HB 449—A bill to be entitled An act relating to local government planning; amending s. 163.170(2) and (7), Florida Statutes; allowing an alternative definition of "subdivision" by charter counties for purposes of provisions regulating local government planning for future development under part II of chapter 163; creating s. 163.183, Florida Statutes; providing that charter counties may divide planning and zoning functions and create separate zoning commissions; adding subsection (7) to s. 163.185, Florida Statutes; providing functions of such commissions; amending s. 163.225(2)(e), Florida Statutes, and adding paragraph (f) thereto; conforming language, and providing that certain duties of the board of adjustment may be performed by such commissions; amending ss. 163.190(2), 163.200, 163.210(2), 163.215(2), 163.220(3), 163.280(3)(a), and 163.285, Florida Statutes; conforming language; providing an exemption to the operation; amending s. 163.3194(2)(a) providing for reference of certain land development regulations or codes to separate zoning commissions; providing an effective date.

On motion by Senator Dunn, the Senate receded from Amendment 2 to HB 449.

HB 449 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gorman	McKnight	Tobiassen
Anderson	Grizzle	Myers	Trask
Beard	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Ware
Childers, D.	Holloway	Scarborough	Williamson
Childers, W. D.	Jenne	Skinner	Winn
Dunn	Johnston	Steinberg	
Fechtel	Maxwell	Stuart	
Frank	McClain	Thomas	

Nays—1

Neal

Vote after roll call:

Yea—Hair

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1 and 1A, concurred in same as amended and passed HB 1614 as amended and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs—

HB 1614—A bill to be entitled An act relating to state and local bonds; creating s. 215.84, Florida Statutes, providing for monthly calculation of maximum interest rate for bonds issued by governmental units; authorizing the State Board of Adminis-

stration to adopt rules; creating s. 215.845, Florida Statutes, to prohibit special acts on the subject; amending s. 170.09, providing for an interest rate for payment of assessments; repealing s. 215.685, Florida Statutes, relating to the maximum interest rate on such bonds; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 4, between lines 25 & 26, insert new section 3:

Section 3. Section 170.09, Florida Statutes, is amended to read:

170.09 Priority of lien, interest and method of payment.—Said assessments shall be payable at the time and in the manner stipulated in the resolution providing for said improvements, and said special assessments shall remain liens, coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles and claims, until paid, and shall bear interest at a rate not to exceed *1 percent above the rate of interest at which the improvement bonds authorized pursuant to this chapter and used for the improvement are sold* ~~8 percent per annum~~ from the date of the acceptance of said improvement and may, by the resolution aforesaid, be made payable in not more than 10 equal yearly installments, to which, if not paid when due, there shall be added a penalty at the rate of 1 percent per month, until paid; provided that said assessments may be paid without interest at any time within 30 days after the improvement is completed, and a resolution accepting the same has been adopted by the governing authority.

Renumber subsequent sections.

House Amendment 3 to Senate Amendment 1—On page 4, line 15, after the word "section" insert: , nor shall this section apply to bonds issued to finance industrial and manufacturing plants under parts II, III, and V of Chapter 159, health facilities under part III of Chapter 154, or higher education under part II of Chapter 153.

House Amendment 4 to Senate Amendment 1—At end of Senate amendment 1, add: on page 1, line 5 after the semi-colon (;) "providing exceptions;"

House Amendment 2 to Senate Amendment 1A—On page 1. line 8 after the word "utilities" insert: "or agencies thereof"

On motions by Senator Dunn, the Senate concurred in the House Amendments to the Senate amendments.

HB 1614 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Anderson	Gorman	McKnight	Thomas
Beard	Grizzle	Myers	Tobiassen
Chamberlin	Henderson	Neal	Trask
Childers, D.	Hill	Peterson	Vogt
Childers, W. D.	Holloway	Scott	Ware
Dunn	Jenne	Skinner	Williamson
Fechtel	Johnston	Steinberg	Winn
Frank	McClain	Stuart	

Nays—None

Vote after roll call:

Yea—Hair

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By the Committee on Health and Rehabilitative Services and Senator Jenne—

CS for SB 1218—A bill to be entitled An act relating to social welfare programs; creating part X of chapter 23, Florida Statutes; providing a definition; establishing the legislative policy that all able-bodied adults participate in a work program as a condition to their receipt of assistance from the aid to families with dependent children program and the food stamp program; requiring the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security work to overcome federal government obstacles to such a work program; providing that the departments make use of certain federal government programs; providing for the cooperation of state employees; providing for reports; adding s. 400.021(13)-(15), Florida Statutes; adding definitions; amending s. 400.022(1), (3), Florida Statutes, and adding subsection (4) to said section; providing further detail regarding patients' rights; providing for patient interviews and consultation with the ombudsman committee during the annual inspection to determine facility compliance with patients' rights; granting immunity under certain circumstances to individuals who report complaints or testify regarding a patient's rights; creating s. 400.023, Florida Statutes; providing for the civil enforcement of patients' rights; providing for conditional repeal; amending s. 400.063(1), (3), Florida Statutes; providing for utilization of certain funds in removal and alternate placement of patients under certain circumstances; amending s. 400.071(2)(f), (3), (4), Florida Statutes; requiring certain information to be supplied by any license applicant; prohibiting certain persons from applying for licensure; requiring the Department of Health and Rehabilitative Services to establish documentation requirements for demonstration of a facility's financial ability to operate; amending s. 400.111(1), Florida Statutes; authorizing the department to charge facilities a late fee for failure to timely file annual license renewal applications; providing for deposit of such late fees in a specified trust fund; amending s. 400.121(1), (2), Florida Statutes; correcting the form of a cross reference; requiring deposit of certain fines paid by any nursing home facility in the Patient Protection Trust Fund; amending s. 400.125, Florida Statutes; authorizing petition by the department for the appointment of a receiver under specified conditions; providing for a hearing prior to such petition; providing conditions for appointment of a receiver; providing for compensation of receiver; providing powers and duties of receiver; providing for liability; providing for termination of receivership; amending s. 400.141 (6), Florida Statutes; requiring facilities to keep full records of patient care plans; amending s. 400.151(1), (2), Florida Statutes; providing for a patient-facility contract when a previous contract expires and when the source of payment for a patient's care changes; requiring the printing of said contract in bold type, and attachment to the contract of a list of charges and supplies not covered in the per diem rate or by Titles XVIII and XIX of the Social Security Act; providing for notification as to any changes in such attachment; amending s. 400.18(1), (2), Florida Statutes, and adding a new subsection (3) to said section; providing duties of the department in the closing of a nursing facility; creating s. 400.181, Florida Statutes; providing for sale or transfer of ownership of a nursing facility; providing for conditional repeal; amending and renumbering s. 400.19(2), Florida Statutes, and adding new subsections (2) and (4) to said section; providing for coordination of licensure activities and requiring multiple inspection visits under certain circumstances; adding a new paragraph (b) to s. 400.317(2), Florida Statutes; conforming nursing home ombudsman committee procedures for resolving complaints against a facility; providing for conditional repeal; providing an effective date.

—and requests the concurrence of the Senate.

'Allen Morris, Clerk

Amendment 1—On page 25, between lines 13 & 14, insert new Sections 15, 16 & 17 (renumber subsequent sections):

Section 15. Part X of chapter 23, Florida Statutes, consisting of section 23.171, 23.172, 23.173 and 23.174, is created to read:

PART X

WORKFARE

23.171 Short Title.—This act may be cited as the "Workfare Policy Act".

23.172 Definition.—"Workfare" as used in this act refers to a responsible, effective and fiscally beneficial policy of requiring certain able-bodied recipients of the Food Stamp Aid to Families with Dependent Children and any other state public assistance programs to work in return for assistance benefits received, when not in conflict with federal law.

23.173 Policy and purpose.—

(1) The Legislature finds that developing a mechanism whereby certain able-bodied eligible adult recipients work as a condition for assistance might be beneficial to the state as well as provide the recipient an opportunity to develop a feeling of self-worth by taking part in a productive work experience.

(2) It shall be the purpose of this act that certain eligible adults participate in an established workfare program as a condition of their receipt of public assistance, where not in conflict with federal law.

(3) Further, the state should do all within its power to encourage the federal government to move in the direction of a responsible, effective, and fiscally beneficial workfare program.

(4) To the extent possible, the agency which is responsible for the placement of assistance recipients in jobs be the agency which also has the authority to determine a person who refuses to work to be ineligible for assistance.

(5) It is the policy of the Legislature that no law should prevent the maintenance of the family unit. Therefore, this act shall not require any single parent head of the family unreasonably to be separated from his or her minor child in order to accept employment.

23.174 Activities and reports.—

(1) It shall be the joint and individual responsibility of the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security to work diligently to establish a responsible, effective and fiscally beneficial workfare program not in conflict with federal law.

(2) It shall be the joint and individual responsibility of the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security to make every effort to take advantage of any exemptions, pilot projects, or any other program made available by the federal government which would allow or provide for the placement of recipients in a responsible, effective and fiscally beneficial workfare program, not in conflict with federal law.

(3) It shall be the responsibility of the secretaries of all state agencies to inform their employees that it is the state's policy to encourage the development of said workfare program.

(4) The Department of Health and Rehabilitative Services and the Department of Labor and Employment Security shall jointly prepare a summary report to be submitted to the Speaker of the House of Representatives and the President of the Senate twice annually on March 1 and September 1. The report shall include, but not be limited to, a summary of:

(a) All efforts being made by the departments to pursue a responsible, effective and fiscally beneficial workfare concept, not in conflict with federal law;

(b) All recommendations which have been made for legislative action relating to said workfare concept;

(c) All efforts being made to take advantage of any federal workfare programs, exemptions or projects;

(d) All current plans for policy change in this area, for new recommendations for legislative action, and for new efforts to encourage federal development and expansion of the workfare concept.

(e) A current description of the aid to families with dependent children program and the food stamp program as they relate to:

1. The number of applicants and recipients of each program;

2. The number who are exempt from the work registration requirements based on each exemption;

3. The number of applicants and recipients referred for job placement screening;

4. The number of applicants and recipients who are screened for job placement;

5. The number who are placed in jobs;

6. The number who are not placed in jobs and the reasons for not being placed;

7. The number who are reported to the Department of Health and Rehabilitative Services as having refused to accept employment;

8. The number determined ineligible for assistance because of 7.;

9. The number who actually cease to receive assistance;

10. The number of applicants diverted from participation in an assistance program because of job placement;

11. The number of assistance recipients who leave the assistance programs because of job placement;

12. The costs related to the job placement programs reported by source of funds and by cost per client placed;

13. The cost savings to the state and to the Federal Government as a result of job placements for the report period.

Where appropriate, information should be reported separately for each county or district of the Department of Health and Rehabilitative Services, for aid to families with dependent children and food stamps, for assistance applicants and recipients, and for work incentive program and supported work assistance program. For the second and each subsequent report, the change in each category from the previous report shall be reported.

(f) Any change in numbers of applicants and recipients of aid to families with dependent children and food stamps not reported in (a) through (e), the assumed reasons for the change, and the resulting cost increase or savings to the programs.

Section 16. Task force on employment services for recipients of public assistance.—There is created a task force on employment services for recipients of public assistance, hereinafter referred to as the task force. Recipients of public assistance shall include recipients of Aid to Families with Dependent Children, Food Stamps, and Unemployment Compensation. Employment services shall include, but not be limited to, the following components: Education, training, job search, job placement, job development, support services, and the workfare concept.

(1) The task force shall consist of the following members:

(a) The Secretary of Health and Rehabilitative Services, or his designate, who shall serve as chairman of the task force.

(b) The Secretary of Labor and Employment Security, or his designate.

(c) The Secretary of Commerce, or his designate.

(d) The Secretary of Community Affairs, or his designate.

(e) The President of the Florida Association for Community Action Agencies, who shall serve at the pleasure of said association.

(f) A representative of Florida Legal Services, Inc., who shall serve at the pleasure of the Board of Directors of Florida Legal Services, Inc.

(g) A representative of the state chapter of the Southeastern Employment and Training Association.

(h) Two representatives of the State Employment and Training Council.

(2) The state agencies with participating members shall provide staff support to carry out the responsibilities of the task force as so determined by the task force.

(3) All members of the task force shall be allowed per diem and travel expenses, as provided for in s. 112.061, Florida Statutes.

(4) The task force shall be organized and hold its first meeting no later than August 1, 1980, and shall terminate on June 30, 1981.

Section 17. Purpose of the task force.—The purpose of the task force is to study the current status of employment services for public assistance recipients in order to determine ways to increase the number of public assistance recipients placed in unsubsidized jobs. The task force shall submit an action plan by October 1, 1980, and a report by March 1, 1981, to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The study and subsequent report shall include, but not be limited to:

(1) A description of recipient needs regarding employment services and related supportive services.

(2) Current resource allocations categorized by recipient needs.

(3) A description of state and local programs that provide employment services to public assistance recipients which shall include:

(a) Name of agency or program;

(b) Source and amount of funds;

(c) Services; and

(d) Number of recipients served.

(4) Identification of legal, programmatic, resource, and economic barriers to employment of public assistance recipients in unsubsidized jobs and the development of a workfare concept.

(5) Strategies for integrating and coordinating employment services for public assistance recipients.

(6) Strategies for optimizing the availability and utilization of resources for employment services for public assistance recipients.

(7) An estimate of the cost/benefit of implementing the workfare concept for public assistance recipients based on the experiences of other states.

(8) Activities of each state agency with participating members in carrying out the responsibilities of the task force.

(9) Recommendations.

Amendment 2—On page 3, line 15 in title insert after the semicolon ";" : creating part X of chapter 23, Florida Statutes; establishing the legislative policy that all able-bodied adults participate in a work program as a condition to their receipt of assistance from the aid to families with dependent children program and the food stamp program; requiring the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security work to establish a work program; providing that the department make use of certain federal government programs; providing for the cooperation of state employees; providing for reports; creating a task force of public assistance; providing applicability; providing components of employment services; providing for membership, staff support, per diem and travel expenses, and organization of the task force; providing purpose; requiring an action plan and a report and specifying particulars with respect thereto;

On motions by Senator Jenne, the Senate concurred in the House Amendments.

SB 1218 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—26

Mr. President	Frank	McClain	Thomas
Anderson	Gorman	McKnight	Tobiassen
Beard	Grizzle	Myers	Trask
Carlucci	Hill	Scarborough	Vogt
Chamberlin	Holloway	Scott	Winn
Dunn	Jenne	Skinner	
Fechtel	MacKay	Steinberg	

Nays—None

Votes after roll call:

Yea—Hair, Ware

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Tobiassen—

SB 898—A bill to be entitled An act relating to elevators; amending s. 399.035(1), Florida Statutes; revising passenger elevator accessibility requirements for the physically handicapped; specifying applicability of such requirements; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, lines 17 and 18, strike all of lines 17 and 18 and insert new Section 2: Section 2. Subsection (3) of section 399.06, Florida Statutes, is amended to read:

399.06 Registering of existing installations, reports of inspectors; annual license fees.—

(3) *Except for schools under the jurisdiction of a district school board,* the owner or user of every elevator, escalator, dumbwaiter, moving walk, endless walk, endless belt man lift, or powered lift for sewage pump station subject to this chapter shall pay to the division an annual license or inspection fee, which will be deposited in the Hotel and Restaurant Trust Fund, as established under s. 509.072, as a prerequisite to issuance of a certificate of operation pursuant to subsection (1) and which shall be based upon the type of installation and the number of floors served thereby. Fees shall be set by rule by the division and shall not exceed $50.

Section 3. Paragraph (h) is added to subsection (1) of section 399.035, Florida Statutes, to read:

399.035 Passenger elevator accessibility requirements for the physically handicapped.—

(1) Passenger elevators in buildings on which construction is begun after October 1, 1978, shall be made accessible to physically handicapped persons in accordance with the standard "Suggested Minimum Passenger Elevator Requirements for the Handicapped" of the National Elevator Industry, Inc. (July 1976 edition, as revised May 1977), with the following exceptions:

(h) Benches or seats may be installed on the rear wall of the elevator car enclosure provided that the bench or seat does not protrude beyond the vertical plane of the elevator car enclosure wall when folded into recesses provided for these benches or seats, and when not in use they shall automatically fold into the recesses. The bench or seat shall be capable of supporting a live load of at least 250 pounds on any 12 inch by 12 inch area. No padded, tufted or any other decorative material may be used to cover these benches or seats; only materials approved for use inside the car enclosure may be used. Under no circumstances may these benches or seats encroach on the minimum clear inside car dimensions specified in this law for wheelchairs and stretchers.

Section 4. This act shall take effect July 1, 1980.

Amendment 2—On page 1, lines 6 & 7 in title, strike providing an effective date and insert: amending s. 399.06(3), Florida Statutes, exempting public schools from licensing or inspection fees for annual elevator inspections performed by the Division of Hotels and Restaurants of the Department of Business Regulation; adding a paragraph to s. 399.035(1), Florida Statutes, authorizing certain benches in elevator cars; providing an effective date.

On motion by Senator Tobiassen, the Senate concurred in the House Amendments.

SB 898 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	Neal	Tobiassen
Anderson	Gorman	Peterson	Trask
Beard	Grizzle	Poole	Vogt
Chamberlin	Henderson	Scarborough	Ware
Childers, D.	Jenne	Skinner	Williamson
Childers, W. D.	Johnston	Steinberg	Winn
Dunn	McClain	Stuart	
Fechtel	McKnight	Thomas	

Nays—None

Votes after roll call:

Yea—Hair, Holloway, Maxwell, Myers

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 5 amendments—

By Senators Peterson and Carlucci—

SB 829—A bill to be entitled An act relating to unemployment compensation; amending s. 443.03(5)(m), (n), Florida Statutes; providing that paragraph (m) does not apply to persons covered under federal unemployment compensation systems; postponing coverage of alien agricultural workers; amending s. 443.06(8), Florida Statutes; specifying which retirement benefits are disqualifying; amending s. 443.07(3)(c), Florida Statutes; prohibiting redetermination later than 1 year after the end of the last compensable week of the claim; amending ss. 443.08(3)(i), 443.15(2)(b), Florida Statutes; requiring an employer to file reports and make payments pending certain actions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 11, line 17, insert Section 2. Paragraphs (a) and (b) of subsection (13) of section 443.03, Florida Statutes, are amended to read:

443.03 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(13) "Wages":

(a) "Wages" means all remuneration *for employment* ~~paid for services from whatever source~~, including commissions and bonuses and the cash value of all remuneration paid in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the division.

(b) The term "wages" shall not include:

1. That part of remuneration which, after remuneration equal to $4,200 prior to January 1, 1978, and $6,000 after December 31, 1977, has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the remuneration is subject to a tax, under a federal law imposing the tax, against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subsection, the term "employment" shall include services constituting employment under any employment security law of another state or of the Federal Government.

2. The amount of any payment, with respect to services performed, to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment), on account of:

a. Retirement.

b. Sickness or accident disability.

c. Medical and hospitalization expenses in connection with sickness or accident disability.

d. Death, provided the individual in its employ:

(I) Has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employing unit; and

(II) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his services with such employing unit.

3. The payment by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in its employ under s. 3101 of the Federal Internal Revenue Code with respect to services performed after June 30, 1941.

4. Tips or gratuities other than when paid to an individual by his employer as a result of an arbitrary charge to a customer fixed by the employer, which the customer is required to pay, or to the extent they are taken into account by the employer in determining the employee's compensation under a federal minimum wage law. Tips or gratuities so used must be reported in writing by the employee to the employer, on a form prescribed by the division.

Renumber subsequent sections

Amendment 2—On page 1, line 8 in title, insert: amending s. 443.03(13)(a), Florida Statutes, relating to the definition of wages; creating s. 443.03(13)(b), Florida Statutes, providing which tips and gratuities shall be included in the term wages;

Amendment 3—On page 13, line 19, insert (4) APPEALS.—

(b) Filing and hearing.—

1. The claimant or any other party entitled to notice of a determination as herein provided may file an appeal from such determination with an appeals referee within 20 days after the date of mailing of the notice to his last known address or, if such notice is not mailed, within 20 days after the date of delivery of such notice.

2. *Notwithstanding the provisions of s. 120.57(1)(b)2.*, unless the appeal is withdrawn with his permission or is removed to the commission, the appeals referee, after mailing all parties *and attorneys of record* a notice of hearing at least *10* ~~14~~ days prior to the date of hearing, shall affirm, modify, or reverse such determination; provided, however, that whenever an appeal involves a question as to whether services were performed by claimant in employment or for an employer, the referee shall give special notice of such issue and of the pendency of the appeal to the employing unit and to the division, both of whom shall thenceforth be parties to the proceeding.

3. The parties shall be promptly notified of such referee's decision and such decisions shall be final unless, within 20 days after the date of mailing of notice thereof to the party's last known address or, in the absence of such mailing, within 20 days after the delivery of such notice, further review is initiated pursuant to paragraph (c).

Amendment 4—On page 1, line 13 in title, insert: after "claim;" providing for mailing notice of hearing to all parties and attorneys of record at least 10, rather than 14, days prior to hearing;

Amendment 5—On page 12, lines 12-13, strike all language and insert: Section 3. Paragraph (c) of subsection (3) and paragraph (b) of subsection (4) of section 443.07, Florida Statutes, are amended to read:

On motion by Senator Peterson, the Senate concurred in the House Amendments.

SB 829 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	McKnight	Stuart
Anderson	Gorman	Myers	Thomas
Barron	Grizzle	Neal	Tobiassen
Beard	Henderson	Peterson	Trask
Chamberlin	Hill	Poole	Vogt
Childers, D.	Holloway	Scarborough	Ware
Childers, W. D.	Jenne	Scott	Williamson
Dunn	MacKay	Skinner	Winn
Fechtel	McClain	Steinberg	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments 1, 2, and 3 to CS for HB 717, has amended Senate amendments 4 and 5 and has passed as amended—

By the Committee on Governmental Operations and Representative Hattaway—

CS for HB 717—A bill to be entitled An act relating to the Department of State; amending s. 20.10(2), Florida Statutes, establishing the Division of Administration within the department; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1 to Senate Amendment 4—On page 8, lines 8-11, strike all of section 6. Renumber subsequent sections.

Amendment 2 to Senate Amendment 4—On page 6, line 12, strike "*January*" and insert: *July*

Amendment 1 to Senate Amendment 5—On page 2, line 10, strike "providing an appropriation;"

On motion by Senator Dunn, the Senate concurred in the House Amendments to Senate Amendments 4 and 5.

CS for HB 717 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	McClain	Thomas
Anderson	Gorman	McKnight	Tobiassen
Barron	Grizzle	Neal	Trask
Beard	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Williamson
Childers, D.	Jenne	Scarborough	Winn
Childers, W. D.	Johnston	Scott	
Dunn	MacKay	Skinner	
Fechtel	Maxwell	Steinberg	

Nays—None

Votes after roll call:

Yea—Hair, Myers

On motions by Senator Barron, by unanimous consent—

SCR 617—A concurrent resolution approving the types, amounts, and use of registration fees, tuition fees, and course fees to be charged and collected from students enrolled in the institutions of higher learning under the Board of Regents for school terms commencing after September 1, 1980; authorizing a waiver of tuition for non-Florida students in a specified amount; providing certain provisos for the use of fees.

—was taken up out of order and by two-thirds vote read the second time by title.

Senator Tobiassen moved the following amendments which were adopted:

Amendment 1—On page 8, line 3, insert: Section 8. Be It Further Resolved, that each student government association shall be responsible for the continued maintenance of the salaries and benefits of persons currently filling positions funded by Activity and Service Fees, provided that no new persons and/or positions shall be funded by activity and service fees after July 2, 1980, except upon the mutual agreement of the administration of each university and its respective student government association, provided that all unexpended activity and service fees as of June 30 of each year shall revert to the control of each student government association for reallocation in the following fiscal year budget of that student government association. Persons funded by activity and service fees shall comply with Florida Statute 116.111.

Amendment 2—On page 1 in title, line 11, strike (.) (the period) and insert: effective July 2, 1980.

On motion by Senator Tobiassen, by two-thirds vote SCR 617 as amended was read in full, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gorman	McClain	Steinberg
Anderson	Grizzle	McKnight	Stuart
Barron	Hair	Myers	Thomas
Beard	Henderson	Neal	Tobiassen
Chamberlin	Hill	Peterson	Trask
Childers, D.	Holloway	Poole	Vogt
Childers, W. D.	Jenne	Scarborough	Ware
Dunn	Johnston	Scott	Williamson
Frank	MacKay	Skinner	Winn

Nays—None

On motion by Senator Anderson, by unanimous consent—

HB 601—A bill to be entitled An act relating to motor vehicle insurance; amending s. 627.311(3)(e), Florida Statutes; increasing the number of members of the board of governors of the joint underwriting association; providing for conditional repeal; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Anderson, by two-thirds vote HB 601 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gorman	McKnight	Stuart
Anderson	Grizzle	Myers	Thomas
Barron	Hair	Neal	Tobiassen
Beard	Henderson	Peterson	Trask
Chamberlin	Holloway	Poole	Vogt
Childers, D.	Johnston	Scarborough	Ware
Childers, W. D.	MacKay	Scott	Winn
Fechtel	Maxwell	Skinner	
Frank	McClain	Steinberg	

Nays—None

SB 741, a companion measure, was laid on the table.

On motions by Senator Anderson, by unanimous consent—

CS for HB's 880 & 1053—A bill to be entitled An act relating to insurance; adding s. 627.311(3)(f), Florida Statutes; providing that the joint underwriting plan for automobile liability insurance require agents appointed as servicing agents to meet certain conditions; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Anderson, by two-thirds vote CS for HB's 880 and 1053 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gorman	McKnight	Thomas
Anderson	Grizzle	Myers	Tobiassen
Barron	Hair	Neal	Trask
Beard	Henderson	Peterson	Vogt
Carlucci	Hill	Poole	Ware
Chamberlin	Holloway	Scarborough	Williamson
Childers, D.	Jenne	Scott	Winn
Childers, W. D.	Johnston	Skinner	
Fechtel	MacKay	Steinberg	
Frank	McClain	Stuart	

Nays—None

SB 134, a companion measure, was laid on the table.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Commerce—

CS for SB 347—A bill to be entitled An act relating to banks and banking; amending and renumbering certain sections of chapters 658, 659, 660 and 661, Florida Statutes; providing that, except as renumbered, amended, and readopted by the act, such chapters shall stand repealed pursuant to the Regulatory Reform Act of 1976, as amended; providing definitions; providing standards for the Department of Banking and Finance in exercising its discretionary powers; authorizing state banks, with the department's approval, to exercise certain powers exercised by national banks; providing for the combining of certain provisions relating to the de novo chartering of banks and trust companies; providing for filing of intent to organize; providing procedures for stock subscriptions prior to incorporating a bank or trust company; clarifying procedures for organizing a bank or trust company; providing for investigation by the depatrment of applications to organize bank or trust company; providing criteria for approving applications; providing procedure for coordinating actions of the department, the Federal Reserve System, and the Federal Deposit Insurance Corporation relating to such applications; providing procedure for opening a bank or trust company; authorizing the establishment of bank branches by merger with another bank under certain circumstances; providing criteria for ascertaining ownership and control of banks and trust companies; prohibiting certain ownership and control; providing for the application of the Florida General Corporation Act to certain banking corporations; providing for annual meetings, election and qualifications of directors, and articles of incorporation; providing for issuance of stock and certain stock options; providing procedures for merger, consolidation and conversion and including trust companies in such actions; establishing maximum rates of interest on loans; authorizing commodity loans; prohibiting certain ineligible assets; authorizing borrowing and placing limits on indebtedness; providing an exception; deleting mandatory requirements for sinking fund for the amortization of principal and interest on certain capital notes or debentures; providing for deposits by minors and by two or more persons and certain other deposits; providing standards for depositories of public moneys and for pledging of assets of such depositories; providing procedures for making adverse claims against a bank deposit or fiduciary account; authorizing and providing for the implementation of remote financial service units; authorizing the transmitting of money and the buying and selling of foreign exchange; prescribing investment of funds and maintenance of cash reserves; establishing banking days, legal holidays, etc.; providing for retention and destruction of records; providing for renting of safe-deposit boxes and services related thereto; authorizing Bank Service Corporations and prescribing services to be provided by such corporations; authorizing international banking agencies and subjecting such agencies to the banking code; prescribing requirements and procedures for licensing and procedures for dissolution; prescribing standards for travel reimbursement; prescribing powers of the Department of Banking and Finance to enforce the banking code; providing criminal penalties for violation of the code; providing for certain public hearings and administrative fines; prescribing procedures for insolvency and liquidation proceedings; providing trust functions; providing definitions; providing for deposit of securities with State Treasurer; exempting trust companies and trust departments from bond and other security requirements of fiduciaries under certain conditions; providing for use of personnel and facilities; providing for segregation of books, records and assets; exempting assets held in a fiduciary capacity by trust companies or trust departments from obligations of trust companies or banks; providing places for transacting trust business; providing for trust company branches and for trust service offices; authorizing state banks to establish trust departments; providing for licensing of state banks to conduct trust business; providing general powers of trust companies and trust departments; authorizing certain officer of trust companies and trust departments to make oaths, affidavits and acknowledgements; authorizing trust companies and trust departments to enter into fiduciary agency contracts; providing for security for deposit of fiduciary funds; authorizing loans by and to fiduciary accounts; authorizing sales between fiduciary accounts; prescribing certain restricted and prohibited transactions and activities; authorizing establishment of common trust funds for certain purposes; prohibiting commingling of such funds; providing for annual audit of such funds and for court accountings; providing for substitution of fiduciaries and surrender of trust powers; providing for receivership or voluntary liquidation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, line 25, through page 234, line 14, strike everything after the enacting clause and insert:

CHAPTER 663

BANKING CODE—BANKS AND GENERAL PROVISIONS

PART I

SHORT TITLE, DEFINITIONS, PURPOSES AND CONSTRUCTION

Section 1. Section 658.01, Florida Statutes, is renumbered as section 663.101, Florida Statutes, and is amended to read:

663.101 ~~658.01~~ Short title.—Chapters *663 and 664* ~~658—661~~ may be cited as the "Florida Banking Code."

Section 2. Section 658.02, Florida Statutes, is renumbered as section 663.104, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 658.02, F.S., for present text.)

663.104 Definitions.—Subject to other definitions contained in subsequent sections of this code, and unless the context otherwise requires, in this code:

(1) "Appropriate federal regulatory agency" means the Federal Reserve System, including its Board of Governors and the Federal Reserve bank of the Federal Reserve District in which the state bank is located, in the case of a state member bank, the Federal Deposit Insurance Corporation in the case of a state nonmember bank whose deposits are insured by said corporation, and the Comptroller of the Currency in the case of a national bank.

(2) "Association" means an association as defined in s. 665.012.

(3) "Bank" means any person having a subsisting charter or other lawful authorization, under the laws of this or any other jurisdiction, authorizing such person to conduct a general commercial banking business. The term "bank" does not include an industrial savings bank operating under the provisions of chapter 662 (but provisions of this chapter may be applicable to such industrial savings banks as, and to the extent, provided in chapter 662), a credit union, a building and loan association or a savings and loan association.

(4) "Branch" and "branch office" of a bank means any office or place of business of a bank, other than its main office and the facilities and operations authorized by ss. 663.234 (4), 663.234(6), 663.569 and 664.215, at which deposits are received, or checks paid, or money lent; and, with respect to a bank which has a trust department, the terms "branch" and "branch office" have the meanings herein ascribed to a branch or a branch office of a trust company. "Branch" and "branch office" of a trust company means any office or place of business of a trust company, other than its main office and trust service offices established pursuant to s. 664.215, where trust business is transacted with its customers.

(5) "Capital accounts" means unimpaired capital, unimpaired surplus, and undivided profits.

(6) "Charter" of a bank or trust company means the lawful authority, under the laws of this or any other jurisdiction, to exist and conduct business as, and the franchise of, a bank or a trust company, as the case may be, and includes the written instrument however denominated or entitled which evidences such authority; and when used as a verb, said term shall mean the granting of such authority and franchise.

(7) "Community" means an incorporated city, town or village or, where not within any of the foregoing or if the department determines that the area within the corporate limits of any of the foregoing is inappropriate under specific circumstances, "community" means such trade area or other area determined by the department to be appropriate under the circumstances, in which are located persons having generally similar interests, including residential, social, business and combinations thereof.

(8) "Court" means a court of competent jurisdiction.

(9) "Department" means the Department of Banking and Finance of this state.

(10) "Executive officer" of a bank or trust company means an individual, whether or not the individual has an official title or receives a salary or other compensation, who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the bank or trust company, but said term does not include an individual who may have an official title and may exercise discretion in the performance of duties and functions, including discretion in the making of bank loans, but who does not participate in the determination of major policies of the bank or trust company and whose decisions are limited by policy standards established by officers other than such individual, whether or not such policy standards have been adopted by the board of directors. The chairman of the board, the president, every vice president of a bank or trust company, the cashier of a bank and the secretary of a trust company are considered to be executive officers unless any such office or the individual holding any such office is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation (other than in the capacity of a director) in major policymaking functions of the bank or trust company, and the individual holding any such office so excluded does not actually participate therein.

(11) "Fiduciary" means trustee, committee or guardian or custodian or conservator or other personal representative of persons, property or estates, registrar or transfer agent of or in connection with evidences of indebtedness of every kind and of stocks and bonds and other securities, fiscal or financial agent, investment advisor, receiver, trustee in bankruptcy, assignee for creditors, and holder of any similar representative position or any other position of trust, including acting in any and all the capacities and performing any and all the functions enumerated in s. 664.303.

(12) "General commercial banking business" includes:

(a) The business of receiving demand and time deposits; and

(b) The payment of checks; and

(c) The conduct of a trust business when duly authorized.

(13) "Item" means any instrument, and any electronically or otherwise recorded, stored or transmitted message, for the payment of money, whether or not it is negotiable, but does not include money.

(14) "Law" means each valid and applicable statute, ordinance, rule and regulation of any state and each of its political subdivisions and of the United States and each of its departments, agencies or other entities authorized by the laws of the United States to issue rules or regulations.

(15) "Main office", "main banking house" and "principal office" of a bank means the main banking office designated or provided for in the articles of incorporation of a state bank and the main office designated or provided for in the articles of association of a national bank, at such identified location as shall have been or as hereafter may be approved, by the department in the case of a state bank, or by the appropriate federal regulatory agency in the case of a national bank; and, with respect to the trust department of a bank which has trust powers, each of said terms means the office or place of business of the trust department at such identified location (which shall not necessarily be the same location as the main banking house of the bank exclusive of the trust department) as shall have been or as hereafter may be approved, by the department in the case of a state bank which has a trust department, or by the appropriate federal regulatory agency in the case of a national bank which has a trust department. "Main office" and "principal office" of a trust company means the office designated or provided for as such in its articles of incorporation, at such identified location as shall have been or as hereafter may be approved by the relevant chartering authority.

(16) "National bank" means a bank organized and existing as a national banking association under the provisions of 12 U.S.C. 21, and other sections of the National Bank Act relating thereto.

(17) "Officer" of a bank or trust company means any individual duly elected or appointed, or otherwise performing the duties or functions appropriate to, any position or office having the designation or title of chairman of the board of directors, vice chairman of the board of directors, chairman of the executive committee, president, vice president, assistant vice president, cashier and assistant cashier (of a bank), comptroller, assistant comptroller, trust officer, assistant trust officer, secretary and assistant secretary (of a trust company), and any other office or officer designated in, or as provided by, the bylaws.

(18) "Political subdivision" of this state means and includes counties, municipalities, and departments, commissions, districts, boards, and other bodies, whether corporate or otherwise, created by or pursuant to the provisions of the constitution or any other law, and also includes any officer of any of the foregoing.

(19) "Primary service area" means the smallest geographical area from which a bank draws, or a proposed bank expects

to draw, approximately 75 percent of its deposits; and said term also means the smallest geographic area from which a trust company or the trust department of a bank or association draws, or a proposed trust company or a proposed trust department of a bank or association expects to draw, approximately 75 percent of the assets value of its fiduciary accounts.

(20) "Principal place of business" and "principal place of doing business" of a bank, the trust department of a bank, or of a trust company, means its main office as defined in this section.

(21) "State", when used in the context of a state other than this state, shall mean any or every other state of the United States, the District of Columbia, any and every territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(22) "State bank" means any bank which has a subsisting bank charter issued pursuant to the provisions of this code or the general banking laws of this state in effect prior to the enactment of this code.

(23) "State member bank" means a state bank which is a member of the Federal Reserve System; and "state nonmember bank" means a state bank which is not a member of the Federal Reserve System.

(24) "State trust company" means a corporation, other than a bank, which has a subsisting trust company charter issued pursuant to the provisions of this code or the applicable laws of the state in effect prior to the enactment of this code.

(25) "Trust business" means the business of acting as a fiduciary when such business is conducted by a bank, state or federal association, or a trust company, and also when conducted by any other business organization as its sole or principal business.

(26) "Trust company" means any business organization which is authorized to engage in trust business. A bank or state or federal association conducting business pursuant to lawful authority, which also by lawful authority has authority to engage in trust business, is not a trust company by reason of having been granted authority to engage in trust business in addition to its general business.

(27) "Trust department" means the functional division or department of a bank or state or federal association which conducts the trust business of a bank or state or federal association which has been granted trust powers pursuant to the laws of this or any other jurisdiction, authorizing said bank or state or federal association to engage in trust business in addition to the general commercial banking business or general business of an association in which it engages.

(28) "Trust powers" means the rights and powers necessary to act as a fiduciary and, where the context so requires or admits, said term also means the authority granted to a bank, state or federal association, or a trust company by, or pursuant to, the laws of this or any other jurisdiction, to engage in trust business.

(29) "This code" means and includes all the parts, sections and provisions of chapters 663 and 664. Each numbered "part" of each of said chapters includes all the sections and provisions within each such numbered part; and references to any such part means all the sections and provisions contained in the numbered part identified by such reference.

(30) Terms which are defined in other parts and sections of this code shall, in all parts and sections of this code, unless the context otherwise requires or unless by the provisions of the section in which such term is defined its meaning as so defined is limited, have the meanings ascribed to them in such other parts and sections of this code.

(31) Terms used but not defined in this code, but which are defined in article 3 or article 4 of the Uniform Commercial Code (chapters 673 and 674) shall, in this code, unless the context otherwise requires, have the meanings ascribed to them in said chapters 673 and 674.

Section 3. Section 658.03, Florida Statutes, is renumbered as section 663.107, Florida Statutes, and is amended to read:

663.107 ~~658.03~~ Effect on existing banks *and trust companies*.—The charters of state banks and trust companies existing at the time of the adoption of *this code* ~~chapters 658.661~~ shall continue in full force and effect, but all state banks and *state* trust companies and, to the extent applicable, all banks *and trust companies*, shall hereafter be operated in accordance with the provisions of *this code* ~~chapters 658-661~~.

Section 4. Section 663.111, Florida Statutes, is created to read:

663.111 Purposes; severability.—

(1) The purposes of the Legislature in the enactment of this code, and purposes and policies of this code, are to provide for and promote:

(a) The safe and sound conduct of the business of the banks and trust companies subject to this code.

(b) The prudent conservation of the assets of the banks and trust companies subject to this code.

(c) The maintenance of public confidence in the banks and trust companies subject to this code.

(d) The protection of the interests of the public in the safety and soundness, and the preservation, of the banking system in this state, and the protection of the interests of the depositors and creditors of banks.

(e) The protection of the interests of the public in the proper conduct of fiduciary functions, the safety, soundness and preservation of the system of the conduct in this state of trust business by trust companies and banks and associations which have trust departments, the protection of the interests of beneficiaries and other members of the public using the services of, doing business with, or otherwise affected by, trust companies, trust departments of banks and associations, and other business organizations in the conduct of trust business or other exercise of fiduciary functions or powers, and the protection of the interests of the creditors of trust companies.

(f) The opportunity for state banks to be and remain competitive with each other, with financial institutions or organizations existing under statutes of this state other than this code, and with banks and banking and other financial institutions and organizations organized or existing under, or deriving their authority or powers from, the laws of other states, the United States and foreign countries.

(g) The opportunity for state trust companies and trust departments of state banks and state associations to be and remain competitive with each other and with other trust companies and the trust departments of banks and associations existing under the laws of other states, the United States and foreign countries.

(h) The opportunity for banks and trust companies to serve effectively the convenience and needs of their customers and the public, and to participate in and promote the economic progress and welfare of this state and the United States.

(i) The opportunity for the management of banks and trust companies, in conducting the business and affairs of their institutions, to exercise their business judgment, subject to the provisions of this code and to the extent compatible with, and subject to, the purposes and policies stated in this subsection.

(j) Modernization of state law governing banks and banking and governing the exercise of fiduciary and other representative powers by trust companies and trust departments of banks and associations.

(k) The delegation to the department of adequate rulemaking power and administrative discretion, subject to the provisions of this code and to the purposes and policies stated in this subsection, in order that the supervision and regulation of banks and trust companies may be flexible and readily responsive to changes in economic conditions and to changes in technology and in banking and fiduciary practices.

(2) The provisions of this code are severable so that if any provision or the application of this code in particular circumstances should be held to be invalid, such invalidity will not affect any other provision or application of this code which can be given effect without the invalid provision or application.

(3) The headings, captions and catchlines at the beginning of parts, sections, subsections and paragraphs of this code are for convenience only, do not constitute any part of the statutes

comprising this code, do not constitute a complete index of this code or any portion thereof, shall not be deemed to be indicative of the intent of this code or of any provision of this code, and shall not be used in construing or interpreting this code or any provision of this code.

Section 5. Section 663.116, Florida Statutes, is created to read:

663.116 Construction; standards to be observed by department.—

(1) This code shall be liberally construed and applied to promote its purposes and policies.

(2) The purposes and policies of this code stated in s. 663.111 shall constitute standards to be observed by the department in the exercise of its discretionary powers under this code, in the adoption of rules, in the issuance of orders and declaratory statements, in the examination and supervision of banks and trust companies, and in all matters of construction and application of this code required for any determination or action by the department.

PART II

CHARTERING AND LICENSING

Section 6. Section 659.01, Florida Statutes, is renumbered as section 663.203, Florida Statutes, and is amended to read:

663.203 ~~659.01~~ Creation of banking or trust corporation.— When authorized by the department, as provided herein, a corporation may be formed under the laws of *this* ~~the~~ state ~~by five or more persons~~ for the purpose of *becoming a state bank or a state trust company and* conducting a general banking or trust business.

Section 7. Section 663.206, Florida Statutes, is created to read:

663.206 Notice of intent to organize.—

(1) The proposed incorporator or incorporators of a banking corporation or a trust company corporation shall file with the department a notice of intent to organize upon such form as the department may by rule prescribe.

(2) Upon filing proper notice under this section, the organizational subscriptions for shares of the proposed new banking corporation or trust company corporation shall be deemed to be securities representing an interest in a state bank or a state trust company, as the case may be, and therefore subject to the exemption in s. 517.051(5).

Section 8. Section 663.208, Florida Statutes, is created to read:

663.208 Stock subscriptions; expenses of organization.—

(1) Prior to filing an application for authority to organize a banking corporation or a trust company corporation the proposed incorporator or incorporators shall cause written subscriptions to be obtained from one or more persons subscribing in good faith in each subscriber's own right and not as agent or attorney for any undisclosed person, for all the shares of the capital stock to be proposed in the application as the initial amount of capital stock to be issued, and agreeing to pay unconditionally the subscription price therefore which shall include the amounts required in s. 663.216(3) for the surplus fund and the undivided profits fund.

(2)(a) Each subscriber to any of the capital stock of a proposed state banking corporation or trust company corporation shall, at the time such subscriber signs the subscription therefor, pay in cash into a fund to be used to defray the expenses of organization of the corporation, such amount as may be fixed by the proposed incorporators, but not less than an amount equal to 5 percent of the aggregate par value of all such shares of stock to which such subscriber has subscribed, which amount shall be in addition to the subscription price mentioned in subsection (1). No organizational expenses shall be paid from any other fund, but said fund may be supplemented by additional payments as needed.

(b) Upon the issuance of a charter to the state bank or trust company or upon denial of the application any unexpended balance shall be refunded to subscribers in proportion to their respective payments to the fund.

(c) The department may require an accounting of disbursements from said fund and may order the incorporators to restore any amount which has been expended for other than proper organizational purposes.

(3) No part of the funds collected under this section shall be used for the payment of commissions or fees for obtaining subscriptions or selling stock or for the payment of compensation for services in connection with the organization of a proposed banking corporation or trust company corporation, or in connection with securing authority to transact business, other than the payment of fees for legal and accounting services and of other usual and ordinary expenses incidental and necessary for the organization of a bank or trust company.

(4) If the department shall require an amount of capital stock which is greater than the stock subscribed for as provided, the department shall not approve the application until the stock subscriptions have been supplemented or otherwise amended to conform to the requirements imposed by the department.

Section 9. Section 659.02, Florida Statutes, is renumbered as section 663.210, Florida Statutes, and is amended to read:

663.210 ~~659.02~~ Application for authority to organize *a* bank *or trust company.*—

(1) A written application for authority to *organize* ~~establish~~ a *banking corporation or, a trust company* corporation, ~~as provided in s. 659.01,~~ shall be filed with the department *by the proposed incorporator*, and shall include:

(a) The name, residence and occupation of each incorporator, *proposed director* and *the name and residence of each* stock subscriber and the amount of stock *of every class* subscribed for by each, together with a statement under oath of each subscriber that he subscribes in good faith in his own right and not as agent or attorney for any undisclosed person.

(b) The proposed *corporate* name *and evidence of reservation of the proposed name with the Department of State.*

(c) The total *initial* capital, the number of shares of each class *of the capital stock to be authorized,* and the par value of the shares of each class.

(d) The community, including the street, and number, if *available* ~~known~~, and if not *available* ~~known~~, the area within the community where the *principal office of the* proposed bank or ~~the principal office of the~~ proposed trust company is to be located.

(e) The name and residence of the proposed president, the proposed chief executive officer if other than the proposed president, the proposed operations officer and, if the application is for organization of a trust company or a bank with trust powers, the name and address of the proposed trust officer.

(f) Such detailed financial, business and biographical information as the department may reasonably require for each proposed director, president and chief executive officer (if other than the president), operations officer, trust officer, and each person subscribing to 5 per cent or more of the voting stock or nonvoting stock which is convertible into voting stock.

(g) ~~(e)~~ Request for trust powers, if desired *in connection with an application to organize a bank.*

(2) The application shall include an unsigned copy of the proposed articles of incorporation.

(3) ~~(2)~~ Said application shall be in such form and contain such additional information as the department *may* ~~shall~~ reasonably require, and shall be accompanied by the required fee *which shall not be refundable.*

(4)~~(3)~~ All ~~organizers,~~ proposed directors, *the* proposed chief executive and *operations* ~~operational~~ officers, *trust officers,* and each person subscribing to 5 percent or more of the voting stock *or nonvoting stock which is convertible into voting stock* shall file with the department, *along with the application,* a complete set of fingerprints taken by an authorized law enforcement officer, and such fingerprints shall be submitted by the department to appropriate law enforcement agencies for processing.

Section 10. Section 659.03, Florida Statutes, is renumbered as section 663.213, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.03, F.S., for present text.)

663.213 Investigation by department.—

(1) Upon the filing of an application, the department shall make an investigation of:

(a) The character, reputation, financial standing, business experience, and business qualifications of the proposed officers and directors.

(b) The need for bank or trust facilities or additional bank or trust facilities, as the case may be, in the primary service area where the proposed bank or trust company is to be located.

(c) The ability of the primary service area to support the proposed bank or trust company and all other existing bank or trust facilities in the primary service area.

(d) The character, financial responsibility, and standing of each person subscribing to 5 percent or more of the voting stock or nonvoting stock which is convertible into voting stock.

(2) The department shall, as a part of its investigation pursuant to this section, review the proposed articles for compliance with the provisions of this chapter and advise the applicants of such changes, defects or deficiencies, if any, as may appear from the proposed articles of incorporation and as may be required by the department. Subsequent approval by the department of the application to organize a bank or trust company shall include and constitute approval of the proposed articles of incorporation as supplemented or changed.

(3) Expenses necessarily incurred by the department in the conduct of investigations outside the state shall be assessed against such applicants on an actual cost incurred basis, and shall be in addition to the fees provided for in this chapter. Failure to reimburse the department shall be grounds for denial of the application or revocation of any approval thereof.

Section 11. Section 663.216, Florida Statutes, is created to read:

663.216 Decision by department.—The department shall approve the application if it finds that:

(1) Public convenience and advantage will be promoted by the establishment of the proposed state bank or trust company. In determining whether an applicant meets the requirements of this subsection the department shall consider all materially relevant factors, including:

(a) The location and services offered by existing banks, trust companies, trust departments and trust service offices in the community.

(b) The general economic and demographic characteristics of the area.

(2) Local conditions indicate reasonable promise of successful operation for the proposed state bank or trust company and those banks, trust companies, trust departments and trust service offices already established in the primary service area. In determining whether an applicant meets the requirements of this subsection the department shall consider all materially relevant factors, including:

(a) Current economic conditions and the growth potential of the area in which the proposed state bank or trust company intends to locate.

(b) The growth rate, size, financial strength, and operating characteristics of banks, trust companies, trust departments and trust service offices in the service area of the proposed bank.

(3) The proposed capital structure is in such amount as the department shall deem adequate, but in no case shall the paid-in capital stock be less than $800,000. In addition to the capital required, every state bank or trust company hereafter organized shall establish a paid-in surplus equal in amount to not less than 20 percent of its paid-in capital and a fund to be designated as undivided profits equal to not less than 5 percent of its paid-in capital.

(4) The proposed officers and directors have sufficient banking or trust experience, ability and standing to indicate reasonable promise of successful operation.

(5) The name of the proposed state bank or trust company is not so similar as to cause confusion with the name of an existing financial institution.

(6) Provision has been made for suitable quarters at the location in the application.

Section 12. Section 663.219, Florida Statutes, is created to read:

663.219 Coordination with federal agencies; submission of articles of incorporation.—

(1) Upon approval by the department of the application for authority to organize a state bank, the department shall forward a copy of its final order to the Federal Reserve System for approval of membership if such membership has been applied for, and if not, to the Federal Deposit Insurance Corporation for insuranec of accounts. A final order of denial by either of said federal agencies will terminate and revoke the final order issued by the department approving the application.

(2) Within 6 months after approval by the appropriate federal regulatory agency in the case of a proposed bank, or within 6 months after the final order of approval of the application to organize a trust company, the applicant shall submit its duly executed articles of incorporation to the department together with the filing fee due the Department of State under s. 607.361.

Section 13. Section 663.222, Florida Statutes, is created to read:

663.222 Commencement of corporate existence.—

(1) Within 30 days of receipt of the executed articles of incorporation in the form previously approved, the department shall place the following legend upon the articles of incorporation and affix the seal of the Office of the Comptroller of Florida thereto. The legend shall in substance read: "Approved by the Department of Banking and Finance this ..... day of ..... (herein the name and signature of the head of the department) . . ." Thereafter the articles of incorporation shall be filed with the Department of State.

(2) The corporate existence of a banking corporation or a trust company corporation shall commence on the date the approved articles of incorporation are filed with the Department of State, unless otherwise provided in the articles of incorporation pursuant to s. 607.167. Thereafter a banking corporation or trust company corporation may perform all acts necessary to perfect its organization, obtain and equip a place of business, and otherwise prepare to conduct a general banking business or trust business. However, no banking corporation or trust company corporation shall become a state bank or a state trust company or transact any banking business or trust business until it has received a certificate of authority to transact business as provided in s. 663.230.

Section 14. Section 663.226, Florida Statutes, is created to read:

663.226 Organizational procedures.—After the corporate existence of a banking corporation or trust company corporation has commenced, the board of directors named in the articles of incorporation shall adopt bylaws, elect officers, approve organizational expenses to date, authorize the call for payment of stock subscriptions, conduct such other business relating to the organization of the corporation as may be appropriate.

Section 15. Section 663.230, Florida Statutes, is created to read:

663.230 Certificate of authority to transact business.—

(1) A banking corporation or trust company corporation shall open and conduct a general commercial banking business or general trust business no later than 6 months after the commencement of its corporate existence. For good cause shown, the department may extend the opening date for an additional period not to exceed 6 months on its own motion or at the request of the bank or trust company.

(2) Prior to its intended opening date, the banking corporation or trust company corporation shall file with the department a statement in such form and with such supporting data and proof as may be required to show that the entire capital, surplus, and undivided profits have been fully and unconditionally paid, and that valid assets representing such capital, surplus, and undivided profits, are held by the bank or trust company.

(3) The department shall perform a pre-opening examination to verify good faith compliance with all the requirements of law and that the banking corporation or trust company corporation is ready to engage in a general commercial banking business or a general trust business. If the department finds that such requirements have been met, it shall issue a certificate of authorization to transact a general commercial banking business or a general trust business. Upon the issuance of the certificate of authorization, the banking corporation or trust company corporation shall become a state bank or a state trust company and the certificate shall constitute its charter.

(4) Upon opening for business, a bank or trust company shall have power to engage in a general commercial banking business or a general trust business and to exercise, subject to law, all such incidental powers as may reasonably promote its general commercial banking business or general trust business.

Section 16. Section 659.06, Florida Statutes, as amended by chapter 79-590, Laws of Florida, is renumbered as section 663.234, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.06, F.S., as amended, for present text.)

663.234 Place of transacting business; bank branches; school savings; facilities.—

(1) Any bank heretofore or hereafter incorporated pursuant to this chapter shall have one principal place of doing business as designated in its articles of incorporation.

(2)(a) In addition, with the approval of the department and upon such conditions as the department shall prescribe, including a satisfactory showing by the bank that public convenience and necessity will be served thereby, any bank may establish up to two branches per calendar year within the limits of the county in which the parent bank is located. With the approval of the department upon a determination that the resulting bank shall be of sound financial condition, any bank incorporated pursuant to this chapter may establish branches by merger with any other bank located in the State of Florida. A bank incorporated for less than 3 years may not merge with a bank located in another county. If a parent bank has established a branch located in another county by merger, the parent bank may also, with the approval of the department and upon such conditions as the department shall prescribe, including a satisfactory showing by the parent bank that public convenience and necessity will be served thereby, establish not more than two branches each calandar year within the limits of the county in which the branch was established by merger. The department shall not be required to take or issue final agency action on an application for the establishment of a branch of a parent bank by merger with a bank located in another county prior to July 1, 1980; provided, however, that prior to such date the department shall adopt rules implementing the provisions of this subsection relating to the establishment of branches in such manner, and process applications pursuant thereto.

(b) An application for a branch bank shall be in writing in such form as the department prescribes and supported by such information, data, and records as the department may require to make findings necessary for approval. Upon the filing of an application for the establishment of any branch permitted by paragraph (a), the department shall make an investigation with respect to compliance with the requirements of paragraph (a) and shall investigate and consider all factors relevant to such requirements, including the following:

1. The sufficiency of capital accounts in relation to the deposit liabilities of the bank, including the proposed branch, and the additional fixed assets, if any, which are proposed for the branch and its operations, without undue risk to the bank or its depositors;

2. The sufficiency of earnings and earning prospects of the bank, including the proposed branch, to support the anticipated expenses and any anticipated operating losses of the branch during its formative or initial years;

3. The sufficiency and quality of management available to operate the branch;

4. The name of the proposed branch to determine if it reasonably identifies the branch as a branch of the parent bank and is not likely to unduly confuse the public; and

5. Substantial compliance by the applicants with applicable law governing their operations.

(c) When the department has approved an application, it shall issue a certificate authorizing the operation of the branch bank and specifying the date on which it may be opened and the place where it will be located.

(3) The location of a parent bank or of a branch bank may be moved if the department determines that public convenience and necessity will be served by such move, but the location of a parent bank or of a branch bank may not be moved beyond the limits of the county in which it is located. The term "parent bank" shall be construed to mean the bank or banking office at which the principal functions of the bank are conducted.

(4) A bank may contract with proper authorities of any elementary or secondary school or institution caring for minors for the participation by the bank in any school or institutional thrift or savings plan, and it may accept deposits at such school or institution, either by its own collector or by any representative of the school or institution who becomes the agent of the bank for such purposes. Withdrawal from any account carried with the bank by any such school or institution shall be made only at the banking house of said bank.

(5) Any bank, which on July 1, 1980, has an existing and operating office or facility providing any banking services on any military base or installation of the United States, may continue to operate such facility and each such existing and operating office or facility shall, as of July 1, 1980, be automatically converted to a branch of said bank, but the branch created by such automatic conversion shall not be counted against any limitation on the number of branches that may be established by a bank in any calendar year.

(6) With prior written notification to the department, providing such geographic and locational information as the department may require, and in order to relieve some of the burdens on the public caused by congestion of public streets, roadways, and parking facilities, promote safety of pedestrians on public ways, or otherwise serve the needs or convenience of the public, the main office or any branch office of a bank may operate facilities providing services to customers. It shall not be necessary that any such facility be a part of, or physically connected to, the main or any other banking room or building of the main office or branch office of the bank if the facility is located on the property on which the main banking house of the main office or branch office of the bank is situated or on property contiguous thereto. Property which is separated from the property on which the main banking house of the main office or branch office of the bank is situated only by a street and one or more walkways and alleyways shall, for the purposes of this subsection, be deemed contiguous to the property on which said main banking house is situated. The operation of any such facility which is not located on the property on which the main banking house of the main office or branch office of the bank is situated or on property contiguous thereto shall constitute a violation of subsection (1), unless otherwise approved as provided in said subsection (1).

PART III

OWNERSHIP AND CONTROL

Section 17. Section 663.304, Florida Statutes, is created to read:

663.304 Control; definitions and related provisions.—

(1) In this part unless the context clearly requires otherwise:

(a) "Bank holding company" means any business organization which has or acquires control over any bank or trust company or over any business organization that is or becomes a bank holding company by virtue of this part.

(b) "Business organization" means and includes a corporation, association, partnership, business trust, and any similar organization (including a trust company and including a bank, whether or not authorized to engage in trust business, but only if such bank is, or by virtue of this part becomes, a bank holding company), whether created, organized or existing under the laws of the United States, this state or any other state of the United States, or any other country, government or jurisdiction, but shall not include any corporation the majority of the shares of which are owned by the United States or by this state. "Business organization" also includes any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust unless the department determines, after notice and opportunity for hearing, that a purpose for the creation of such trust was the evasion of the provisions of this part.

(c) "Edge Act Corporation" means a corporation organized and existing under the provisions of s. 25(a) of the Federal Reserve Act (12 U.S.C. ss. 611-632).

(d) "Subsidiary", with respect to a specified bank, trust company or bank holding company, means:

1. Any business organization 25 percent or more of whose voting shares (excluding shares owned by the United States or by any business organization wholly owned by the United States) are directly or indirectly owned or controlled by such bank, trust company or bank holding company, or are held by such bank, trust company or bank holding company with power to vote;

2. Any business organization the election of a majority of whose directors is controlled in any manner by such bank, trust company or bank holding company, or

3. Any business organization with respect to the management or policies of which such bank, trust company or bank holding company has the power, directly or indirectly, to exercise a controlling influence, as determined by the department, after notice and opportunity for hearing.

(e) "Successor", with respect to a specified bank holding company, means and includes any business organization which acquires directly or indirectly from the bank holding company shares of any bank or trust company, when and if the relationship between such business organization and the bank holding company is such that the transaction effects no substantial change in the control of the bank or trust company or beneficial ownership of such shares of such bank or trust company. The department may, by rule, further define the term "successor" to the extent necessary to prevent evasion of the purposes of this part. For the purposes of this part, any successor to a bank holding company shall be deemed to be a bank holding company from the date on which the predecessor business organization became a bank holding company.

(2) A business organization has control over a bank or over any other business organization if:

(a) The business organization directly or indirectly or acting through one or more other persons owns, controls or has power to vote 25 percent or more of any class of voting securities of the bank or other business organization;

(b) The business organization controls in any manner the election of a majority of the directors, trustees or other governing body of the bank or other business organization; or

(c) The department determines, after notice and opportunity for hearing, that the business organization directly or indirectly exercises a controlling influence over the management or policies of the bank or other business organization.

(3) Shares of any kind or class of voting securities of a bank or business organization, and assets of a business organization, shall be deemed to be indirectly owned or controlled by a bank or business organization (the latter being referred to in this subsection as the "controlling bank or business organization") if:

(a) The shares or assets are owned or controlled by any bank or business organization over which the controlling bank or business organization has control; or

(b) The shares or assets are held or controlled directly or indirectly by trustees for the benefit of:

1. The controlling bank or business organization;

2. The shareholders or members of the controlling bank or business organization; or

3. The employees (whether exclusively or not) of the controlling bank or business organization.

(4) Shares of any kind or class of voting securities, and assets, of a bank or business organization which, after March 28, 1972 (the effective date of former s. 659.141(2)(g)), are transferred by any bank holding company (or by any bank or any business organization which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the department, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

(5) Notwithstanding any other provision of this section, no bank and no business organization shall be deemed to own or control voting shares or assets of another bank or another business organization if:

(a) The ownership or control of such shares or assets is in a fiduciary capacity except as provided in subsection (3)(b) and subsection (4). For the purposes of the preceding sentence, shares of a bank or a business organization shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or business organization has sole discretionary authority to exercise voting rights with respect thereto; except that this limitation is applicable in the case of a bank or business organization acquiring such shares prior to March 28, 1972 (the effective date of former s. 659.141(3)(a)), only if the bank or business organization has the right, consistent with its obligations under the instrument, agreement or other arrangement establishing the fiduciary relationship, to divest itself of such voting rights and fails to exercise that right to divest within 1 year after said date;

(b) The shares are acquired in connection with the underwriting of securities by a business organization, in good faith and without any intent or purpose to evade the purposes of this part, if such shares are held only for such period of time, not exceeding 3 months from date of acquisition, as will permit the sale thereof on a reasonable basis; provided, however, that upon application by the underwriting business organization, and after notice and opportunity for hearing, if the department finds that the sale of said shares within said period of time would create an unreasonable hardship on the underwriting business organization, that there is no intent or purpose to evade the purposes of this part by the continued ownership or control of such shares by such underwriting business organization, and that an extension of said period of time would not be detrimental to the public interest, the department is authorized to extend, from time to time, for not more than 1 month at a time, the said period of 3 months, but the aggregate of such extensions shall not exceed 3 months;

(c) Control of voting rights of such shares is acquired in good faith, and without any purpose or intent to evade the purposes of this part, in the course of participating in a proxy solicitation by a business organization formed in good faith, and without any purpose or intent to evade the purposes of this part, for the sole purpose of participating in such proxy solicitation and such control of voting rights terminates immediately upon the conclusion of said sole purpose for which such business organization was formed; or

(d) The ownership or control of such shares or assets is acquired in securing or collecting a debt previously contracted in good faith (unless the department, after notice and opportunity for hearing, finds that a purpose of any part of any transaction was an evasion of the purposes of this part), if the ownership or control of such shares or assets is held only for such reasonable period of time, not exceeding 2 years after the date of acquisition, as will permit the divestiture thereof on a reasonable basis. Upon application by the bank or business organization which acquired such ownership or control in accordance with the preceding provisions of this paragraph, and after notice and opportunity for hearing, if the department finds that the bank or business organization has made reasonable and good faith efforts to divest itself of such ownership or control on a reasonable basis within said period of 2 years

but has been unable to do so, that immediate divestiture of such ownership or control would create an unreasonable hardship on such bank or business organization, that continuation of such ownership or control involves no purpose or intent to evade the purposes of this part, and that an extension of said 2-year period would not be detrimental to the public interest, the department is authorized to extend, from time to time, for not more than 1 year at a time, the aforesaid 2-year period, but the aggregate of all such extensions shall not exceed 3 years.

(6) A business organization provides investment advisory services if, in this state, for compensation, it engages in the business of advising persons, directly or indirectly or through publications or writings, as to the value of securities or as to the advisability of investment in or purchasing securities, or if, not being a certified public accountant, in this state and for compensation, it issues or distributes to persons analyses or reports concerning securities.

Section 18. Section 659.14, Florida Statutes, is renumbered as section 663.307, Florida Statutes, and is amended to read:

663.307 ~~659.14~~ Acquisition of ~~majority stock or~~ control in existing bank or trust company.—

(1) In any case in which a person *or*, a group of persons, *directly or indirectly or acting by or through one or more persons*, ~~or a corporation~~ proposes to purchase or acquire a ~~majority of the outstanding capital stock of, or a~~ controlling interest in, any state bank or *state* trust company and thereby to change the control of said bank or trust company, *each* ~~such~~ person shall first make application to the department for a certificate of approval of such proposed change of control of said bank or trust company, and said application shall contain the name and address, *and such other relevant information as the department may require, including information relating to other and former addresses, and the character, responsibility and business affiliations* of *each of* the proposed new owner or owners of the ~~controlling stock or~~ controlling interest, and the department shall issue said certificate of approval only after it has *made an investigation and determined* ~~become satisfied~~ that the proposed new owner or owners of the ~~controlling stock or~~ interest are qualified by character, experience, and financial responsibility to control and operate the ~~said~~ bank or trust company in a legal and proper manner and that the interests of the *other* stockholders, *if any, and the* depositors, and creditors of the bank or trust company and the interests of the public generally will not be jeopardized by the proposed change in ownership, *controlling* interest, *or* ~~and~~ management. ~~The proposed new owner or owners of the controlling stock or controlling interest shall file with the department a complete set of fingerprints taken by an authorized law enforcement officer, and such fingerprints shall be submitted by the department to appropriate law enforcement agencies for processing.~~

(2) For the *purposes* ~~purpose~~ of this section, *the standards, criteria and exceptions contained in s. 663.304(2), (3), (4) and (5) relating to control by a business organization of a bank or another business organization, shall apply to the persons mentioned in this section, and shall constitute the standards, criteria and exceptions which determine whether* any person ~~or~~ group of persons, ~~or corporation~~ shall be deemed to be purchasing or acquiring, or to have purchased or acquired, *directly or indirectly* a "controlling interest" *in a state bank or a state trust company, but the department shall not be limited to those standards or criteria in determining whether any such person shall be deemed to be acting by or through one or more other persons.* ~~if:~~

~~(a) Such person, group of persons, or company, directly, indirectly, or acting through one or more persons or corporations, owns, controls, or will own or control, or has power or will have power to vote, 25 percent or more of any class of voting securities of the bank or trust company; or~~

~~(b) Such person, group of persons, or company controls or will control in any manner the election of a majority of the directors or trustees of the bank or trust company.~~

(3) *For the purpose of this section, no person will be considered as having effected a change in control of any bank by the formation of a one bank holding company where the person or persons which controlled the bank is the same person or persons which control the holding company.* ~~Notwithstanding any other provision of this section, no person or company will be considered to be purchasing or acquiring a controlling interest by virtue of its ownership or control of shares in a fiduciary capacity. For the purposes of the preceding sentence, bank or trust company shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring person or company has sole discretionary authority to exercise voting rights with respect thereto. Further, no person or company shall be subject to the requirements of this section by virtue of its ownership or control of shares acquired in securing or collecting a debt contracted in good faith until 2 years after the date of acquisition.~~

Section 19. Section 659.141, Florida Statutes, is renumbered as section 663.310, Florida Statutes, and is amended to read:

663.310 ~~659.141~~ *Certain ownership and control prohibited* ~~Control; ownership.~~—

(1) Except as provided in subsection (3), no bank, trust company, or *bank* holding company, the operations of which are principally conducted outside this state, shall acquire, retain, or own, directly or indirectly, all, or substantially all the assets of, or control over, any bank or trust company having a place of business in this state where the business of banking or trust business or functions are conducted, or acquire, retain, or own all, or substantially all, of the assets of, or control over, any business organization having a place of business in this state where or from which it furnishes investment advisory services in this state. However, if a bank, trust company, or *bank* holding company directly or indirectly owning all, or substantially all, the assets of, or having control over, a bank or a trust company or business organization to which the restrictions and prohibitions of this section apply, having acquired such assets or control prior to becoming disqualified hereunder, shall, on or after *December 20, 1972*, (the effective date of *former s. 659.141(1), as amended)*, ~~this section,~~ be or become disqualified hereunder to acquire, retain, or own the same, the restrictions and prohibitions of this section shall not be enforced against it for a period which, under all the circumstances, is determined by the department to be reasonable, not exceeding 2 years from *December 20, 1972, (*the effective date of *former s. 659.141(1), as amended)*, ~~this act~~ or from the date it becomes disqualified hereunder, whichever is later, unless said period of 2 years is extended by the department as herein provided. The department is authorized, upon a showing of undue hardship, to extend said period of 2 years from time to time if it determines that any such extension would not be detrimental to the public interest, but any such extension shall not exceed 1 year and all thereof shall not in the aggregate exceed 3 years.

(2) Except as provided in subsection (3), for the purposes of this section, *the*

~~(a) "Holding company" means any business organization which has control over any bank, trust company, or holding company, the operations of any of which are principally conducted inside or outside of the state.~~

~~(b) Any business organization has control over a bank, trust company, or holding company if:~~

~~1. The business organization, directly or indirectly or acting through one or more persons, owns, controls, or has power to vote 25 percent or more of the shares of any class of voting securities of the bank, trust company, or holding company;~~

~~2. The business organization controls in any manner the election of a majority of the directors or trustees of the bank, trust company, or holding company; or~~

~~3. The department determines that the business organization directly or indirectly exercises a controlling influence over the management or policies of the bank, trust company, or holding company.~~

~~(c) A business organization provides investment advisory services if, in this state, for compensation, it engages in the business of advising persons, as defined in s. 1.01, either directly or indirectly, or through publications or writings, as to the value of securities or as to the advisability of investment in or purchasing securities, or if, not being a certified public accountant, in this state and for compensation, it issues or distributes to persons, as defined in s. 1.01, analyses or reports concerning securities.~~

~~(d) The~~ operations of a bank, trust company, or *bank* holding company are principally conducted outside this state if:

(a)~~1.~~ In the case of a bank, the largest amount of its total deposits are held outside this state;

(b)~~2.~~ In the case of a trust company, the largest amount of its total trust assets are held or administered outside this state; and

(c)~~3.~~ In the case of a *bank* holding company, the largest amount of the total deposits of all banks controlled by the *bank* holding company is held outside this state, or the largest amount of the total trust assets held by all trust companies controlled by the *bank* holding company is held or administered outside this state.

~~(c) "Business organization" means and includes any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, but shall not include any corporation the majority of the shares of which are owned by the United States or by this state.~~

~~(f) Shares of any kind or class or voting securities of a bank, trust company, or holding company shall be deemed to be indirectly owned or controlled by a business organization if:~~

~~1. The shares are owned or controlled by any bank, trust company, or holding company over which the business organization has control; or~~

~~2. The shares are held or controlled directly or indirectly by trustees for the benefit of:~~

~~a. The business organization;~~

~~b. The shareholders or members of the business organization; or~~

~~c. The employees of the business organization, whether exclusively or not.~~

~~(g) Shares of any kind or class of the voting securities of any bank, trust company, or holding company which are transferred directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees, or beneficiaries in common with, or subject to control by, the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the department, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.~~

~~(h) "Trust company" means any bank, corporation, or other business organization, whether organized or existing under the laws of this state or any other state or jurisdiction, which engages in, or is authorized to engage in, trust business.~~

(3) Notwithstanding any other provisions of this section, the restrictions and prohibitions of this section shall not apply:

~~(a) To the acquisition and retention of shares of the voting securities of a bank, trust company, or holding company by a bank or trust company acquiring or holding the same in a fiduciary capacity, except as provided in subparagraph (2)(f)2. and paragraph (2)(g). For the purpose of the preceding sentence, shares of a bank, trust company, or holding company shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or trust company has sole discretionary authority to exercise voting rights with respect thereto; except that this limitation is applicable in the case of a bank or trust company acquiring such shares prior to the effective date of this act only; if the bank or trust company has the right, consistent with its obligations under the instrument, agreement, or other arrangement establishing the fiduciary relationship, to divest itself of such voting rights and fails to exercise that right to divest within a reasonable period not to exceed 1 year after the effective date of this act.~~

~~(b) To the ownership or control of shares acquired by a bank, trust company, or holding company in connection with its underwriting of securities, if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis.~~

~~(c) To ownership, control, or retention of shares acquired in securing or collecting a debt contracted in good faith, until 2 years after the date of acquisition or the effective date of this act [March 28, 1972], whichever is later.~~

(a)~~(d)~~ To the ownership or control of shares acquired by a bank, trust company, or *bank* holding company prior to January 1, 1972.

(b)~~(e)~~ To any acquisition of a bank, trust company, or investment advisory business organization if an application for approval of such acquisition or notice of proposed investment advisory activities was filed with the Department of Banking and Finance or the Board of Governors of the Federal Reserve System or other appropriate federal regulatory agency having jurisdiction prior to June 1, 1972.

(c)~~(f)~~ To the establishment of one *investment advisor* office in this state by a *bank or* business organization which, on March 1, 1972, and for a period of 1 year prior thereto, rendered investment advisory services to trust companies or banks in this state from an office outside the state.

(d)~~(g)~~ To any bank, trust company, or *bank* holding company the operations of which are principally conducted outside this state, which, upon December 20, 1972, owned all the assets of, or control over, a bank or trust company located within and doing business within this state.

(e)~~(h)~~ To *the acquisition, retention or ownership of an* ~~any bank authorized under 12 U.S.C.A. ss. 611-632, commonly referred to as~~ "Edge Act *corporation* ~~Banks,~~" when *the Edge Act corporation is* performing functions authorized *by the* ~~under said~~ act *under which it was organized.*

PART IV

GENERAL CORPORATE PROVISIONS; MERGERS AND CONVERSIONS

Section 20. Section 663.403, Florida Statutes, is created to read:

663.403 Application of General Corporation Act.—

(1) When not in direct conflict with specific provisions of this code, the provisions of the Florida General Corporation Act, (chapter 607, shall extend to state banks and trust companies formed under this code. This section shall be liberally construed to accomplish the purposes stated herein. Without limiting the generality of the foregoing, stockholders, directors and committees of state banks and trust companies may hold meetings in any manner permitted by chapter 607, and any action by stockholders, directors or committees required or permitted to be taken at a meeting may be taken without a meeting in any manner provided or permitted by chapter 607.

(2) The office of cashier of a bank shall correspond to the office of secretary in the Florida General Corporation Act; provided, however, that any bank may, by designation in its bylaws, elect to substitute the title of secretary for the title of cashier, but a bank shall not have both a cashier and a secretary.

Section 21. Section 663.410, Florida Statutes, is created to read:

663.410 Articles of incorporation; amendments.—

(1) A bank or trust company shall not amend its articles of incorporation without the written approval of the department.

(2) The department shall not approve any amendment to the articles of incorporation which requests a change in name of the bank or trust company if the new name is so similar as to be likely to cause confusion with the name of an existing financial institution in this state. Evidence that a bank or trust company has reserved a corporate name with the Department of State shall not preclude the department from disapproving the name on the grounds of the likelihood of confusion with the name of an existing financial institution.

Section 22. Section 659.051, Florida Statutes, is renumbered as section 663.413, Florida Statutes, and is amended to read:

663.413 ~~659.051~~ Annual meetings.—The annual meetings of stockholders of state banks and trust companies shall be held on such day in *the first 4 months* ~~January or February~~ of each year as is specified therefor in the bylaws of the corporation; provided, however, that when the day fixed in the bylaws for the regular annual meeting of the stockholders falls on a legal holiday, the annual meeting of stockholders shall be held on the next following ~~banking~~ day ***which is not a legal holiday.***

Section 23. Section 659.11, Florida Statutes, is renumbered as section 663.416, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.11, F.S., for present text.)

663.416 Directors, number, qualifications, officers.—

(1) The board of directors of a bank or trust company shall consist of not less than five directors and shall be elected, unless appointed to fill a vacancy, at the annual meeting of stockholders or at a special meeting; provided that if so authorized by the articles of incorporation, a majority of the full board of directors may, at any time during the year following the annual meeting of shareholders in which such action has been authorized, increase the number of directors of such bank or trust company by not more than two, and appoint persons to fill the resulting vacancies.

(2) No less than a majority of the directors must, during their whole term of service, be citizens of the United States, and at least three-fifths of the directors must have resided in this state for at least 1 year preceding their election and must be residents therein during their continuance in office.

Section 24. Section 659.08, Florida Statutes, is renumbered as section 663.419, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.08, F.S., for present text.)

663.419 Shares of stock.—

(1) A bank or trust company shall issue its capital stock with par value of not more than $100 per share.

(2) No bank or trust company shall issue any shares before they are fully paid.

(3) With approval of the department, a bank or trust company may issue preferred stock of one or more classes in an amount and with a par value as approved by the department.

(4) With the approval of the department, a bank or trust company may issue less than all the number of shares of any of its capital stock authorized by its articles of incorporation. Such authorized but unissued shares may be issued only for the following purposes:

(a) To provide for stock options as provided in s. 663.422.

(b) To declare or pay a stock dividend with the approval of the department.

(c) To increase the capital of the bank or trust company, with the approval of the department.

Section 25. Section 659.085, Florida Statutes, is renumbered as section 663.422, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.085, F.S. for present text.)

663.422 Stock options.—

(1) After obtaining the approval of the department and after complying with the provisions of the General Corporation Act, any bank or trust company may, for the purpose of providing stock options for one or more of its officers or employees, hold unissued from the amount of any authorized increase in its capital, other than an increase authorized solely for the purpose of declaring and paying a stock dividend, or purchase or otherwise acquire and hold, shares of its own common capital stock in an aggregate par value amount not to exceed 10 percent of the par value of its total authorized common capital stock.

(2) Any such bank or trust company may thereafter from time to time, without first offering such shares of stock to its stockholders, grant options to such of its officers and employees as may be authorized by the board of directors, at a price of the fair market value as of the date the option is granted of such shares as determined by the board of directors, but not less than the par value thereof.

(3) Upon the exercise of such option by the optionee, the bank or trust company may sell and issue such shares to the optionee.

Section 26. Section 659.10, Florida Statutes, is renumbered as section 663.424, Florida Statutes, and is amended to read:

663.424 ~~659.10~~ Changes in capital.—

(1) No state bank or trust company shall reduce its outstanding capital stock without first obtaining the *approval* ~~consent~~ of the department, and such *approval* ~~consent~~ shall be withheld if the reduction will cause the outstanding capital stock to be less than the minimum required *pursuant to this code* ~~hereunder~~.

(2) Any state bank or trust company may, with the approval of the department, provide for an increase in its capital. ~~as may be deemed expedient.~~

Section 27. Section 659.09, Florida Statutes, is renumbered as section 663.426, Florida Statutes, and is amended to read:

663.426 ~~659.09~~ Dividends and surplus.—The directors of any bank or trust company, after charging off bad debts, depreciation, and other worthless assets if any, may quarter-annually, semiannually, or annually, declare a dividend of so much of the *aggregate of the* net profits of *that year combined with its retained net profits of the preceding 2 years* ~~the company~~ as they shall judge expedient, *and, with the approval of the department, any bank or trust company may declare a dividend from retained net profits which accrued prior to the preceding 2 years,* but each *bank or trust* company shall, before the declaration of a dividend on its common stock carry 20 percent of its net profits for such preceding period as is covered by the dividend to its surplus fund, until the same shall at least equal the amount of its common and preferred stock *then issued and outstanding.* Whenever the surplus becomes impaired or reduced below the aggregate amount of common and preferred stock *then issued and outstanding,* it shall be reimbursed in the manner provided for its accumulation.

Section 28. Section 659.12, Florida Statutes, is renumbered as section 663.430, Florida Statutes, and is amended to read:

663.428 ~~659.12~~ Deposit insurance; membership in Federal Reserve System.—A state bank ~~or trust company~~ is authorized to do any act necessary to obtain insurance of its deposits by the *Federal Deposit Insurance Corporation* ~~United States, or any agency thereof,~~ and to acquire and hold membership in in the Federal Reserve System.

Section 29. Section 659.25, Florida Statutes, is renumbered as section 663.430, Florida Statutes, and is amended to read:

663.430 ~~659.25~~ *Stockholders; examination of records* ~~Rights of minority stockholders~~.—No bank or trust company and no director, officer, or employee thereof shall permit any stockholder, other than a qualified director, officer, or employee thereof, to have access to, or to examine or inspect, any of the books or records of such bank or trust company, other than its general statement *of condition of* ~~book showing~~ its general assets and liabilities and a list of shareholders as provided in s. *658.057(4)* ~~658.10(5)~~.

Section 30. Section 661.01, Florida Statutes, is renumbered as section 663.444, Florida Statutes, and is amended to read:

663.444 ~~661.01~~ Definitions for *merger, consolidation and conversion* ~~ss. 661.61-661.09~~.—As used in *the provisions of this code relating to the merger, consolidation and conversion of banks and trust companies, unless the context requires otherwise:* ~~ss. 661.01-661.09:~~

(1) "Constituent bank *or trust company*" means a *bank or a state trust company which is a* party to a merger.

(2) "Converting bank" means a bank converting from a state to a national bank, or the reverse.

(3) "Converted bank" means the *converting* ~~same~~ bank after the conversion.

(4) A "successor institution" means a banking corporation or a trust company corporation organized under the laws of this state to which the department has not issued a certificate of authorization, as provided in s. 663.230, to conduct a banking business or trust business, the sole purpose of the organization of which is to cause it to become the resulting bank or

trust company under a plan of merger and merger agreement, subject to the provisions of s. 663.451(2), and to which a charter will be issued only if a certificate of merger, as provided in s. 663.463, is issued by the department pursuant to the plan of merger and merger agreement.

(5) ~~(4)~~ "Merger" includes consolidation.

(6) ~~(5)~~ "Resulting bank *or trust company*" means the *consolidated bank or state* ~~combined banks and~~ trust *company which is, or is to be,* ~~companies~~ carrying on business upon completion of a *consolidation and, in the case of a* merger *means the bank or state trust company into which the other constituent banks or trust companies are, or are to be, merged.*

Section 31. Section 661.02, Florida Statutes, is renumbered as section 663.448, Florida Statutes, and is amended to read:

663.448 ~~661.02~~ Merger; with resulting state or national bank.—

(1) Upon *filing of an application with the department by the constituent banks or trust companies, and* approval *by* ~~of~~ the department, banks *and state trust companies* may be merged with a resulting state bank *or state trust company,* as ~~hereafter~~ prescribed *in this code,* except that the action by a constituent national bank shall be taken in the manner prescribed by, and shall be subject to, any limitations or requirements imposed by any law of the United States *applicable thereto* which shall also govern the rights of its dissenting shareholders, *and the terms and provisions of the plan of merger and merger agreement required by s. 663.451, as they relate to a constituent national bank, shall conform with such federal laws. The application shall be accompanied by a plan of merger and merger agreement as provided in s. 663.451.*

(2) Nothing in the law of this state shall restrict the right of a state bank *or state trust company* to merge with a resulting national bank. *In such case* the action to be taken by a constituent state bank *or state trust company* and its rights and liabilities and those of its shareholders, shall be the same as those prescribed for *constituent* national banks at the time of the action by the applicable law of the United States and not by the law of this state.

Section 32. Section 661.03, Florida Statutes, is renumbered as section 663.451, Florida Statutes, and is amended to read:

663.451 ~~661.03~~ *Plan of merger and* merger agreement.—

(1) If the resulting bank or trust company will be a state bank or a state trust company, the constituent banks or trust companies shall adopt a plan of merger and merger agreement stating the method, terms and conditions of the merger, including the rights of the stockholders of each constituent bank or trust company and all agreements concerning the merger. ~~Where there is to be a resulting state bank,~~ The board of directors of each constituent state bank shall, by a majority of the entire board, approve *the plan of merger and a* merger agreement which shall contain:

(a) ~~(1)~~ The name of each constituent bank *and trust company* and the *specific* location of *its* ~~each~~ office *and each of its branches and trust service offices.*

(b) ~~(2)~~ With respect to the resulting *state* bank *or state trust company:*

1. ~~(a)~~ The name and the *specific* location of the proposed *main* office *and each existing and proposed branch office and trust service office;*

2. ~~(b)~~ The name and *address* ~~residence~~ of each director *who is* to serve until the next ~~annual~~ meeting of the stockholders *at which directors are elected;*

3. ~~(c)~~ The name and *address* ~~residence~~ of each *executive* officer;

4. ~~(d)~~The ~~amount of capital, the~~ number of shares *of capital stock of every class,* ~~and~~ the par value of each share *of every class, and the limitations, rights, preferences or other special terms, if any, of each class of stock, and the amount of the surplus fund and the undivided profits fund;*

5. ~~(e)~~ Whether *the resulting state bank is to have trust powers* ~~preferred stock is to be issued and the amount, terms and preferences~~; *and*

6. ~~(f)~~ The *complete articles of incorporation under which the resulting bank or trust company will operate* ~~amendments to the charter and bylaws~~.

(c) ~~(3)~~ The terms for the exchange of shares of the constituent banks *or trust companies* for *cash or the shares, rights, obligations or other securities or property, or a combination of any thereof,* ~~those~~ of the resulting bank *or trust company, or of, or offered by, a bank holding company as defined in the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841-1849), which owns, or on the effective date of the merger and as a result of the merger will own, more than 50 percent of the shares of voting stock of the resulting bank.*

(d) ~~(4)~~ A statement that the *plan and* agreement *are* ~~is~~ subject to approval by the department and by the stockholders of each constituent bank *and trust company.*

(e) ~~(5)~~ Provisions governing the manner of disposing of the shares, *if any,* of the resulting state bank *or state trust company* not taken by dissenting shareholders of constituent banks *or trust companies.*

(f) ~~(6)~~ Such *additional provisions not contrary to law as may be agreed upon by the constituent banks and trust companies, and such* other provisions as the department requires to enable it to discharge its duties with respect to the merger.

(2) A successor institution may be included in the plan of merger and merger agreement if it is located or is to be located in the county in which one of the other constituent banks or trust companies is located. In connection with the organization of a successor institution, a showing and finding of public convenience and advantage for the organization of a new state bank or state trust company shall not be required and the department shall adopt special rules relating to the formation, organization, approval and chartering of successor institutions which shall omit or waive such of the provisions of Part II of this code as are not essential to safeguard the public interest and the safety and soundness of state banks and state trust companies, but no certificate of authorization to conduct a banking business or trust business shall be issued to a successor institution unless a certificate of merger, as provided in s. 663.463, is issued pursuant to the plan of merger and merger agreement which causes the successor institution to be the resulting state bank or state trust company; provided, however, that nothing in this subsection shall be construed as waiving or otherwise impairing the public interest requirement in s. 663.455(3)(d).

Section 33. Section 661.04, Florida Statutes, is renumbered as section 663.455, Florida Statutes, and is amended to read:

663.455 ~~661.04~~ Approval by department; valuation of assets; *emergency action.*—

(1) After approval by the board of directors of each constituent bank *or trust company,* the *plan of merger and* merger agreement shall be submitted to the department for approval, together with *a* certified *copy* ~~copies~~ of the authorizing resolutions of the *board* ~~several boards~~ of directors *of each constituent state bank or state trust company* showing approval by a majority of the entire board *of directors of each such state bank or state trust company,* and evidence of proper action by the board of directors of any constituent national bank.

(2) Without approval by the department, no asset shall be carried on the books of the resulting *state* bank *or state trust company* at a valuation higher than that on the books of the constituent bank *or trust company* at the time of the last examination by a state or national bank *or trust company* examiner before the effective date of the merger.

(3) ~~Within 30 days after receipt by the department of the papers specified in subsection (1),~~ The department shall approve ~~or disapprove~~ the *plan of merger and* merger agreement. ~~The department shall approve the agreement~~ if it appears that:

(a) The resulting state bank *or state trust company* meets all the requirements of state law as to the formation of a new state bank *or state trust company except that this provision shall not apply to the establishment of branches by merger as provided in s. 663.234.*

(b) The agreement provides an adequate capital structure, including surplus, *of the resulting state bank or state trust company* in relation to ~~the deposit liabilities of the result-~~

~~ing state bank and~~ its ~~other~~ activities which are to continue or are to be undertaken, *and also in relation to its deposit liabilities in the case of a resulting state bank.*

(c) The agreement is fair.

(d) The merger is not contrary to the public interest.

If the department disapproves *a plan of merger or merger* ~~an~~ agreement, it shall state its objections and, *the provisions of chapter 120 notwithstanding,* give an opportunity to the constituent banks *and trust companies* to amend the *plan of merger and* merger agreement to obviate such objections.

(4) *If* ~~Where~~ the resulting state bank is not to *have* ~~exercise~~ trust powers, the department shall not approve a merger until ~~satisfied that~~ adequate provision has been made for successors to fiduciary positions held by *any constituent trust company or any* constituent *bank* ~~banks~~.

(5) Approval by the department, by final order or otherwise, of a plan of merger or merger agreement shall be deemed subject to approval of the plan of merger and merger agreement by the stockholders of each constituent bank or trust company as provided in s. 663.459(1), and shall also be deemed subject to approval of the merger and the plan of merger and merger agreement by each appropriate federal regulatory agency, and unless all such approvals have been obtained and proper evidence thereof submitted to the department within 6 months after the approval by the department, the department's approval of the plan of merger and merger agreement shall be deemed to be revoked and terminated; provided, however, that the department on its own motion, or at the request of the constituent banks or trust companies for good cause shown, may extend said time for a period not exceeding 6 months.

(6) No merger with a resulting state bank or trust company shall take place or be effective without the issuance by the department of a certificate of merger.

(7) Notwithstanding any other provisions of this code or of chapter 120, if the department or the appropriate federal regulatory agency finds that immediate action is necessary in order to prevent the probable failure of one or more banks or trust companies (which, in this subsection may be referred to as a "failing bank or trust company"), the department shall have the power, with the concurrence of the appropriate federal regulatory agency in the case of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, to issue an emergency order authorizing the merger of any such failing bank or trust company with a state bank or authorizing the merger of any such failing state trust company with a state trust company, or authorizing any state bank to acquire assets and assume liabilities of any such failing bank or trust company, or authorizing any state trust company to acquire assets and assume liabilities of any such failing trust company. Any such finding by the department shall be based upon reports furnished to it by a state bank or trust company examiner or other evidence from which it is reasonable to conclude that any such bank or trust company is insolvent or is threatened with imminent insolvency.

Section 34. Section 661.05, Florida Statutes, is renumbered as section 663.459, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 661.05, F.S., for present text.)

663.459 Approval by stockholders; rights of dissenters; preemptive rights.—

(1) The department shall not issue a certificate of merger to a resulting state bank or trust company unless the plan of merger and merger agreement, as adopted by a majority of the entire board of directors of each constituent bank or trust company, and as approved by each appropriate federal regulatory agency and by the department, shall have been approved by the stockholders of each constituent national bank as provided, and in accordance with the procedures required, by the laws of the United States applicable thereto, and after notice as hereinafter provided, by the affirmative vote or written consent of the holders of at least two-thirds of the shares entitled to vote thereon of each constituent state bank or state trust company, unless any class of shares of any constituent state bank or state trust company is entitled to vote thereon as a class, in which event as to such constituent state bank or state trust company the plan of merger and merger agreement shall be approved by the stockholders upon receiving the affirmative vote or written consent of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. Such vote of stockholders of a constituent state bank or state trust company shall be at an annual or special meeting of stockholders or by written consent of the stockholders without a meeting as provided in s. 607.394; and approval by the stockholders of a constituent bank or trust company of a plan of merger and merger agreement shall constitute the adoption by the stockholders of the articles of incorporation of the resulting state bank or state trust company as set forth in the plan of merger and merger agreement.

(2) Written notice of the meeting of, or proposed written consent action by, the stockholders of each constituent state bank or state trust company shall be given to each stockholder of record, whether or not entitled to vote, and whether the meeting is an annual or a special meeting or whether the vote is to be by written consent pursuant to s. 607.394, and said notice shall state that the purpose or one of the purposes of the meeting, or of the proposed action by the stockholders without a meeting, is to consider the proposed plan of merger and merger agreement. Except to the extent provided otherwise with respect to stockholders of a resulting bank or trust company pursuant to subsection (7), said notice shall also state that dissenting stockholders will be entitled to payment in cash of the value of only those shares held by the stockholders:

(a) Which at a meeting of the stockholders are voted against the approval of the plan of merger and merger agreement, or

(b) As to which, if the proposed action is to be by written consent of stockholders pursuant to s. 607.394, such written consent is not given by the holder thereof, or

(c) With respect to which the holder thereof has given written notice to the constituent state bank or trust company, at or prior to the meeting of the stockholders or on or prior to the date specified for action by the stockholders without a meeting pursuant to s. 607.394 in the notice of such proposed action, that the stockholder dissents from the plan of merger and merger agreement.

Hereinafter in this section "dissenting shares" shall mean and include only those shares, which may be all or less than all the shares of any class owned by a stockholder, described in paragraphs (a), (b) and (c).

(3) On or promptly after the effective date of the merger, the resulting state bank or trust company, or a bank holding company which, as set out in the plan of merger or merger agreement, is offering shares rights, obligations or other securities or property in exchange for shares of the constituent banks or trust companies, may fix an amount which it considers to be not more than the fair market value of the shares of a constituent bank or trust company, which it will pay to the holders of dissenting shares of that constituent bank or trust company and, if it fixes such amount, shall offer to pay such amount to the holders of all dissenting shares of that constituent bank or trust company. The amount payable pursuant to any such offer which is accepted by the holders of dissenting shares, and the amount payable to the holders of dissenting shares pursuant to an appraisal, shall constitute a debt of the resulting state bank or state trust company.

(4) The owners of dissenting shares who have accepted an offer made pursuant to subsection (3) shall be entitled to receive the amount so offered for such shares in cash upon surrendering the stock certificates representing such shares at any time within 30 days after the effective date of the merger; and the owners of dissenting shares the value of which are to be determined by appraisal shall be entitled to receive the value of such shares in cash upon surrender of the stock certificates representing such shares at any time within 30 days after the value of such shares has been determined by appraisal made on or after the effective date of the merger.

(5) The value of dissenting shares of each constituent state bank or state trust company, the owners of which have not accepted an offer for such shares made pursuant to subsection (3), shall be determined as of the effective date of the merger by three appraisers, one to be selected by the owners of at least two-thirds of such dissenting shares, one by the board of directors of the resulting state bank, and the third by the two so chosen. The value agreed upon by any

two of said appraisers shall control and be final and binding on all parties. If, within 90 days from the effective date of the merger, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such dissenting shares, the department shall cause an appraisal of such dissenting shares to be made which shall be final and binding on all parties. The expenses of appraisal shall be paid by the resulting state bank or trust company.

(6) Upon the effective date of the merger, all the shares of stock of every class of each of the constituent banks and trust companies, whether or not surrendered by the holders thereof, shall be void and deemed to be cancelled and no voting or other rights of any kind shall pertain thereto or to the holders thereof except only such rights as may be expressly provided in the plan of merger and merger agreement or expressly provided by law.

(7) The provisions of subsection (6) and, unless agreed by all the constituent banks and trust companies and expressly provided in the plan of merger and merger agreement, subsections (3), (4) and (5) shall not be applicable to a resulting bank or trust company or to the shares or holders of shares of a resulting bank or trust company the cash, shares, rights, obligations or other securities or property of which, in whole or in part, is provided in the plan of merger or merger agreement to be exchanged for the shares of the other constituent banks or trust companies.

(8) The stock, rights, obligations and other securities of a resulting bank or trust company may be issued as provided by the terms of the plan of merger and merger agreement, free from any preemptive rights of the holders of any of the shares of stock or of any of the rights, obligations or other securities of such resulting bank or trust company or of any of the constituent banks or trust companies.

(9) After approval of the plan of merger and merger agreement by the stockholders as provided in subsection (1) there shall be filed with the department, within 30 days after the time limited in s. 663.455(5), a fully executed counterpart of the plan of merger and merger agreement as so approved if it differs in any respect from any fully executed counterpart thereof theretofore filed with the department, and copies of the resolutions approving the same by the stockholders of each constituent bank or trust company, certified by the president or chief executive officer, if other than the president, and the cashier or corporate secretary of each constitutent bank or trust company, respectively, with the corporate seal impressed thereon.

Section 35. Sections 661.06 and 661.07, Florida Statutes, are renumbered as section 663.463, Florida Statutes, and are amended to read:

(Substantial rewording of sections. See ss. 661.06 and 661.07, F.S., for present text.)

663.463 Certificate of merger and effective date, effect on charters and powers.—

(1) Promptly upon compliance with the provisions of s. 663.459(9) the department shall issue to the resulting bank a certificate of merger setting forth the name of each constituent bank and trust company, the name of the resulting bank or trust company and the effective date of the merger which, unless the department for good cause determines otherwise, shall be the date requested by the resulting bank if such request was made at the time of compliance with the requirements of s. 663.459(9), but not later than 3 months after the date of such compliance. On the effective date of the merger the charters and franchises of the constituent banks and trust companies, other than the resulting bank or trust company, shall be deemed terminated and surrendered. The certificate of merger shall be conclusive evidence of the merger and of the correctness of all proceedings therefor in all courts and places, and may be recorded in any office for the recording of deeds.

(2) The corporate existence of each of the constituent banks or trust companies shall be merged into and continue in the resulting bank or trust company and such resulting bank or trust company shall be deemed to be the same bank or trust company as each constituent bank and trust company participating in the merger. All rights, franchises, property and other interests of the individual constituent banks, and all obligations and liabilities thereof, shall be transferred to and vested in, and shall become the obligations of, the resulting bank or trust company by virtue of the merger without any deed or other instrument of transfer.

(3) The resulting bank or trust company shall have the right to use the name of any constituent bank or trust company in or in connection with any specific action, proceeding or transaction when convenience will be served thereby and doing so will not confuse or mislead any party to any such action, proceeding or transaction. Any reference to any constituent bank in any order of court or in any action, proceeding, will, contract or other writing or other reference of any kind, whether made or taking effect before or after the merger, shall be deemed a reference to the resulting bank unless that result would be clearly in conflict with the provisions constituting the context of such reference.

(4)(a) If the resulting state bank is to have trust powers and if one or more of the parties to the merger is a state trust company or a bank having an existing trust department operating pursuant to trust powers theretofore granted by the department in the case of a constituent state bank, or by the Board of Governors of the Federal Reserve System or the Comptroller of the Currency in the case of a constituent national bank, such trust powers shall pass to the resulting state bank and it shall have and may exercise trust powers in the same manner and to the same extent as the constituent banks or trust companies to which such trust powers were originally issued, and no application to have or to continue to have or exercise trust powers shall be required. However, if the name of the resulting state bank differs from that of a constituent state trust company or a constituent bank having trust powers, the department shall issue a certificate to the resulting state bank showing its right to exercise the trust powers theretofore granted to the constituent banks or trust companies. All fiduciary relationships and capacities of all the constituent banks and trust companies shall, by operation of law, pass to and be assumed by the resulting bank having trust powers, in the same manner and to the same extent as such fiduciary capacities and relationships were held by any constituent bank or trust company.

(b) Upon the merger of two or more state trust companies, the resulting state trust company shall continue to have and exercise the trust powers of the constituent trust companies, and no application to have or to continue to exercise trust powers shall be required. However, if the name of the resulting state trust company differs from that of any of the constituent trust companies, the department shall issue a certificate to the resulting state trust company showing its right to exercise the trust powers theretofore granted to the constituent trust companies. All fiduciary relationships and capacities of the constituent state trust companies shall pass to and be assumed by the resulting state trust company by operation of law.

Section 36. Section 661.08, Florida Statutes, is renumbered as section 663.472, Florida Statutes, and is amended to read:

663.472 ~~661.08~~ Conversion from state bank to national bank and the reverse.—

(1) Nothing in the law of this state shall restrict the right of a state bank to convert into a national bank upon compliance with the laws of the United States, and upon completion of such conversion it shall surrender its charter as a state bank.

(2) A national bank located in this state which follows the procedure prescribed by federal law to convert into a state bank, may be granted a state charter if it meets the requirements for the incorporation of a state bank *and is otherwise in substantial compliance with state and federal laws and regulations.* Any requirement of state law that shares must be paid for in cash may be satisfied by the exchange of shares of the converted state bank for those of the converting national bank, which may be valued at not more than their fair cash market value. The *procedures and requirements* ~~procedure~~ for incorporation of a state bank may be modified to the extent made necessary by the difference between an ordinary incorporation and a conversion.

(3) The converted bank shall be considered the same business and corporate entity as the converting bank with all of the rights, powers and duties of the converting bank except as limited by the charter and bylaws of the resulting bank. It may use the name of the converting bank whenever it can do any act under such name more conveniently.

(4) Any reference to the converting bank in any writing, *or otherwise,* whether *made* ~~executed~~ or taking effect before or after the conversion, shall be deemed a reference to the converted bank if not *clearly in conflict with the provisions constituting the context of such reference.* ~~inconsistent with the other provisions of such writing.~~

(5) The application shall be in such form and contain such additional information as the department may reasonably require, and shall be accompanied by a nonrefundable filing fee. Upon conversion, this fee will be credited to and correspondingly reduce the first semiannual assessment.

Section 37. Section 661.09, Florida Statutes, is renumbered as section 663.477, Florida Statutes, and is amended to read:

663.477 ~~661.09~~ Nonconforming assets of business.—If a constituent bank *or trust company* has assets which do not conform to the requirements of state law for the resulting *state* bank *or trust company* or if a converting national bank has assets which do not conform to the requirements of state law for the converted state bank, or in either case *if* there are business activities which are not permitted for the resulting *state bank or trust company* or *the* converted state bank, the department may permit a reasonable time to conform with state law.

PART V

GENERAL BANKING OPERATIONS

Section 38. Section 659.17, Florida Statutes, is renumbered as section 663.503, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.17, F.S. for present text.)

663.503 Loans.—A state bank may make loans and extensions of credit, with or without security, subject to the following limitations and provisions:

(1) LOANS TO OFFICERS AND DIRECTORS.—

(a) No bank shall lend in excess of 10 percent of its capital accounts to any one of its officers or directors, and no such loan shall be made in any amount unless previously approved by the board of directors or funded pursuant to a line of credit previously approved by the board of directors at least annually.

(b) The loan limitation stated shall not be enlarged by the provisions of any other section of this chapter except as provided in subsection (5).

(2) LOANS TO OTHER PERSONS.—

(a) No bank shall lend to any person not included in subsection (1) above any amount which would exceed the following limitations:

1. Ten percent of the capital accounts of the lending bank for loans and lines of credit which are unsecured, and 25 percent of the capital accounts for loans and lines of credit, all components of which are amply and entirely secured; and

2. When outstanding loans consist of both secured and unsecured portions, the secured and unsecured portions of the loans together may not exceed 25 percent of the capital accounts of the lending bank, and the unsecured portion of the loan may not exceed 10 percent of the capital accounts of the lending bank.

(b) Any loan under this subsection which exceeds 10 percent of the capital accounts of the lending bank shall be approved in advance by the board of directors or an authorized committee therefrom.

(c) The department may provide by rule for security margin requirements which shall be observed by banks in complying with the ample and entire security provisions of this section.

(d) The loan limitations stated shall not be enlarged by the provisions of any other section of this chapter except as provided in subsection (5).

(3) COMPUTING TOTAL LIABILITIES.—In computing the total liabilities of any person, partnership or corporation subject to the limitations provided in this section, there shall be included all loans endorsed or guaranteed as to repayment and all loans to any person, partnership, or corporation if such person, partnership, or corporation, directly or indirectly or acting through or in concert with one or more persons, partnerships, or corporations:

(a) Owns, controls or has the power to vote 50 per centum or more of any class of voting securities of the borrower; or

(b) Controls in any manner the election of a majority of the directors of the borrower; or

(c) Has the power to exercise a controlling influence over the management or policies of such borrower.

(4) SPECIAL PROVISIONS.—

(a) A limitation of 25 percent of the capital accounts of the lending bank shall apply to the aggregate of all loans made to a corporation together with all loans secured by the shares of stock, bonds or other obligations of the same corporation, unless the stocks or bonds are listed and traded on a recognized stock exchange or are registered under the Securities Exchange Act of 1934 or are registered with the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation or the Comptroller of the Currency, in which case no aggregate loan limit shall apply.

(b) A limitation of 10 percent of the capital accounts of the lending bank shall apply to loans made to any one borrower on the security of shares of capital stock or the obligations subordinate to deposits of another bank. A limitation of 25 percent of the capital accounts of the lending state bank shall apply to the aggregate of all loans secured by the shares of capital stock or the obligations subordinate to deposits of any one bank.

(c) No loan shall be made by a bank on the security of the shares of its own capital stock or of its obligations subordinate to deposits.

(d) Loans based upon the security of real estate mortgages shall be documented as first liens, except that liens other than first liens may be taken:

1. To protect a loan previously made in good faith;

2. To further secure a loan otherwise amply and entirely secured;

3. As additional security for Federal Housing Administration Title 1 loans or loans made with participation or guaranty by the Small Business Administration;

4. To secure a loan not in excess of 10 percent of the capital accounts of the bank; or

5. As provided by rules of the department.

(5) APPLICABILITY OF LOAN LIMITATIONS.—The loan limitations otherwise provided in this section shall not apply:

(a) To loans which are fully secured by assignment of a savings account or certificate of deposit of the lending bank;

(b) To loans which are fully secured by notes, bonds, or other evidences of indebtedness issued by the United States Government or fully guaranteed as to repayment by the United States Government, its agencies, bureaus, boards, or commissions;

(c) To loans made to district school boards when said loans are secured by the assignment of revenues reasonably expected to be received from the state and are otherwise made in compliance with statutes governing borrowings by such boards.

(6) APPROVAL BY BOARD.—The requirements of this section concerning approval of lending activities by the board of directors or an authorized committee therefrom shall have been met only when such approvals are recorded in the formal minutes of the actions of the board and its committees by name of borrower, amount of loan, maturity of loan, and general type of collateral. Any action required by subsection (2) to be taken by the board of directors or an authorized committee therefrom may be taken pursuant to s. 607.131(7) if the minutes of the proceedings of the board or of the committee

reflect such action and each director taking such action signs the minutes reflecting such action at the next regular meeting of the board or committee attended by such director.

(7) LIABILITY OF OFFICERS AND DIRECTORS.—Officers and directors shall be personally liable, jointly and severally, for any loss that may be occasioned by any willful violation of this section.

(8) FEDERAL RESTRICTIONS AND LIMITATIONS.—Nothing in this section shall be construed as expanding, enlarging or otherwise affecting any lending limits, restrictions or procedures now provided by federal law applicable to state banks in conjunction with any loan or loans to any borrower or class of borrowers.

Section 39. Section 659.18, Florida Statutes, is renumbered as section 663.507, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.18, F.S., for present text.)

663.507 Loans by banks not exceeding $50,000.—

(1) Any bank shall have the power, in addition to such other powers as it may have, to make loans or other extensions of credit the principal amount of which does not exceed $50,000, and charge interest calculated by any method on the principal amount at a rate not exceeding the equivalent of 18 percent per annum simple interest determined and computed as provided in s. 687.03(3) except that, notwithstanding the foregoing and the laws of Florida governing interest and usury, the following additional charges may be made:

(a) A minimum interest or discount charge in any amount not exceeding $10 on any single payment loan or $15 on any installment loan; and

(b) An amount not to exceed the lesser of $50 or 2 percent of the principal amount of the loan, to reimburse the bank for its costs (other than costs actually paid to third parties) for investigating the character and credit of the person applying for the loan, the security submitted, and the costs of booking the transaction.

(2) The privileges conferred by paragraphs (a) and (b) of subsection (1) shall not extend to any bank which charges a penalty or delinquency charge in excess of 5 percent of the amount of any payment or payments in default, or which refuses to rebate unearned interest or discount when the borrower repays the loan in full before the due date of the final installment. On any loan in which the interest is precomputed, the amount of such rebate shall be determined by the Sum of the Digits method or the actuarial method.

(3) Any charges in excess of the combined total of all charges authorized and permitted by subsection (1) shall constitute a violation of chapter 687 governing interest and usury and the penalties of chapter 687 shall apply.

Section 40. Section 659.181, Florida Statutes, is renumbered as section 663.510, Florida Statutes, and is amended to read:

663.510 ~~659.181~~ Bank loans; credit cards.—Any bank shall have the power to make loans or extensions of credit to any person, ~~firm, or corporation, not exceeding $10,000 for each such loan or extension of credit,~~ on a credit card or overdraft financing arrangement and to charge interest of not more than 1.5 percent per month, simple interest, on the unpaid balance of any such loans or extensions of credit computed on a monthly cycle.

Section 41. Section 659.19, Florida Statutes, is renumbered as section 663.513, Florida Statutes, to read:

663.513 ~~659.19~~ Banks authorized to make commodity loans.—

(1) Banks may make loans known and described as "commodity loans" on the obligations of any person, firm, copartnership, association or corporation, in the form of notes or drafts secured by shipping documents, warehouse receipts or other such documents transferring or securing title covering readily marketable nonperishable staples when such property is fully covered by insurance if it is customary to insure such staples in the following percentages of the bank's capital accounts:

(a) Twenty-five percent when the market value of such staples securing such obligation is not at any time less than 115 percent of the face amount of such obligation.

(b) Thirty percent when the market value of such staples securing such obligation is not at any time less than 120 percent of the face amount of such obligation.

(c) Thirty-five percent when the market value of such staples securing such obligation is not at any time less than 125 percent of the face amount of such obligation.

(d) Forty percent when the market value of such staples securing such obligation is not at any time less than 130 percent of the face amount of such obligation.

(e) Forty-five percent when the market value of such staples securing such obligation is not at any time less than 135 percent of the face amount of such obligation.

(f) Fifty percent when the market value of such staples securing such obligation is not at any time less than 140 percent of the face amount of such obligation.

(2) The increased loan limitation provided by this section shall not apply to obligations of any one person, firm, copartnership, association or corporation arising from the same transaction or secured upon the identical staples for more than 10 months.

Section 42. Section 659.58, Florida Statutes, is renumbered as section 633.516, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.58, F.S., for present text.)

663.516 Statutory bad debts; ineligible assets.—No bank shall carry as an asset any note, obligation or security which it does not own absolutely or which is known by the bank to be fraudulent or otherwise worthless, and no bank shall carry as an asset in any report to the department or any published report any note or other obligation which is past due or upon which no interest has been paid for 1 year or longer, provided, however, that such past due paper may be carried to the extent of the reasonable value of any lien or other collateral given to secure such obligation; and provided further that if the obligation is in the process of collection, it may be carried at its reasonable value as determined by the board of directors. The department may order the revisions of any value so determined hereunder.

Section 43. Section 659.23, Florida Statutes, is renumbered as section 663.519, Florida Statutes, and is amended to read:

663.519 ~~659.23~~ Borrowing; limits of indebtedness.—

(1) *Subject to the limitations imposed by this chapter on the indebtedness of state banks and trust companies a state* bank or trust company may borrow money and issue evidences of indebtedness for a loan for temporary purposes in the usual course of its business.

(2) A state bank may at any time, pursuant to action taken by its board of directors, and after obtaining the written approval of the department and the approval of stockholders holding not less than two-thirds of the outstanding ~~voting~~ stock of the bank *entitled to vote* evidenced either in a writing signed by the stockholders or by vote at a legally called and held meeting of the stockholders, issue and sell convertible and nonconvertible capital notes and convertible and nonconvertible capital debentures having a final maturity of not more than 25 years from the date of issue, in such amounts and under such terms and conditions as shall be approved by the department. *If deemed necessary by the department, reasonable provisions for the amortization of the principal amount thereof may be required.* ~~subject, with respect to~~ The principal amount *of said capital notes and capital debentures are subject* ~~thereof~~, to the limitations imposed by this chapter on indebtedness of state banks and trust companies. ~~If the capital notes or capital debentures are not subject to obligatory prepayments of principal at least annually, the issuing bank shall, at the end of the third year from the date of issue of the capital notes or debentures, establish and maintain a suitable sinking fund for the amortization of the principal amount thereof.~~ Capital notes and capital debentures issued pursuant to the provisions of this subsection, and claims of holders thereof, shall be subordinate to the claims of depositors and all other creditors of the issuing state bank, regardless of whether the claims of, or the liability of the issuing bank to, the depositors arose before or after the issuance of such capital notes or debentures, but shall be superior to the claims of shareholders for dividends, reserve profits, or other claims on account of shares of capital

stock held by them. The holders of the capital notes and the holders of the capital debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of the issuing state bank, and shall not be liable for assessments.

(3) No state bank or trust company shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise plus 50 percent of the amount of its unimpaired surplus fund *and undivided profits fund*, except on account of demands of the nature following:

(a) Moneys deposited with or collected by the bank.

(b) Bills of exchange or drafts drawn against money actually on deposit to the credit of the state bank or due thereto.

(c) Liabilities to the stockholders of the state bank or trust company for dividends and reserve profits.

(d) Liabilities incurred under the provisions of the Federal Reserve Act.

(e) Liabilities incurred under the provisions of the Federal Deposit Insurance Act.

(f) Liabilities created by the endorsement of accepted bills of exchange payable abroad actually owned by the endorsing bank and discounted at home or abroad.

(g) Liabilities incurred under the provisions of *ss. 2.3 and 2.4 of Title II of the federal Farm Credit Act of 1971, as amended (12 U.S.C. ss. 2074 and 2075), subject to the limitations therein contained* ~~s. 202 of Title II of the Federal Farm Loan Act, approved July 17, 1916, as amended by the Agricultural Credits Act of 1923.~~

(h) Liabilities incurred for moneys borrowed from a bank when such borrowing is made with the express written approval of the department.

(i) Liabilities incurred for funds purchased from the U.S. Department of the Treasury.

(j) Liabilities incurred for federal funds purchased.

(4) Unrepaid proceeds of sales of capital notes and capital debentures, as provided herein, shall be considered as a part of the aggregate amount of capital and surplus in computing loan and investment limitations and in evaluating adequacy of capital of the issuing bank *if the issuing bank is not in default thereunder.*

~~(5) The department may promulgate reasonable rules and regulations implementing the provisions of this section or otherwise relating to the borrowing and the capital notes and capital debentures authorized by this section.~~

Section 44. Section 659.28, Florida Statutes, is renumbered as section 663.522, Florida Statutes, and is amended to read:

663.522 ~~659.28~~ Deposit of minors.—Bank ~~or trust company~~ deposits by a minor or made in his name, other than by a court-appointed guardian, may be withdrawn by the minor in the absence of an agreement to the contrary made between the bank and the depositor at the time the account is opened, and in case of any such agreement, such moneys, until the minor's disabilities are removed, may be withdrawn by the person or persons designated in such agreement.

Section 45. Section 659.29, Florida Statutes, is renumbered as section 663.526, Florida Statutes, and is amended to read:

663.526 ~~659.29~~ Deposits in two or more names.—Bank ~~or trust company~~ deposits, or any part thereof, or any interest therein made in the names of two or more persons, payable to either, or payable to either or the survivor, and deposits made to an account standing in the names of two or more persons payable as hereinabove-mentioned, may be paid to, or pursuant to the order of, either or any of said persons or to, or pursuant to the order of, the guardian of the property of any such person who is incompetent, whether the other or others be living or not and whether the other or others be competent or not; and the check or other order for payment of any such person, or the receipt or acquittance of the person so paid, shall be a valid and sufficient release and discharge to the bank ~~or trust company~~ for any payment so made.

Section 46. Section 659.291, Florida Statutes, is renumbered as section 663.530, Florida Statutes, and is amended to read:

663.530 ~~659.291~~ Deposits and accounts in two or more names; presumption as to vesting on death.—

(1) Unless otherwise expressly provided in the signature contract card or other similar instrument delivered to and accepted by a bank in connection with the opening or maintenance of an account, including a certificate of deposit, in the names of two or more persons, whether minor or adult, payable to or on the order of one or more of them or the surviving account holder or holders, all such persons and each person depositing funds in any such account shall be presumed to have intended that upon the death of any such person all rights, title, interest and claim in, to, and in respect of, said deposits and account and the additions thereto, and the obligation of the bank created thereby, less all proper setoffs and charges in favor of the bank, shall vest in the surviving account holder or holders.

(2) The presumption herein created may be overcome only by proof of fraud or undue influence or clear and convincing proof of a contrary intent. In the absence of such proof, all rights, title, interest and claims in, to, and in respect of, said deposits and account and the additions thereto, and the obligation of the bank created thereby, less all proper setoffs and charges in favor of the bank against any one or more of such persons, shall, upon the death of any such person, vest in the surviving account holder or holders, notwithstanding the absence of proof of any donative intent or delivery, possession, dominion, control, or acceptance on the part of any person, and notwithstanding the provisions hereof may constitute or cause a vesting or disposition of property or rights or interests therein, testamentary in nature, which, except for the provisions of this section, would or might otherwise be void or voidable.

(3) Nothing herein contained shall abridge, impair, or affect the validity, effectiveness, or operation of any of the provisions of ss. *663.526* ~~659.29~~ and 674.405 or the rights of banks to make payments as therein provided.

Section 47. Section 659.292, Florida Statutes, is renumbered as section 663.534, Florida Statutes, to read:

663.534 ~~659.292~~ Convenience accounts.—

(1) "Convenience account" means a deposit account, other than a certificate of deposit, in the name of one individual (principal), in which one or more other individuals have been designated as agent with the right to make deposits to and to withdraw funds from or draw checks on such account. The designation of agents, the substitution or removal of agents, or any other change in the contractual terms or provisions governing a convenience account may be made only by the principal. Except as otherwise provided in this section, the agency relationship created under this account shall not be affected by the subsequent death or incompetence of the principal.

(2) All rights, interest, and claims in, to, and in respect of, said deposits and convenience account and the additions thereto shall be that of the principal only.

(3) Any balance standing to the credit of a convenience account shall be paid to the guardian of the property of the principal, to any person designated in a court order entered pursuant to s. 735.206, to any person designated by letter or other writing as authorized by s. 735.301, or to the personal representative of the deceased principal's estate, upon presentation of effective written notice and, if applicable, proof of judicial appointment of such guardian or personal representative by a court of competent jurisdiction. No such court order or letter, written notice, or proof of judicial appointment shall be effective until it is served upon and received by an officer of the bank at the banking house during regular banking hours and in such time and in such manner as to afford the bank a reasonable opportunity to act on it prior to the happening of any of the events described in s. 674.303. No other notice, knowledge, or any other information shown to have been available to a bank shall affect its right to the protection provided in this section.

(4) Payment by a bank pursuant to this section shall be a valid and sufficient release and discharge to the bank from all claims for payments so paid.

(5) Without qualifying any other right to setoff or lien, and subject to any contractual provision, if the principal is indebted to the bank, the bank has a right to setoff against the account.

Section 48. Section 659.30, Florida Statutes, is renumbered as section 663.537, Florida Statutes, and is amended to read:

663.537 ~~659.30~~ Deposits in trust.—Bank ~~or trust company~~ deposits made by any person describing himself and making such deposit as trustee for another, and no other or further notice of the existence and terms of a legal and valid trust than such description shall have been given in writing to such bank, in the event of the death of the persons so described as trustee, such deposit, or any part thereof, together with the dividends or interest thereon may be paid to the person for whom the deposit was thus stated to have been made.

Section 49. Section 659.21, Florida Statutes, is renumbered as section 663.542, Florida Statutes, and is amended to read:

663.542 ~~659.21~~ Security of deposits; *insurance of accounts.*—Notwithstanding any provisions of law of this state or any political subdivision thereof requiring security of deposits in the form of collateral, surety bond, or in any other form, security for such deposit shall not be required to the extent that said deposits are insured under the provisions of *the Federal Deposit Insurance Act as now or hereafter amended* ~~s. 12 B of the Federal Reserve Act as amended, or any amendments thereto.~~ *In order to promote the safety and soundness of the bank, the department may require any uninsured institution to maintain satisfactory insurance of accounts.*

Section 50. Section 659.24, Florida Statutes, is renumbered as section 663.545, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.24, F.S., for present text.)

663.545 Depositories of public moneys and pledge of assets.—

(1) Banks shall be depositories of public moneys and they may also be employed as financial agents of the state and its political subdivisions and they shall perform such reasonable duties as such depositories and financial agents as may be required of them. Banks so designated shall give satisfactory security by the deposit or pledge of bonds of the United States, the state or political subdivisions or other satisfactory security for the safekeeping and prompt payment of the public moneys deposited with them and for the faithful performance of their duties as financial agents of the state and its political subdivisions. Except as otherwise expressly provided by statute other than this subsection, the amount of the security to be given by such banks for the purposes stated in this subsection with respect to the state and each political subdivision thereof shall be determined by the State Treasurer who shall also approve the kind or type of security to be given as required or permitted by the statutes applicable thereto, and such security shall be deposited with or to the credit of, or pledged to, the State Treasurer for the account of each governmental entity with respect to which the security is deposited or pledged. Any security of any kind which has been so deposited or pledged may at any time by or upon the direction of the bank which deposited or pledged such security, be withdrawn and released from such pledge provided that simultaneously therewith satisfactory security as provided in this section in such amount, if any, as may be necessary in order to comply with requirements of applicable law relating to the deposit or pledge of security, is substituted for the security so withdrawn and released. The provisions of s. 18.11 (3), (4), (5), (6) and (7) relating to collateral security for deposits of money of the state shall be applicable with respect to the depositing of securities for all other purposes mentioned in this section except that in connection with the depositing of securities for purposes other than as collateral security for the deposits of money of the state or money in the State Treasury the approvals and authorizations provided for in said subsections may be made by the State Treasurer. A bank or trust company may also pledge its assets to:

(a) Enable it to act as agent for the sale of obligations of the United States.

(b) Secure borrowed funds.

(c) Secure deposits when the depositer is required by law to obtain such security.

(d) Comply with the requirements of any other law.

(2) Notwithstanding any other provision of this section or the provisions of any other law requiring security for deposits of funds in the form of surety bond, the depositing or pledge of securities or in any other form, security for such deposits shall not be required to the extent that such deposits are insured under the provisions of the Federal Deposit Insurance Act, as now or hereafter amended. Recognition is accorded to the custom and usage, and its practicality, of the deposit or pledge of securities by banks, as security for deposits, in an aggregate amount which, because of the fluctuation from time to time of the aggregate amount of the deposits secured thereby, may at times be in an amount in excess of the required amount of such security without withdrawing and redepositing securities with each decrease and increase of the aggregate amount of deposits secured thereby. In order to effectuate the provisions of the first sentence of this subsection, and in recognition of the availability of such excess securities for inclusion in the liquidity reserve of state banks as provided in s. 663.582, whenever the amount of securities deposited or pledged exceeds the amount required for the deposits secured thereby, securities in an amount equal to such excess shall, for all purposes and laws, while such excess exists be, and be treated as, freed and discharged from such deposit and pledge even though not physically withdrawn or removed from such deposit or pledge, and in determining the securities which are so freed and discharged those securities which are eligible for inclusion in a state bank's liquidity reserve as provided in s. 663.582 shall first be included in such determination; provided, however, that such excess securities which are not physically withdrawn or removed from deposit or from the pledge thereof shall immediately and automatically, for all purposes and laws, be, and be treated as, redeposited and repledged at such time or times as, and to the extent that, there is an increase in the amount of security required for funds deposited with the bank, and in determining the securities which are so automatically and immediately redeposited and repledged there shall first be included those securities which are not eligible for the aforesaid liquidity reserve under s. 663.582.

(3) Any notes, bonds, or other securities, other than shares of stock, in which a state bank is authorized by law to invest any of its funds shall be accepted as satisfactory security for the deposit of funds, for the safekeeping and prompt payment of moneys deposited, for the faithful performance of duties as fiscal or financial agent, and for any other purpose for which security is required, whether such moneys so deposited be funds of or under the control of, or the security is required by, the state or any political subdivision thereof, or any officer of the state or any political subdivisions thereof, or whether the security is required by any other law. The provisions of this subsection shall be cumulative and shall not be subject to the restrictions or the provisions of any other law relating to the type, characteristics, or form of securities acceptable or required in connection with deposits of any public or other funds or the qualification of depositories therefor, or acceptable or required by any law.

Section 51. Section 659.38, Florida Statutes, is renumbered as section 663.549, Florida Statutes, and is amended to read:

663.549 ~~659.38~~ Adverse claim to bank or trust company deposit *or fiduciary account.*—Notice to any bank or trust company of an adverse claim to a deposit *or fudiciary account* standing on its books to the credit of any person shall not be effectual to cause said bank or trust company to recognize said adverse claimant unless said adverse claimant shall also either:

(1) Procure a restraining order, injunction or other appropriate process against said bank or trust company from a court in a cause therein instituted by him wherein the person to whose credit the deposit *or fiduciary account* stands is made a party and served with process, or

(2) Execute to said bank or trust company in form and with sureties acceptable to it, a bond, indemnifying said bank or trust company from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit *or fiduciary account* stands on the books of said bank or trust company.

Section 52. Section 659.35, Florida Statutes, is renumbered as section 663.554, Florida Statutes, and is amended to read:

663.554 ~~659.35~~ Limitations; statements as correct.—

(1) Unless written objection thereto shall have been theretofore delivered by the depositor to the bank, a statement of account rendered by any bank or trust company in this state to a depositor, *with a description of amount and type (such as deposit, withdrawal, debit, credit or any similar designation) of entries to such account, which description may be on accompanying documents or on the statement itself,* ~~accompanied by vouchers which are the basis of debit entries in such account,~~ shall, after the expiration of 3 years from the date rendered, be conclusively presumed to be correct and the depositor shall thereafter be barred from questioning same.

(2) In the absence of written contract between a bank and a depositor providing otherwise, *the* ~~a~~ statement of account *referred to herein* ~~of a depositor, with accompanying vouchers,~~ shall be deemed to have been rendered to the depositor within the meaning of this section when prepared and lodged by the bank at its statement window or other customary place for delivery to the depositor. Any such statement and vouchers, either or both, which are not demanded by the depositor within 3 years may be destroyed by the bank without accountability or liability therefor to anyone.

(3) Nothing herein contained shall be construed to relieve a depositor from any duty or obligation imposed by law or by contract heretofore or hereafter made to examine such *statement of* account ~~and vouchers~~ and to report any errors or irregularities within a shorter period of time than herein mentioned, nor from the legal consequences of the depositor's failure to perform any such duty or obligation.

Section 53. Section 659.411, Florida Statutes, is renumbered as section 663.559, Florida Statutes, and is amended to read:

663.559 ~~659.411~~ *Settlement of checks* ~~Exchange rates.~~—Whenever *any* ~~a~~ check *is* ~~or checks are~~ forwarded or presented to a bank for a payment, except when presented by the payee in person, the paying bank or remitting bank may pay or remit the same, at its option, either in money or in exchange drawn on its reserve agent or agents in the City of New York or in any reserve city within the Sixth Federal Reserve District; provided, however, no *state* bank ~~or trust company organized under the laws of this state~~ shall settle any check drawn on it otherwise than at par. The provisions of this section shall not apply with respect to the settlement of a check sent to such bank ~~or trust company~~ as a special collection item.

Section 54. Section 659.36, Florida Statutes, is renumbered as section 663.564, Florida Statutes, and is amended to read:

663.564 ~~659.36~~ Issuance of postdated checks.—It shall be the duty of the person drawing a postdated check to notify, in writing, the bank ~~or trust company~~ upon which such check is drawn, giving a complete description thereof, including the name of the payee, the date, the number and amount thereof, otherwise the bank or trust company shall not be liable for ~~erroneously~~ paying such check.

Section 55. Section 659.062, Florida Statutes, is renumbered as section 663.569, Florida Statutes, and is amended to read:

663.569 ~~659.062~~ Remote financial service units.—

(1) As used in this section:

(a) "Bank" means any person authorized under the laws of this state or of the United States to do a banking business and having his principal office and main banking house in this state and also includes an industrial savings bank organized and operating under the provisions of chapter *662* ~~656 and a savings bank organized and operating under the provisions of chapter 654~~. For the purposes of this section, the foregoing definition of the term "bank" shall control over the definition of said term as contained in *s. 663.104* ~~subsection 658.02(1); however, the foregoing definition of the term "bank" shall be limited to the application of the provisions of this section~~.

(b) "Credit union" means a credit union as defined in *chapter 657* ~~s. 657.01~~ and a credit union organized and existing under the laws of the United States having its principal office in this state.

(c) "Financial depository institution" means bank, savings and loan association or credit union.

(d)~~(c)~~ The "owner" of a remote financial service unit is the person having the right to determine the *financial depository institutions* ~~banks, savings and loan associations, or credit unions~~ which will be permitted to use, or participate in the usage of, the remote financial service unit.

(e)~~(d)~~ "Point of sale terminal" means an information processing device by which transactions by a person with, among, or involving one or more *financial depository institutions* ~~banks~~ are accomplished through or by means of electronic or automated signals or impulses, which may include the human voice. A point of sale terminal shall be located at a place of business other than the place of business of a *financial depository institution* ~~bank~~, *and* ~~at the location thereof~~ shall not be operated by an agent or employee of a *financial depository institution* ~~bank~~, and shall not be located on any premises having a pari-mutuel license. For the purposes of this section and for the purposes of all other statutes and rules of law, an agent or employee of the place of business where the point of sale terminal is located who operates the point of sale terminal shall not be deemed to be the agent or employee of any *financial depository institution* ~~bank~~ using the point of sale terminal or with which transactions are accomplished by means of the point of sale terminal.

(f)~~(e)~~ "Remote service terminal" means an information processing device, including associated structures, for the operation of which at its location an agent or employee of a *financial depository institution* ~~bank~~ is not required and by which, through or by means of electronic, automated, or mechanical signals or impulses generated through the use of electronic, automated, or mechanical equipment, transactions by a person are accomplished with, among, or involving one or more *financial depository institutions* ~~banks~~, including, but not limited to, the dispensing of cash. *Except for a remote service terminal located in any financial depository institution office or on the property on which the office is located or on property contiguous thereto,* a *financial depository institution* ~~bank~~ utilizing a remote service terminal shall not cause any agent or employee of the *financial depository institution* ~~bank~~ to be stationed at the location of the remote service terminal for the operation thereof.

(g)~~(f)~~ "Remote financial service units" means and includes point of sale terminals and remote service terminals.

(h)~~(g)~~ "Savings and loan association" means an association as defined in *chapter 665* ~~subsection 665.031(1)~~ and a savings and loan association organized and existing under the laws of the United States having its principal office in this state.

(2) A *financial depository institution* ~~bank~~ may use the facilities of, or participate in the use of, such number of remote financial service units at such locations as the *financial depository institution* ~~bank~~ may determine. It shall not be necessary that any remote financial service unit or any associated equipment, structures, or systems by which it is operated, be a part of, or physically connected to, the main ~~banking~~ room or building of the *financial depository institution or branch, or* ~~bank,~~ on the property on which the main *building* ~~banking house~~ is situated, or on property contiguous thereto. It shall not be necessary that a *financial depository institution* ~~bank~~ using the facilities of a remote financial service unit hold the legal title to, or otherwise be the owner of, the remote financial service unit or any associated equipment, structures, or systems, but the owner or any remote financial service unit shall be subject to the provisions of this section.

(3)(a) As to any and each remote *financial* service ~~terminal~~ *unit* which a *financial depository institution* ~~bank or savings and loan association~~ chartered by the state proposes to *establish* ~~use,~~ the *financial depository institution* ~~bank or savings and loan association~~ shall give not less than 30 days' written notice to the department of its intention to *establish* ~~use~~ the same. Each written notice shall be in such form as the department shall require and shall include the following information with regard to the remote financial service unit:

1. The name of the *financial depository institution* ~~bank or savings and loan association~~ giving notice.

2. The owner of the remote financial service unit.

3. The exact location and a description of the surrounding area, including a description of any business establishment in or on which the remote financial service unit will be located.

4. Any other additional information as the department shall require.

(b) The department shall require that each *establishing financial depository institution* ~~bank or savings and loan association~~ provide the department with a written periodic update of the information required in the written notice *including a current list of each financial depository institution sharing the remote financial service unit.*

(4) The owner of a point of sale terminal, other than a retail merchant, a savings and loan association, or a credit union or a subsidiary at least 50 percent of the equity ownership of which is owned by one or more savings and loan associations or credit unions, shall make the same available, on a nondiscriminatory basis, for use by any other bank or banks and the customers thereof upon the request of said bank or banks to pay a fair and equitable amount for such right to use the same; but the owner of the point of said terminal shall have the right to retain the control thereof. The owner of a point of sale terminal may make the same available for use by one or more savings and loan associations and credit unions and the customers thereof and a bank may participate upon contractual agreement in the use of a point of sale terminal owned or operated by one or more savings and loan associations and credit unions.

(5) The owner of a remote service terminal may share the use of any remote service terminal with one or more *financial depository institutions* ~~banks, one or more savings and loan associations, or one or more credit unions,~~ and a *financial depository institution* ~~bank~~ may share, upon contractual agreement with one or more *other financial depository institutions* ~~savings and loan associations and credit unions~~, the use of a remote service terminal operated by one or more *financial depository institutions* ~~savings and loan associations and credit unions~~.

(6) It is the intent of this section to provide and authorize more convenient methods of implementing and performing the functions which banks, savings and loan associations, and credit unions, respectively, are permitted to perform and render. Nothing contained in this section shall be construed to enlarge the powers, services, or activities which banks or any category of banks, savings and loan associations, or credit unions are permitted to perform, render, or engage in by applicable law other than the provisions of this section.

(7) In considering any application for authority to organize a new *financial depository institution* ~~bank~~ or to establish any other *financial depository institution* ~~banking~~ facility, whether manned or unmanned, the department shall disregard the existence of remote financial service units in considering and determining the need for *financial depository institution* ~~banking~~ facilities in the community where the proposed new *financial depository institution* ~~bank~~ or other *financial depository institution* ~~banking~~ facility is to be located, in considering the adequacy of existing *financial depository institution* ~~banking~~ facilities and the need for further *financial depository institution* ~~banking~~ facilities in the locality, and in considering the ~~present and future~~ ability of the community to support the proposed new *financial depository institution* ~~bank~~ or other *financial depository institution* ~~banking~~ facility and all other existing *financial depository institution* ~~banking~~ facilities in the community.

(8) Neither a remote financial service unit nor any associated equipment or systems by which it is operated as provided for in this section shall be considered to be a branch of any *financial depository institution* ~~bank~~ using or participating in the use thereof, and such use shall not be deemed to be a violation of *s. 663.234* ~~paragraph 650.06(1)(a)~~. The provisions of this section are cumulative and in addition to the provisions of *s. 663.234* ~~subsection 650.06(2)~~.

(9) The provisions of this section shall not be available to any bank which does not have its principal office and place of business in this state, and any bank which does not have its principal office and place of business in this state is prohibited from using in this state any remote financial service unit or any associated system by which a remote financial service unit is operated. However, nothing herein contained shall prohibit any Federal Reserve Bank or branch thereof from operating any electronic funds transfer system in this state.

(10) Every owner of a remote financial service unit and every *financial depository institution* ~~bank~~ using a remote financial service unit shall adopt and maintain safeguards to insure the safety of funds, items, and other information, which safeguards shall include security devices consistent with the minimum requirements specified under the Federal Bank Protection Act or such alternative security precautions as are approved by the department.

(11) The department shall have the authority ~~by rule~~ to require, *by rule,* each *financial depository institution* ~~bank~~ operating pursuant to this section to supply information to customers using remote financial service units concerning the *financial depository institution's* ~~bank's~~ consumer protection policies, including the rights and liabilities of consumers and protection against wrongful or accidental disclosure of confidential information.

(12)(a)~~(b)~~ A cardholder's federal social security number shall not be used as the personal identification number or as any code to activate any remote financial service unit.

(b)~~(c)~~ Information received through, or by means of, any remote financial service unit shall be treated and used in accordance with applicable law relating to the dissemination or disclosure of such information.

(c)~~(d)~~ A customer may bring a civil action against a person violating the provisions of this subsection in the Circuit Court of the county in which the alleged violator resides or has his principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages or $500, whichever is greater, together with court costs and reasonable attorney's fees incurred by the plaintiff. The court may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations of this subsection. If it appears to the court that the suit brought by the plaintiff was ill-founded or brought for purposes of harassment, the plaintiff shall be liable for court costs and reasonable attorney's fees incurred by the defendant.

~~(12) Each bank and each savings and loan association which participates in or establishes, maintains, or uses a remote financial service unit shall, for a period of 5 years from the effective date of this act, report annually to the Speaker of the House of Representatives and President of the Senate. Such report shall be submitted no later than August 1 of each year, commencing August 1, 1976, covering the annual period ending on the preceding July 1. Also, a preliminary report containing the identical information as the annual report shall be submitted to the Speaker of the House of Representatives and President of the Senate before February 1, 1976. In the annual report, each bank and each savings and loan association shall:~~

~~(a) Provide all the information required to be contained in the notice to the department under subsection (3).~~

~~(b) Present a step-by-step analysis of how a person uses the remote financial service unit and describe how the transactions are recorded in the remote financial service unit, if they are so recorded, and how frequently the system is updated.~~

~~(c) Discuss the procedures for the protection of a customer's privacy and confidentiality of account information and discuss who has access to a customer's account information and under what circumstances.~~

~~(d) State how the card or device used to activate the remote financial service unit is issued and discuss, in general terms, experiences with such cards or devices that are lost by, or stolen from customers and customer's liability thereon.~~

~~(e) Discuss, in general terms, customer complaints relating to the use of remote financial service units and the manner in which complaints are resolved, including the final disposition of complaints.~~

~~(f) Provide any other reasonable information that is considered relevant by the reporting bank or savings and loan association or is requested by the Speaker of the House of Representatives and President of the Senate.~~

~~(13)(a) Each bank and each savings and loan association shall maintain resonable procedures to minimize losses to its customers from unauthorized withdrawals from its customers' accounts by use of a remote financial service unit. Any bank or savings and loan association failing to maintain such reasonable procedures shall be liable to its customer for the amount of any unauthorized withdrawal plus any interest lost on the unauthorized drawn amount directly resulting from the failure~~

~~to maintain such reasonable procedures, unless the customer, by his negligence, contributes to such unauthorized withdrawal. For the purposes of this paragraph "unauthorized withdrawal" means a withdrawal by a person other than the customer who does not have actual, implied, or apparent authority for such withdrawal and from which withdrawal the customer receives no benefit.~~

~~(14)(a) Whenever the department has reason to believe that a person has been or is violating this act or is engaging in unsafe and unsound banking practices with regard to the use of remote financial service units, and if it appears to the department that a proceeding by it against the person would be in the interest of the public, it shall issue and serve upon the person a complaint or notice stating its charges and containing a notice of opportunity for a hearing pursuant to chapter 120. The person so complained against shall have the right to appear and show cause why an order should not be entered by the department requiring him to cease and desist from the violation of this act as charged in the complaint. If no hearing is held, or if a hearing is held and it still appears that the person is in violation of this act, the department shall enter a final administrative order pursuant to chapter 120 requiring the person to cease and desist from engaging in the act or practice that has been found to be in violation of this act.~~

~~(b) The department may modify or set aside its order at any time by rehearing upon its own motion when the rehearing is in the interest of the public welfare.~~

~~(c) Judicial review of orders of the department shall be as provided by chapter 120.~~

~~(d) An order of the department to cease and desist is effective 10 days after notice of its entry is sent by certified mail to the person complained against.~~

~~(e) A cease and desist order is not a limitation upon any other action or remedy available to the department or any person under any provision of this or any other act.~~

~~(f) The department is authorized to impose a civil penalty of not more than $500 for each violation against any person who violates a cease and desist order of the department after it has become effective, which shall accrue to the department and may be recovered in a civil action by the department. Each day of a continuing violation shall constitute a separate violation.~~

(13)~~(15)~~ It is the intent of the Legislature that no person shall be deprived of any rights and protections now offered by existing law due to the effect of this *section* ~~act~~ becoming law.

~~(16) The department shall have the power to promulgate any rule to implement any provision of this section.~~

Section 56. Section 659.41, Florida Statutes, is renumbered as section 663.574, Florida Statutes, to read:

663.574 ~~659.41~~ Transmitting money; foreign exchange.—

(1) A bank may accept money for transmission and may transmit money.

(2) A bank may buy and sell foreign exchange to the extent necessary to meet the needs of customers.

Section 57. Section 659.20, Florida Statutes, is renumbered as section 663.579, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.20, F.S., for present text.)

663.579 Investment powers and limitations.—A bank may invest its funds and a trust company may invest its corporate funds subject to the following definitions, restrictions, and limitations:

(1) INVESTMENTS NOT SUBJECT TO LIMITATION.—A bank or trust company may invest without limitation in the following:

(a) Direct obligations of the United States government.

(b) Obligations of agencies created by act of the United States Congress and authorized thereby to issue securities or evidences of indebtedness, regardless of guarantee of repayment by the United States government.

(c) Public housing authority obligations.

(d) General obligations of the states of the United States and of the political subdivisions and municipalities 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) Prerefunded municipal bonds, the principal and interest of which are secured by the principal and interest of a direct obligation of the United States government.

(h) The sale of federal funds on a daily basis; provided that no bank shall sell at any one time federal funds to any individual bank in an amount exceeding 100 percent of the capital accounts of such selling bank.

(i) Certificates of deposits of any one bank having a maturity at the time of purchase not in excess of 6 months; provided that no bank or trust company shall invest in the certificates of deposits of any one bank in an amount exceeding 100 percent of the capital accounts of such investing bank or trust company.

(2) INVESTMENTS SUBJECT TO LIMITATION OF 25 PERCENT OF THE CAPITAL ACCOUNTS OF THE PURCHASING BANK OR TRUST COMPANY.—Up to 25 percent of the capital accounts of the purchasing bank or trust company may be invested in the following:

(a) Any single issue of revenue bonds or certificates of the states of the United States or of the political subdivisions and municipalities thereof.

(b) Bonds or other obligations of the Inter-American Development Bank.

(c) Certificates of deposits of any one bank having a maturity in excess of 6 months.

(3) INVESTMENTS SUBJECT TO LIMITATION OF 10 PERCENT OF THE CAPITAL ACCOUNTS OF THE PURCHASING BANK OR TRUST COMPANY.—Up to 10 percent of the capital accounts of the purchasing bank or trust company may be invested in the following:

(a) Corporate obligations of any one corporation which is not an affiliate or subsidiary of the bank or trust company.

(b) Savings accounts or certificates issued by any one association having its principal office in Florida.

(c) Any single issue of industrial development bonds issued for the benefit of a specified corporation.

(4) INVESTMENTS SUBJECT TO LIMITATION OF 5 PERCENT OR LESS OF THE CAPITAL ACCOUNTS OF THE PURCHASING BANK OR TRUST COMPANY.—

(a) Up to 5 percent of the capital accounts of the purchasing bank or trust company may be used to invest in or purchase bonds or other evidences of indebtedness of the State of Israel.

(b) Up to 5 percent of the capital accounts of the purchasing bank or trust company may be invested in small business investment companies which are organized under the provisions of the United States Code.

(c) Up to 2 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of a community corporation organized to promote the physical, social, or moral well-being of the members of the community where the bank or trust company is located.

(d) Up to 1 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of the Florida Industrial Development Corporation. The purchasing bank or trust company may thereafter deal in the securities or other evidences of debt of such corporation as provided for in chapter 298.

(e) Up to 1 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of the Housing Development Corporation of Florida. The purchasing bank or trust company may thereafter deal in the securities or other evidences of debt of such corporation as provided for in chapter 420.

(5) INVESTMENTS IN RELATED COMPANIES.—A bank or trust company may invest in the stock of incorporated companies to the extent hereinafter defined:

(a) Stock of the Federal Reserve Bank of this district may be purchased and retained as required to maintain membership in the Federal Reserve System.

(b) Stock of Federal National Mortgage Association may be purchased and retained as required in connection with mortgage transactions with said associations.

(c) Up to 10 percent of the capital accounts of a bank or trust company may be invested in a bank service corporation organized and operated as provided in this chapter.

(d) Up to 10 percent of the capital accounts of a bank may be invested in a clearing corporation as defined in s. 678.102(3).

(6) INVESTMENTS IN SUBSIDIARY CORPORATIONS.—With the approval of the department a bank may invest in the stock of one or more wholly owned subsidiary corporations organized for any of the following purposes:

(a) Owning and servicing real estate mortgages;

(b) Owning and leasing real and personal property;

(c) Issuing credit cards;

(d) Operating a credit bureau;

(e) Operating a trust company; or

(f) Any other purpose the department may, by rule, determine is closely related to banking or managing or controlling banks.

(7) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE BANK OR TRUST COMPANY.—A bank or trust company may invest in real estate and equipment to the extent hereinafter defined:

(a) 1. Up to 50 per cent of the unimpaired capital and surplus of the bank or trust company may be invested in the direct ownership, or in leasehold improvements, of land and buildings utilized by the bank or trust company in the transaction of its business. In lieu thereof, with the prior written approval of the department, up to 50 percent of the unimpaired capital and surplus of the bank or trust company may be invested in the stock of a corporation which owns the land and buildings within which the business of the bank or trust company is transacted.

2. An additional investment up to 10 percent of the unimpaired capital and surplus of the bank or trust company may be made for the acquisition of land or buildings for future banking or trust use, or as a protection against undesirable encroachment of the banking or trust premises or abandonment or deterioration of property in the immediate vicinity. The bank or trust company bank may hold, improve, sell, lease, operate, or otherwise exercise the rights of an owner of any such property.

3. The real estate investment limitations provided by this subsection may not be exceeded except with the prior written approval of the department.

(b) A bank or trust company may own or lease real estate, furniture, fixtures, machinery, and equipment such as may be necessary to the transaction of its business.

(8) INVESTMENTS IN PERSONAL PROPERTY HELD FOR LEASE.—A bank or trust company may own or lease personal property acquired upon the specific request and for the use of a customer and may incur such additional obligations as may be incident to becoming an owner and lessor of such property. In addition, a bank or trust company may purchase leases as provided by rules of the department.

(9) ACQUISITIONS OF PROPERTY AS SECURITY.—A bank or trust company may acquire property of any kind to secure, protect, or satisfy a loan or investment previously made in good faith, and such property shall be entered on the books of the bank or trust company and held and disposed of subject to the following conditions and limitations:

(a) The book entry shall be the lesser of the balance of the loan or investment plus acquisition costs and accrued interest or the appraisal value or market value of the property acquired which shall be determined as near as possible to the date of acquisition.

(b) The bank or trust company shall have evidence of ownership of all property acquired and shall maintain subsidiary ledgers adequate to the separate recording of all income and expense attributable to its ownership of such property.

(c) Unless an extension of time is approved in writing by the department, real estate shall be sold or charged off within 5 years of the date of acquisition, and personal property shall be sold or charged off within 6 months of the date of acquisition.

(10) SPECIAL PROVISIONS.—

(a) None of the bonds or securities described in this section shall be eligible for investment in any amount unless current as to all payments of principal and interest and unless rated at least Baa or BAA or higher, or any comparable rating as determined by the department, by a recognized investment rating service, or otherwise supported as to investment quality and marketability by a credit rating file compiled and maintained in current status by the purchasing bank or trust company.

(b) Investment securities shall be entered on the books of the bank or trust company at the fair market value on the date of acquisition. Premiums paid in excess of par value shall be amortized either over the life of the security or to the first call date at its call price and thereafter to subsequent call dates at their respective call prices until maturity. Discount may be accreted over the life of the security.

Section 58. Section 659.16, Florida Statutes, is renumbered as section 663.582, Florida Statutes, and is amended to read:

663.582 ~~659.16~~ *Liquidity* ~~Cash~~ reserves.—

(1) Every bank shall maintain a *liquidity* ~~cash~~ reserve equal to at least 20 percent of its total deposit liability, less those deposits of public funds for which security has been pledged as provided by law. Said *liquidity* ~~cash~~ reserve shall be maintained as cash on hand, as cash on demand deposit with other banks, *including the total amount of any reserves deposited at a Federal Reserve bank, as cash items in the process of collection, as federal funds sold on a daily basis,* or as investments in securities which are direct obligations of the United States or which are fully guaranteed as to principal and interest by the United States. Eligible securities must be owned by the bank free of pledge or encumbrance, and their ~~par~~ value will represent their *liquidity* ~~cash~~ reserve value. *For purposes of this section, the value of eligible securities shall be the par value of securities having a maturity of 1 year or less and the market value of securities having a maturity in excess of 1 year.* The ~~par~~ value of eligible securities which are owned by the bank free of pledge or encumbrance, and that portion of the ~~par~~ value of eligible securities which is in excess of the deposit to which pledged, may be utilized in meeting reserve requirements. *The total deposit liability for a given banking day for the purpose of computing the required liquidity reserve for that day shall be the total deposit liability at the close of the preceding banking day.*

(2) Whenever the lawful reserve of any such bank as defined in subsection (1) shall be below the amount of 20 percent of its deposits, such bank shall not *further diminish its liquidity* ~~increase its liabilities~~ by making any new loans or discounts otherwise than by discounting or purchasing of bills of exchange payable at sight, nor *by paying* ~~making~~ any dividends of its profits until the required proportion between its deposits and its *liquidity reserve* ~~lawful money of the United States~~ has been restored. The department may notify any bank whose *liquidity reserve* ~~lawful money reserves~~ shall be below the amount above required to be maintained to make good such reserve, and if such bank shall fail in 30 days thereafter so to make good its *liquidity* reserve ~~of lawful money~~, the department may appoint a liquidator to wind up the business ~~of the bank~~ as provided in *part IX of this code* ~~s. 661.19~~.

(3) This section shall not apply to any state bank which holds membership in the federal reserve system.

Section 59. Section 659.22, Florida Statutes, is renumbered as section 663.585, Florida Statutes, and is amended to read:

663.585 ~~659.22~~ Sale of assets in ordinary course.—A *state* bank or trust company may sell any asset in the ordinary

course of business or with the approval of the department in any other circumstances.

Section 60. Sections 659.27 and 659.271, Florida Statutes, are renumbered as section 663.591, Florida Statutes, and are amended to read:

(Substantial rewording of sections. See ss. 659.27 and 659.271, F.S., for present text.)

663.591 Legal holidays; banking days; business and transactions.—

(1) In this section unless the context otherwise requires:

(a) "Banking day" means that part of any day on which a bank or trust company is open to the public for carrying on substantially all of its banking or trust functions. A bank or trust company shall be deemed to be "closed" on any day, or any part of a day, when it is not open to the public for carrying on substantially all of its banking or trust functions.

(b) "Legal holiday" means a "statutory holiday" and a "permissive holiday". A statutory holiday is any day which, by the laws of this state or the United States, is designated or recognized as a legal or public holiday. A permissive holiday is any one day, other than a statutory holiday, in each week on which a bank or trust company is customarily closed.

(c) "Transaction" when used as a noun means any one or more of the functions and elements of the business of a bank or a trust company and in the case of a bank, includes, but is not limited to, the receipt or giving of any notice, the receipt or acceptance of deposits and the transmission, acceptance, payment, dishonor and giving notice of dishonor, of items, and its obligations and duties with respect to all thereof; and said term and also the word "transact", when used as a verb mean any action or nonaction the result of which is the completion of a transaction.

(2) Any bank or trust company may, but unless otherwise required by law shall not be required to, be closed or be open only for limited transactions and functions or purposes on any legal holiday. When a bank or trust company is closed as provided or permitted by law, it shall not be under any obligation or duty to conduct any of its business or effectuate any transaction. A bank or trust company is open only for limited transactions and functions or purposes when one or more, but less than all, of its branches, separate or other offices, departments, sections or other functional elements of its business, which customarily are open to the public for carrying on the banking or trust business and transactions, are not open to the public for such purposes. When, as provided or permitted by law, a bank or trust company is open only for limited transactions and functions or purposes, it shall not be under any obligation or duty to conduct or transact, at or from such of its branches, separate or other offices, departments, sections or other functional elements of its business which are not open to the public for such purposes, any of the business or transactions customarily conducted or transacted therefrom or thereat.

(3) When any statutory holiday other than Sunday shall occur on a Sunday or on a permissive holiday when a bank or trust company customarily is closed, such bank or trust company may, but unless otherwise required by law shall not be required to, elect to be closed or to be open only for limited transactions and functions or purposes on the next preceding or the next following day which, except for the provisions of this section, would not be a legal holiday and such day so elected shall, with respect to such bank or trust company, be a legal holiday as to all transactions and for all purposes and laws.

(4) Any legal holiday on which a bank or trust company is closed or is open only for limited transactions and functions or purposes may, if the bank or trust company elects, be deemed and treated with respect to all transactions and for all purposes and laws, including but not limited to the Uniform Commercial Code, as not a banking day and any notice, item or deposit of money received on any such day may be treated as being received at the opening of the next banking day, and any transaction or other business which would or should have occurred or been transacted on any such legal holiday may be treated as postponed by law to the next banking day.

(5) A bank or trust company may establish the regular and customary hours of each day during which each of its branches, separate or other offices, departments, sections or functional elements of its business shall be operated for the transaction of the business customarily conducted or transacted at or from each such branch, office, department, section or functional element of business, and the regular and customary hours during which each thereof shall be open to the public for the conduct of such business and transactions, and it shall not be necessary that the same hours be established for all thereof or that the hours so established or any thereof be the same on every day.

(6) A bank or trust company may, but unless otherwise required by law shall not be under or subject to any obligation or duty to, effectuate any transaction or transact any business on any legal holiday or at any time before the beginning, or after the close, of its banking day, or outside the regular and customary hours established as provided in subsection (5) of any separate or other office or branch or any department, section or functional element of business, and if the bank or trust company elects to do so, it shall have all the rights provided by law with respect to such transaction or business and, at its election, any such transactions or business shall be treated as having occurred or as having been transacted on that day or on its next following banking day except that any transaction or business occurring before the beginning of its regular banking day shall be treated as occurring at the beginning of that banking day.

(7) No liability or loss of rights of any kind on the part of any bank or trust company shall accrue or result by reason of any bank or trust company being closed or open only for limited functions or purposes, or by reason of any branch, separate or other office, department, section or functional element of business being operated or open for the transaction of business only during the regular and customary hours established by the bank or trust company, as provided in this section.

Section 61. Section 659.272, Florida Statutes, is renumbered as section 663.593, Florida Statutes, and is amended to read:

663.593 ~~659.272~~ Closing during emergencies and other special days.—

(1) DEFINITIONS.—As used in this section, unless the context otherwise requires:

(a) "Bank" includes commercial banks, ~~savings banks,~~ industrial savings banks, trust companies, any agency of a foreign banking organization authorized by law to conduct its business in the state, any person or association of persons authorized by law to carry on the business of banking in the state, and, to the extent that the provisions hereof are not inconsistent with, and do not infringe upon, paramount federal law, national banks.

(b) "Commissioner" means the officer of this state designated by law *as the head of the Department of Banking and Finance* ~~to exercise supervision over banks chartered by this state,~~ and any other person lawfully exercising such powers, whether as a deputy to such officer, ~~or as the head of the department of the state designated by law to exercise supervision over banks chartered by this state or his deputy,~~ or as a division director or bureau chief or section administrator of or within such department, or otherwise. *In the absence of any person lawfully exercising the powers of the head of the Department of Banking and Finance, then the director of the Division of Banking or any other person lawfully exercising the powers of the director of the Division of Banking, whether as another division director or as a bureau chief or section administrator, or otherwise.*

(c) "Emergency" means any condition or occurrence, actual or threatened, which may interfere physically with the conduct of normal business operations of a bank or of one or more or all of the departments, sections, functions, offices or facilities of a bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the foregoing, an emergency may exist, arise, or be imminent as the result of any one or more, actual or threatened, of the following: fire; flood; earthquake; tornadoes; hurricanes; wind, rain or other storms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, food, transportation, or labor; robbery or burglary or attempted

robbery or burglary; actual or threatened enemy attacks; epidemics or other catastrophes; explosions; and riots, civil commotions, and other acts of lawlessness or violence, actual or threatened.

(d) "Office" means any place at which a bank transacts its business or conducts operations relating to its business. However, this section shall not be deemed or construed to authorize a bank to conduct its banking business at any place or places not otherwise authorized or permitted by law.

(e) "Officers" means the person or persons designated by the board of directors, board of trustees, or other governing body of a bank to act for the bank in carrying out the provisions of this section or, in the absence of any such designation or in the absence of the officers so designated, the president or any other officer currently in charge of the bank or of the office or offices in question.

(f) The authorizations herein provided for a bank "to close" in case of an emergency shall mean and include the authority not to open on any business or banking day and, if having opened, to close and suspend business.

(2) POWERS OF COMMISSIONER.—Whenever the commissioner is of the opinion that an emergency exists, or is impending, in this state or in any part of this state, he may, by proclamation, authorize banks located in the affected area or areas to close or to close any or all the departments, sections, functions, offices, or facilities thereof. In addition, if the commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular bank or banks, or one or more particular departments, sections, functions, offices, or facilities thereof, but not banks located in the area generally, he may authorize the particular bank or banks to close or to close one or more of the departments, sections, functions, offices or facilities thereof. The bank or banks affected by any such proclamation or authorization may close in accordance therewith. Such banks and such of the departments, sections, functions, offices or facilities thereof so closed may remain closed until the commissioner proclaims that the emergency has ended, or until such earlier time as the officers of the bank determine that the bank or any of its departments, sections, functions, offices, or facilities, theretofore closed because of the emergency, should reopen, and, in either event, for such further time thereafter as may reasonably be required to reopen.

(3) POWERS OF OFFICERS.—

(a) Whenever the officers of a bank are of the opinion that an emergency exists, or is impending, which affects, or may affect, the bank or one or more or all of its departments, sections, functions, offices, or facilities, they shall have the authority, in the reasonable exercise of their discretion, to close the bank or any one or more or all of the departments, sections, functions, offices or facilities thereof on any business or banking day or days during the continuation of such emergency, even if the commissioner has not issued and does not issue a proclamation of emergency. The office or offices so closed may remain closed until such time as the officers determine that the emergency has ended and for such further time thereafter as may reasonably be required to reopen. However, in no case shall such bank or any department, section, function, office, or facility thereof remain closed pursuant to the provisions of this paragraph for more than 48 consecutive hours, excluding other legal holidays, without requesting the approval of the commissioner.

(b) The officers of a bank may close the bank or any one or more or all of the bank's departments, sections, functions, offices, or facilities on any day or days designated, by proclamation of the President of the United States or the governor of this state, as a day or days of mourning, rejoicing, or other special observance.

(4) NOTICE TO BE GIVEN.—

(a) A bank chartered under the laws of this state closing or closing any of its departments, sections, functions, offices, or facilities, pursuant to the authority granted under subsection (3), shall give notice of its action to the commissioner as promptly as conditions reasonably will permit and by any means reasonably available.

(b) A national bank closing, or closing any of its departments, sections, functions, offices, or facilities, pursuant to the authority granted by this section shall give notice of its action to the comptroller of the currency as promptly as conditions reasonably will permit and by any means reasonably available.

(5) EFFECT OF CLOSING AND PARTIAL CLOSING.—

(a) Any day on which a bank, or any one or more of its departments, sections, functions, offices, or facilities, is closed during all or any part of its normal banking hours pursuant to the authorization granted in this section shall be, with respect to said bank or, if not all its departments, sections, functions, offices, or facilities are closed, then with respect to any of its departments, sections, functions, offices, or facilities which are closed, a legal holiday for all purposes with respect to any business of any kind or character of the bank, or of any of its departments, sections, functions, offices, or facilities, so closed, including, but without limiting the generality of the foregoing, matters relating to the time payable, the presenting for payment, or acceptance, and the protesting and giving notice of protest and notice of dishonor of bills of exchange, bank checks, promissory notes, and other items drawn on or payable at such bank, and any other banking business of any kind or character. No liability or loss of rights of any kind on the part of any bank or director, officer, or employee thereof shall accrue or result by virtue of any closing authorized by this section.

(b) On any day which by the provisions of this section is deemed or declared to be a legal holiday with respect to any bank or banks or office or offices thereof, the officers thereof may, in the exercise of their discretion, cause such bank or any office thereof to open its doors or facilities for the transaction or conduct of a limited business by the operation of one or more, but less than all, of its departments, sections, offices, functions, or facilities. On any day when, pursuant to the provisions of this section, less than all the departments, sections, functions, offices, or facilities are open, at the election of such bank the limited business transacted or conducted on such day shall be deemed for all purposes as transacted or conducted on the next following business day which is not deemed or declared as a legal holiday pursuant to the provisions of this section or of any other provision of law.

(6) PROVISIONS CUMULATIVE.—The provisions of this section shall be construed and applied as being in addition to, and not in substitution for or limitation of, any other law of this state or of the United States authorizing the closing of a bank or excusing the delay by a bank in the performance of its duties and obligations because of emergencies or conditions beyond the bank's control, or otherwise.

Section 62. Section 658.11, Florida Statutes, is renumbered as section 663.596, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 658.11, F.S., for present text.)

663.596 Records of banks and trust companies and copies thereof; retention and destruction.—

(1) In this section, "records" of a bank or trust company means and includes all books of account and other books of every kind, journals, ledgers, statements, instruments, documents, files, messages, writings of every kind, and all other internal or other data and other information of every description, made or received by a bank or trust company in the regular course of its business or otherwise, regardless of the mode in which it is recorded.

(2) Banks and trust companies shall not be required to preserve or retain any of their records or copies thereof for a longer period than may from time to time be expressly required by a valid and applicable statute or rule or regulation of this state or the United States which identifies, either specifically or by type or category, the relevant records or copies thereof, or for a period longer than 4 years with respect to any records or copies thereof not so identified by any such statute or rule or regulation which specifies a retention period therefor. A bank or trust company may destroy any of its records or copies thereof after the expiration of the retention period determined as provided in this subsection.

(3) No liability shall accrue against any bank or trust company because of the destruction of any of its records or copies thereof as permitted in subsection (2), and in any judicial or other action or proceeding in which any such records

or copies thereof may be called in question or be demanded of the bank or trust company or any officer or employee thereof, a showing that such records or copies thereof have been destroyed in accordance with the provisions of subsection (2) shall be a sufficient excuse for the failure to produce them.

(4) Any bank or trust company may at any time make, or cause to be made, a copy or copies of any or all of its records and any such copy duly certified, authenticated or identified by a responsible officer or agent of the bank or trust company under whose supervision the records or copies are kept, shall in all cases, and in all courts and places, be admitted and received as evidence with a like force and effect as the original record, whether or not the original is in existence.

(5) The original of any record of a bank or trust company includes the data or other information comprising a record, stored or transmitted in or by means of any electronic, computerized, mechanized or other information storage or retrieval or transmission system or device which can upon request generate, regenerate or transmit the precise data or other information comprising the record; and an original also includes the visible data or other information so generated, regenerated or transmitted if it is legible or can be made legible by enlargement or other process.

(6) Copies of records of a bank or trust company, heretofore or hereafter made, include: duplicates or counterparts of an original produced from the same impression or process as the original by carbon or other chemical or substance or process; negative and positive film and prints of an original or copy and reproductions and facsimiles of an original or copy, whether or not the same size, produced by photographic, microphotographic, photostatic, xerographic, electronic, computerized or mechanized process, or by any other process, and enlargements and reductions thereof; and the data or other information comprising a record stored or transmitted as provided in subsection (5), and the visible data or other information generated or regenerated or transmitted by such information storage or retrieval or transmission system or device, if it is legible or can be made legible by enlargement or other process.

PART VI

SAFE-DEPOSIT BUSINESS; BANK SERVICE CORPORATIONS

Section 63. Section 659.42, Florida Statutes, is renumbered as section 663.603, Florida Statutes, and is amended to read:

663.603 ~~659.42~~ Definitions for ss. *663.603-663.632* ~~659.43-659.51~~. As used in ss. *663.603-663.632* ~~659.43-659.51~~:

(1) "Lessee" means a person contracting with a lessor for the use of a safe-deposit box.

(2) "Lessor" means a bank or *state* trust company, renting safe-deposit facilities.

(3) "Safe-deposit box" means a safe-deposit box, vault, or other safe-deposit receptacle maintained by a lessor and the rules relating thereto apply to property or documents kept in safekeeping in the bank's vault.

Section 64. Section 659.43, Florida Statutes, is renumbered as section 663.606, Florida Statutes, and is amended to read:

663.606 ~~659.43~~ Authority to engage in ~~leasing~~ safe-deposit *business* ~~facilities~~.—A state bank or *state* trust company may maintain and lease safe-deposit boxes and may accept property or documents for safekeeping if, except in the case of night depositories, it issues a receipt therefor.

Section 65. Section 659.44, Florida Statutes, is renumbered as section 663.609, Florida Statutes, and is amended to read:

663.609 ~~659.44~~ Access by fiduciaries.—Where a safe-deposit box is made available by a lessor to one or more persons acting as fiduciaries, the lesser may, except as otherwise expressly provided in the lease or the writings pursuant to which such fiduciaries are acting, allow access thereto as follows:

(1) By any one or more of the persons acting as *personal representatives* ~~executors or administrators~~.

(2) By any one or more of the persons otherwise acting as fiduciaries when authorized in writing signed by all other persons so acting.

(3) By any agent authorized in writing signed by all of the persons acting as fiduciaries.

Section 66. Section 659.45, Florida Statutes, is renumbered as section 663.611, Florida Statutes, to read:

663.611 ~~659.45~~ Effect of lessee's death or incompetence.—Where a lessor without knowledge of the death or of an adjudication of legal incompetence of the lessee deals with his agent pursuant to a written power of attorney signed by such lessee, the transaction binds the lessee's estate and the lessee.

Section 67. Section 659.46, Florida Statutes, is renumbered as section 663.614, Florida Statutes, and is amended to read:

663.614 ~~659.46~~ Search procedure on death of lessee.—Provided satisfactory proof of the death of the lessee is presented, a lessor shall permit the person named in a court order for the purpose, or if no order has been served upon the lessor, the spouse, a parent, an adult descendant or a person named as *a personal representative* ~~an executor~~ in a copy of a purported will produced by him, to open and examine the contents of a safe-deposit box leased by a decedent, or any documents delivered by a decedent for safekeeping, in the presence of an officer of the lessor; and the lessor, if so requested by such person, must deliver:

(1) Any writing purporting to be a will of the decedent to the court having probate jurisdiction in the county wherein the bank is located.

(2) Any writing purporting to be a deed to a burial plot or to give burial instructions to the person making the request for a search; and

(3) Any document purporting to be an insurance policy on the life of the decedent to the beneficiary named therein; but no other contents shall be removed pursuant to this section.

Section 68. Section 659.47, Florida Statutes, is renumbered as section 663.617, Florida Statutes, to read:

663.617 ~~659.47~~ Lease to minor.—A *lessor* ~~bank~~ may lease a safe-deposit box to and in connection therewith deal with a minor with the same effect as if leasing to and dealing with a person of full legal capacity.

Section 69. Section 663.620, Florida Statutes, is created to read:

663.620 Security and protection procedures.—If any individual who has a right of access to a safe-deposit box is unwilling or unable for any reason or cause to comply with any of the lessor's normal requirements or procedures in connection with such access relating to security, safety or protection, the lessor shall have the right to limit or deny access to the safe-deposit box by such individual unless all lessees of such safe-deposit box shall take such action as may be necessary to insure reasonable compliance with such security, safety or protection requirements or procedures.

Section 70. Section 659.48, Florida Statutes, is renumbered as section 663.623, Florida Statutes, to read:

663.623 ~~659.48~~ Delivery of safe-deposit box contents or property held in safekeeping to personal representative.—

(1) The lessor shall immediately deliver to a resident personal representative, upon presentation of a certified copy of his letters of authority, all property deposited with it by the decedent for safekeeping, and shall grant him access to any safe-deposit box in the decedent's name and permit him to remove from such box any part or all of the contents thereof.

(2) If a foreign personal representative of a deceased lessee has been appointed by a court of any other state, a lessor may, at its discretion, after 3 months from the issuance to such foreign personal representative of his letters of authority, deliver to such foreign personal representative all properties deposited with it for safekeeping and the contents of any safe-deposit box in the name of the decedent if at such time the lessor has not received written notice of the appointment of a personal representative in this state, and such delivery shall be a valid discharge of the lessor for all property or contents so delivered. Such foreign personal representative shall furnish the lessor with an affidavit setting forth facts showing the domicile of the deceased lessee to be other than this state, and stating that there are no unpaid creditors of the deceased

lessee in this state, together with a certified copy of his letters of authority. A lessor making delivery pursuant to this subsection shall maintain in its files a receipt executed by such foreign personal representative which itemizes in detail all property so delivered.

(3) No lessor shall be liable for damages or penalty by reason of any delivery made pursuant to this section.

Section 71. Section 659.49, Florida Statutes, is renumbered as section 663.626, Florida Statutes, and is amended to read:

663.626 ~~659.49~~ Access to safe-deposit boxes leased in two or more names.—

(1) When specifically provided in the lease or rental agreement covering safe-deposit boxes heretofore or hereafter rented or leased in the names of two or more lessees, that access to said safe-deposit box shall be granted to either lessee, or to either or the survivor, access to said safe-deposit box shall be granted to:

(a) Either or any of said lessees, regardless of whether or not the other lessee or lessees or any of them be living or be competent, or

(b) The *personal representative* ~~executor or administrator~~ of the estate of either or any of said lessees who is deceased, or the guardian of the property of either or any of said lessees who is incompetent, and in either such case, the provisions of s. *663.609* ~~659.44~~, shall apply, and the signature on the safe-deposit entry or access record (or the receipt or acquittance, in the case of property or documents otherwise held for safekeeping) shall be a valid and sufficient release and discharge to the lessor for granting access to such safe-deposit box, or for the delivery of such property or documents otherwise held for safekeeping.

(2) No lessor shall be held liable for damages or penalty by reason of any access granted or delivery made pursuant to this section.

Section 72. Section 659.50, Florida Statutes, is renumbered as section 663.629, Florida Statutes, to read:

663.629 ~~659.50~~ Adverse claims to contents of safe-deposit box.—

(1) An adverse claim to the contents of a safe-deposit box, or to property held in safekeeping, is not sufficient to require the lessor to deny access to its lessee unless:

(a) The lessor is directed to do so by a court order issued in an action in which the lessee is served with process and named as a party by a name which identifies him with the name in which the safe-deposit box is leased or the property held; or

(b) The safe-deposit box is leased or the property is held in the name of a lessee with the addition of words indicating that the contents or property are held in a fiduciary capacity, and the adverse claim is supported by a written statement of facts disclosing that it is made by, or on behalf of, a beneficiary and that there is reason to know that the fiduciary will misappropriate the trust property.

(2) A claim is also an adverse claim where one of several lessees claims, contrary to the terms of the lease, an exclusive right of access, or where one or more persons claim a right of access as agents or officers of a lessee to the exclusion of others as agents or officers, or where it is claimed that a lessee is the same person as one using another name.

Section 73. Section 659.51, Florida Statutes, is renumbered as section 663.632, Florida Statutes, and is amended to read:

663.632 ~~659.51~~ Special remedies for nonpayment of rent.—

(1) If the rental due on a safe-deposit box has not been paid for *3* ~~6~~ months, the lessor may send a notice by registered mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public who is not a director, officer, employee or stockholder of the lessor. The contents shall be sealed in a package by a notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box and a list of its contents. The certificate shall be included in the package and a copy of the certificate shall be sent by registered mail to the last-known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box. *The lessor shall have a lien on the package and its contents to the extent of any rental due and owing plus the actual reasonable costs of removing the contents from the safe-deposit box.*

(2) If the contents of the safe-deposit box have not been claimed within 1 year of the mailing of the certificate, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within 30 days, the contents of the box will be sold at public auction at a specified time and place, or, in the case of securities listed on a stock exchange, will be sold upon the exchange on or after a specified date and that unsalable items will be destroyed. The time, place and manner of sale shall also be posted conspicuously on the premises of the lessor and advertised once in a newspaper of general circulation in the community. If the articles are not claimed, they may then be sold in accordance with the notice. The balance of the proceeds, after deducting accumulated charges, including the expenses of advertising and conducting the sale, shall be deposited to the credit of the lessee in any account maintained by him, or if none, shall be deemed a deposit account with the bank or trust company operating the safe-deposit facility, and shall be identified on the books of the bank as arising from the sale of contents of a safe-deposit box.

(3) Any documents or writings of a private nature, and having little or no apparent value need not be offered for sale, but shall be retained, unless claimed by the owner, for the period specified for unclaimed contents, after which they may be destroyed.

(4) The remedies provided for in this section shall apply to rental accrued or contents of safe-deposit boxes held by banks prior to the enactment of chapter 28016, Laws of Florida, 1953, chs. 658-661.

Section 74. Section 659.59, Florida Statutes, is renumbered as section 663.638, Florida Statutes, and is amended to read:

663.638 ~~659.59~~ Short title.—*Sections 663.638-663.659* ~~This law~~ may be cited as the "Florida Bank Service Corporation Act."

Section 75. Section 659.60, Florida Statutes, is renumbered as section 663.641, Florida Statutes, and is amended to read:

663.641 ~~659.60~~ Definitions.—As used in ss. *663.638-663.659* ~~659.59-659.66~~:

(1) "Bank" means any person, whether subject to the laws of this or any other jurisdiction, authorized to engage in the business of banking, or authorized to engage in the trust business, including the trust department of a bank.

(2) "Bank services" means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank.

(3) "Bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of such corporation.

~~(4) The words and terms "department," "person," and "trust business," shall have the meaning ascribed to said words and terms, respectively, in s. 658.02.~~

(4)~~(5)~~ "Invest" includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment.

(5)~~(6)~~ "State bank" means a bank, as defined in subsection (1), chartered by this state.

Section 76. Section 659.61, Florida Statutes, is renumbered as section 663.644, Florida Statutes, and is amended to read:

663.644 ~~659.61~~ Banks authorized to invest.—

(1) No limitation or prohibition otherwise imposed by any provision of the laws of this state exclusively relating to banks or any kind or class of banks shall prevent any two or more banks from investing not more than 10 percent of the *capital accounts* ~~paid in and unimpaired capital and unimpaired surplus~~ of each of them in a bank service corporation; and each of any two or more banks may invest not more than 10 percent of its *capital accounts* ~~paid in and unimpaired capital and unimpaired surplus~~ in a bank service corporation.

(2) If stock in a bank service corporation has been held by two or more banks, and one or more banks ceases to utilize the services of the bank service corporation and ceases to hold stock in it, and leaves only one bank as the sole stockholding bank, the bank service corporation may nevertheless continue to function as such and the sole remaining stockholding bank may continue to hold stock in it.

Section 77. Section 659.62, Florida Statutes, is renumbered as section 663.647, Florida Statutes, and is amended to read:

663.647 ~~659.62~~ Banks authorized to use services.—No limitation or prohibition otherwise imposed by any provision of the laws of this state, other than ss. *663.638-663.659* ~~659.59-659.66~~, exclusively relating to banks or any kind or class of banks or exclusively relating to persons performing services for banks or any kind or class of banks, shall prevent:

(1) Any bank from causing bank services to be performed for itself at or away from its banking house or on or off its premises; and a bank may cause to be performed, by contract or otherwise, any bank services for itself, either at or away from its banking house or on or off its premises;

(2) Any bank from providing space and facilities, or either, in its banking house or on its premises for a bank service corporation or for a person performing bank services for such bank.

Section 78. Section 659.63, Florida Statutes,, is renumbered as section 663.650, Florida Statutes, to read:

663.650 ~~659.63~~ Requirement to furnish services.—Whenever a state bank, referred to in this section as an applying bank, applies for a type of bank services for itself from a bank service corporation which supplies the same type of bank services to another bank, and the applying bank is competitive with any bank, referred to in this section as a stockholding bank, which holds stock in such corporation, the bank service corporation must offer to supply such services by either:

(1) Issuing stock to the applying bank and furnishing bank services to it on the same basis as to the other banks holding stock in the bank service corporation, or

(2) Furnishing bank services to the applying bank at rates no higher than necessary to fairly reflect the cost of such services, including the reasonable cost of the capital provided to the bank service corporation by its stockholders, at the option of the bank service corporation, unless comparable services at competitive overall cost are available to the applying bank from another source, or unless the furnishing of the services sought by the applying bank would be beyond the practical capacity of the bank service corporation. In any action or proceeding to enforce the duty imposed by this section, or for damages for the breach thereof, the burden shall be upon the bank service corporation to show such availability.

Section 79. Section 659.64, Florida Statutes, is renumbered as section 663.653, Florida Statutes, to read:

663.653 ~~659.64~~ Prohibited activities.—No bank service corporation may engage in any activity other than the performance of bank services for banks and the furnishing of goods and materials incidental thereto.

Section 80. Section 659.65, Florida Statutes, is renumbered as section 663.656, Florida Statutes, to read:

663.656 ~~659.65~~ Retention of supervision by department.—No state bank may cause to be performed, by contract or otherwise, any bank services for itself, whether at or away from its banking house or on or off its premises, unless assurances satisfactory to the department are furnished to the department by both the state bank and the person performing such services that the performance thereof will be subject to regulation and examination by the department to the same extent as if such services were being performed by the bank itself on its own premises.

Section 81. Section 659.66, Florida Statutes, is renumbered as section 663.659, Florida Statutes, and is amended to read:

663.659 ~~659.66~~ Legislative intent.—In enacting ss. *663.638-663.659* ~~659.59-659.66~~, the Legislature of Florida takes cognizance of the enactment by the Congress of the United States of Public Law 87-856, 87th Congress, H.R. 8874, approved October 23, 1962 (76 Stat. 1132), entitled "An Act to authorize certain banks to invest in corporations whose purpose is to provide clerical services for them, and for other purposes," and the legislature takes cognizance of the legislative history of said Act of Congress (House Report 2062, 87th Congress on H.R. 8874, July 30, 1962; Senate Report 2105, 87th Congress on H.R. 8874, September 18, 1962), and it is intended that banks in this state shall have the authority to enjoy the benefits made available by said Act of Congress; and by the enactment of ss. *663.638-663.659* ~~659.59-659.66~~ it is not intended to regulate services performed for state banks such as legal services, services of independent accountants, public relations and advertising, armored car and other transportation services, guard services, mechanical services in connection with the operation of equipment in buildings, or other services of similar nature, the bank services to which the regulatory requirements of ss. *663.638-663.659* ~~659.59-659.66~~ relate being intended to be limited to banking functions as such.

PART VII

INTERNATIONAL BANKING

Section 82. Subsection (1) of section 659.67, Florida Statutes, is renumbered as section 663.703, Florida Statutes, and is amended to read:

663.703 ~~659.67~~ ~~International banking corporations and agencies.—~~

~~(1)~~ Definitions.—As used in this *part* ~~section~~:

~~(a) "Department" means the Department of Banking and Finance.~~

(1)~~(b)~~ "International banking corporation" means a banking corporation organized and licensed under the laws of some foreign country or a political subdivision thereof, other than the United States of America or any of the states within the United States of America.

(2) ~~(c)~~ "International bank agency" means the international banking corporation with respect to all business or activities conducted in this state or through an office located in this state.

(3)~~(d)~~ "Representative office" means the location of an international banking corporation's representative residing in the State of Florida, which exists for the purpose of acting in a liaison capacity with existing and potential customers of such international banking corporation and to generate new loans and other activities for such international banking corporation which is operating outside of the state.

Section 83. Subsection (2) of section 659.67, Florida Statutes, is renumbered as section 663.707, Florida Statutes, and is amended to read:

663.707 ~~659.67(2)~~ Application of code.—

(1)~~(a)~~ International bank agencies shall be subject to all the provisions of the Florida Banking Code *and chapter 658 as though such international bank agencies were state banks*, except where it may appear, from the context or otherwise, that such provisions are clearly applicable only to banks or trust companies organized under the laws of this state or the United States. Without limiting the foregoing general provisions, it is the intent of the Legislature that the following provisions shall be applicable to such banks or agencies: *ss. 658.021, relating to administrative enforcement guidelines, 658.025, relating to investigations, subpoenas, hearings, and witnesses, 658.029, relating to hearings, etc., to be public and limited closing, 658.033, relating to cease and desist order, 658.037, relating to officer, director, committee member, and employee removal by department, 658.041, relating to administrative fines and enforcement proceedings, 663.507, relating to loans by banks not exceeding $50,000, 663.829, relating to transactions of direc-*

tors, and 663.833, relating to prohibited acts and practices ~~659.18, 659.53, 659.54, 659.561, 659.562, 659.563, and 659.564.~~ International bank agencies shall not have the powers conferred on domestic banks by the provisions of s. *663.234* ~~659.06~~, relating to branches and facilities, s. *663.569* ~~659.062~~, relating to remote financial service units, and *s. 663.545* ~~659.24~~, relating to deposits of public funds. The provisions of chapter 687, relating to interest and usury shall apply to all loans not subject to s. *663.507* ~~659.18~~. An international bank agency shall have no greater right under, or by virtue of, this section than is granted to banks organized under the laws of this state. Legal and financial terms used herein shall be deemed to refer to equivalent terms used by the country in which the international banking corporation is organized. However, all contracts or agreements which are negotiated in this state with Florida residents shall be construed under Florida law.

(2) ~~(b)~~ International bank agencies with regard to assets located within this state shall be subject specifically to the liquidation and *receivership* ~~conservation~~ provisions of *this* chapter ~~661~~.

Section 84. Subsection (3) of section 659.67, Florida Statutes, is renumbered as section 663.710, Florida Statutes, to read:

663.710 ~~659.67(3)~~ Provisions of chapter 607 applicable.—Notwithstanding the definition of the term "foreign corporation" appearing in s. 607.004(2), all of the provisions of chapter 607 not in conflict with the Florida Banking Code relating to foreign corporations shall apply to all international bank agencies and representative offices doing business in this state.

Section 85. Subsection (4) of section 659.67, Florida Statutes, is renumbered as section 663.713, Florida Statutes, and is amended to read:

663.713 ~~659.67(4)~~ Requirements for carrying on banking business.—

(1) ~~(a)~~ No international banking corporation shall transact a banking business, or maintain in this state any office for carrying on such business, or any part thereof, unless such corporation shall have:

(a) ~~1.~~ Been authorized by its charter to carry on such business and shall have complied with the laws of the country under which it is chartered.

(b) ~~2.~~ Furnished to the department ~~of Banking and Finance~~ such proof as to the nature and character of its business and as to its financial condition as the department ~~of Banking and Finance~~ may require.

(c) ~~3.~~ Filed with the department ~~of Banking and Finance~~ a certified copy of that information required to be supplied to the Department of State by those provisions of chapter 607 applicable to foreign corporations.

(d) ~~4.~~ Paid to the department *a nonrefundable application* ~~of Banking and Finance the~~ fee *of $5,000* ~~established in accordance with s. 658.08~~.

(e) ~~5.~~ Received a license duly issued to it by the department ~~of Banking and Finance~~.

(2) ~~(b)~~ The department ~~of Banking and Finance~~ shall not issue a license to an international banking corporation unless it is chartered in a country which permits any bank having its principal place of business in the State of Florida to establish similar facilities therein or exercise similar powers.

Section 86. Subsection (5) of section 659.67, Florida Statutes, is renumbered as section 663.716, Florida Statutes, and is amended to read:

663.716 ~~659.67 (5)~~ Application for license.—

(1) ~~(a)~~ Every international banking corporation, before being licensed by the department ~~of Banking and Finance~~ to act in a liaison capacity or to transact a banking business in this state, or before maintaining in this state any office to carry on such business or any part thereof, shall subscribe and acknowledge, and submit to the department ~~of Banking and Finance~~, a separate application which shall state:

(a) ~~1.~~ The name of such international banking corporation.

(b) ~~2.~~ The location by street and post office address and county where its business is to be transacted in this state, and the name of the person who shall be in charge of the business and affairs of such agency *or representative office*.

(c) ~~3.~~ The *location* ~~place~~ where its initial registered office will be located in this state.

(d) ~~4.~~ The amount of its capital actually paid in and the amount subscribed for and unpaid.

(e) ~~5.~~ The actual value of the assets of such international banking corporation, which must be at least $25,000,000 in excess of its liabilities for the establishment of an international bank agency and $10,000,000 in excess of its liabilities for the establishment of a representative office; and a complete and detailed statement of its financial condition as of a date within 60 days prior to the date of such application, except that the department in its discretion may, when necessary or expedient, accept such statement of financial condition as of a date within 120 days prior to the date of such application. The department ~~of Banking and Finance~~ in its discretion may, when necessary or expedient, require an opinion audit or the equivalent.

(2) ~~(b)~~ At the time such application is submitted to the department ~~of Banking and Finance~~, such corporation shall also submit a duly authenticated copy of its articles and an authenticated copy of its bylaws, or an equivalent thereof satisfactory to the department ~~of Banking and Finance, and pay an investigation and supervision fee as set forth in s. 658.08~~.

(3) ~~(c)~~ Application shall be made on the form prescribed by the department and shall contain such information as the department may require. The department may, in its discretion, approve or disapprove the application, but it shall not approve such application unless, in its opinion, the applicant meets each and every requirement of this *part* ~~section~~ and any other applicable provision of the Florida Banking Code. In the processing of applications, the time limitations under the Administrative Procedure Act shall not apply as to approval or disapproval of the application.

Section 87. Subsection (6) of section 659.67, Florida Statutes, is renumbered as section 663.719, Florida Statutes, and is amended to read:

663.719 ~~659.67 (6)~~ Licenses; permissible activities.—

(1) ~~(a)~~ When the department ~~of Banking and Finance~~ shall have issued a license to any international banking corporation, it may engage in the business authorized by this *part* ~~chapter~~ at the office specified in such license for a period not exceeding 1 year from the date of such license or until such license is suspended or revoked. Said corporation shall have only one ~~place~~ of doing business as specified. No such license shall be transferable or assignable. Every such license shall be, at all times, conspicuously displayed in the place of business specified therein.

(2) ~~(b)~~ Such license may be renewed annually upon application to the department ~~of Banking and Finance~~ upon forms available for that purpose, within 30 days prior to the expiration of such license. Such license may be renewed by the department ~~of Banking and Finance~~, in its discretion, upon its determination, with or without examination, that the international banking corporation is in a safe and sound condition and has complied with all requirements of law with respect to the international bank agency and that such renewal of the license will not be detrimental to the public interest and the same has been duly authorized by proper corporate action. Each renewal application shall be accompanied by an annual renewal fee *of $500* ~~in an amount equivalent to the fees set forth in s. 658.08~~.

(3) ~~(c)~~ Such license may be suspended or revoked by the department ~~of Banking and Finance~~, with or without examination, upon its determination that the international banking corporation does not meet all requirements for original licensing or any of the criteria established by *subsection (2)* ~~paragraph (b)~~ for renewal of licenses.

(4) ~~(d)~~ In the event any such license shall be suspended or revoked by the department ~~of Banking and Finance~~, or the renewal thereof refused by the department ~~of Banking and Finance~~, all rights and privileges of such international banking corporation to transact the business thus licensed shall forthwith cease, and such license shall be surrendered to the department ~~of Banking and Finance~~ within 24 hours after the department has mailed or personally delivered written notice of

such decision. Such notice may be personally delivered to any officer, director, employee, or agent of the corporation physically present in this state.

(5)~~(e)~~ An international banking corporation licensed under the terms of this *part* ~~act~~ is authorized to transact only such limited business in this state as is clearly related to, and is usual in, international or foreign business and financing international commerce. No such international banking corporation shall exercise fiduciary powers or receive deposits, but it may maintain for the account of others credit balances necessarily incidental to, or arising out of, the exercise of its lawful powers.

(6)~~(f)~~ Notwithstanding any other provision of this *chapter* ~~section~~ to the contrary, an international banking corporation licensed under this *part* ~~section~~ as an international bank agency may, if authorized by rules of the department, make any loan or investment or exercise any power which it could make or exercise if it were operating in this state as a federal agency under the federal International Banking Act of 1978. The department shall, when promulgating such rules, consider the public interest and convenience and the need to maintain a sound and competitive state banking system. Unless otherwise provided by statute, an international bank agency shall not exercise any powers that a federal agency is not authorized to exercise.

(7)~~(g)~~ It is the intent of this *part* ~~section~~ that an international bank agency shall not be a "state branch" nor a "federal branch," as those terms are defined in the federal International Banking Act of 1978, and neither a foreign bank as defined in such federal act nor an international banking corporation shall establish or operate any such branch in this state.

Section 88. Subsection (7) of section 659.67, Florida Statutes, is renumbered as section 663.722, Florida Statutes, and is amended to read:

663.722 ~~659.67~~ ~~(7)~~ Securities.—

(1)~~(a)~~ Each international banking corporation shall hold, in this state, currency, bonds, notes, debentures, drafts, bills of exchange or other evidence of indebtedness or other obligations payable in the United States or in United States funds or, with the prior approval of the department ~~of Banking and Finance~~, in funds freely convertible into United States funds, in an amount which shall be not less than 108 percent of the aggregate amount of liabilities of such international banking corporation, payable at or through its office in this state or as a result of the operations of the international bank agency, including acceptances, but excluding accrued expenses, and amounts due and other liabilities to other offices or branches of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such international banking corporation. In lieu of holding such securities, the department may, by rule, permit an international bank agency to:

(a)~~1.~~ Maintain reserves similar to those required for agencies under the federal International Banking Act of 1978; or

(b)~~2.~~ Maintain other appropriate reserves, taking into consideration the nature of the business being conducted by the international bank agency.

The securities or reserves shall be held, to the extent feasible, in a state or national bank located in this state.

(2)~~(b)~~ For the purpose of this section, the department ~~of Banking and Finance~~ shall value marketable securities at principal amount or market value, whichever is lower; shall have the right to determine the value of any nonmarketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, or of any other obligation held by or owed to the international banking corporation in this state; and, in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power to exclude any particular assets, but may give credit, subject to such rules as the department ~~of Banking and Finance~~ may from time to time promulgate, to deposits and credit balances with unaffiliated banking institutions outside this state, if such deposits or credit balances are payable in United States funds or in currencies freely convertible into United States funds. Credit given for such deposits and credit balances shall not exceed in aggregate amounts such percentage, but not less than 8 percent, as the department ~~of Banking and Finance~~ may from time to time prescribe, of the aggregate amount of liabilities of such international banking corporation, determined as hereinabove provided.

(3)~~(c)~~ If, by reason of the existence, or the potential occurrence, of unusual or extraordinary circumstances, the department ~~of Banking and Finance~~ deems it necessary or desirable for the maintenance of a sound financial condition, the protection of creditors and the public interest, and the maintenance of public confidence in the business of the international bank agency of the international banking corporation, it may reduce the credit balances with unaffiliated banking institutions outside this state, and it may require such international banking corporation to deposit, in accordance with such rules as the department ~~of Banking and Finance~~ shall from time to time promulgate, the assets required to be held in this state pursuant to this section with such bank or trust company existing under the laws of this state as such international banking corporation may designate and the department ~~of Banking and Finance~~ may approve.

Section 89. Subsection (8) of section 659.67, Florida Statutes, is renumbered as section 663.726, Florida Statutes, and is amended to read:

663.726 ~~659.67~~ ~~(8)~~ Financial certifications; restrictions.—

(1)~~(a)~~ Before opening an office in this state, and annually thereafter so long as a bank office is maintained in this state, an international banking corporation, licensed pursuant to this *part* ~~chapter~~, shall certify to the department ~~of Banking and Finance~~ the amount of its *capital accounts* ~~paid in capital, surplus and undivided profits, each~~ expressed in the currency of the country of its incorporation. The dollar equivalent of these amounts, as determined by the department ~~of Banking and Finance~~, shall be deemed to be the amount of its capital *accounts*, ~~surplus, and undivided profits~~.

(2)~~(b)~~ Purchases and discounts of bills of exchange, bonds, debentures and other obligations, and extensions of credit and acceptances by an international bank agency within this state shall be subject to the same limitations as to amount in relation to *capital accounts* ~~unimpaired capital and surplus and undivided profits~~ as are applicable to banks organized under the laws of this state. With the prior approval of the department, the capital notes and capital debentures of such international banking corporation may be treated as capital in computing such limitations.

Section 90. Subsection (9) of section 659.67, Florida Statutes, is renumbered as section 663.730, Florida Statutes, and is amended to read:

663.730 ~~659.67~~ ~~(9)~~ Reports.—

(1)~~(a)~~ Every international banking corporation doing business in this state shall, at such times and in such form as the department ~~of Banking and Finance~~ shall prescribe, make written reports in the English language to the department ~~of Banking and Finance~~ under the oath of one of its officers, managers, or agents transacting business in this state, showing the amount of its assests and liabilities and containing such other matters as the department ~~of Banking and Finance~~ shall prescribe. If any such international banking corporation shall fail to make any such report, as directed by the department ~~of Banking and Finance~~, or if any such report shall contain any false statement knowingly made, the same shall be grounds for revocation of the license of the international banking corporation.

~~(b) Section 658.07(1)(b) and (c) shall not apply to international banking corporations or international bank agencies.~~

(2)~~(c)~~ Each international banking corporation which operates an international bank agency licensed under this *part* ~~section~~ shall cause to be kept, at its place of business in this state, correct and complete books and records of account of its business operations transacted by such agency, pursuant to s. *663.596* ~~658.11~~. Such agencies shall also keep current copies of the charter and bylaws of the international banking corporation, relative to the operations of the agency, and minutes of the proceedings of its directors or committees relative to the agency business. Such records shall be kept pursuant to s. *663.596* ~~658.11~~ and shall be made available to the department, upon request, at any time during regular business hours of the

agency. Any failure to keep such records as aforesaid or any refusal to produce such records upon request by the department shall be grounds for suspension or revocation of any license issued under this *part* ~~section~~.

Section 91. Section 663.744, Florida Statutes, is created to read:

663.744 Conversion from a federal agency to a state-chartered agency and the reverse.—

(1) An international banking corporation desiring to convert its existing federal agency or representative office into a state-chartered agency or representative office shall submit to the department an application on a form the department shall provide, accompanied by the nonrefundable application fees of $5,000 and $1,000 respectively. An examination and investigation may be conducted to the extent determined necessary by the department. The cost of any such examination shall be paid by the applicant.

(2) Nothing in the laws of this state shall restrict the right of a state-chartered agency or represenative office to convert to a federal agency or representative office upon compliance with the laws of the United States. Upon completion of any such conversion, the state charter shall be surrendered to the department.

(3) An international banking corporation desiring to convert its existing state-chartered representative office to a state-chartered agency or its existing state-chartered agency to a state-chartered representative office shall submit to the department an application on a form the department shall provide. An application to convert to an agency shall be accompanied by all of the information and documents that the state requires applicants for an agency to submit and by a nonrefundable application fee in the amount of $4,000. A nonrefundable application fee in the amount of $500 shall accompany an application to convert to a representative office.

(4) An international banking corporation desiring to convert from a federal agency or representative office into a state-chartered agency or representative office, or from its existing state-chartered representative office to an agency shall be required to meet the minimum criteria of the state-chartered form into which it is converting.

Section 92. Subsection (10) of section 659.67, Florida Statutes, is renumbered as section 663.748, Florida Statutes, and is amended to read:

663.748 ~~659.67 (10)~~ Dissolution.—In the event an international banking corporation, licensed to maintain an international bank agency in this state, is dissolved, or its authority or existence is otherwise terminated or canceled in the jurisdiction of its incorporation, a certificate of the official responsible for records of banking corporations of the jurisdiction of incorporation of such international banking corporation, attesting to the occurrence of any such event, or a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such international banking corporation or the termination of its existence or the cancellation of its authority shall be delivered by the corporation or its surviving officers and directors to the department. The filing of the certificate, order, or decree shall have the same effect as the revocation of such international banking corporation's license as hereinabove provided.

Section 93. Subsection (11) of section 659.67, Florida Statutes, is renumbered as section 663.751, Florida Statutes, and is amended to read:

663.751 ~~659.67 (11)~~ Representative office limitations.—No representative office shall conduct any banking business in this state. Each representative office shall be *licensed* ~~registered~~ with the department, shall provide the department with such information as the department, by rule, deems necessary, ~~and~~ shall pay *an initial nonrefundable application fee of $1,000 and shall pay an annual renewal fee of $100* ~~the annual fee provided in s. 658.08~~.

Section 94. Subsection (12) of section 659.67, Florida Statutes, is renumbered as section 663.755, Florida Statutes, and is amended to read:

663.755 ~~659.67. (12)~~ Rules; *exemption from economic impact statement requirements.*—In addition to any other rulemaking authority it has under the Florida Banking Code, the department is authorized to promulgate reasonable rules which it deems advisable for the administration of international banking corporations under this *part* ~~section~~, in the interest of protecting depositors, creditors, borrowers, or the public interest, and in the interest of maintaining a sound banking system in this state. Because of the difficulty in obtaining economic data with regard to such banks, no economic impact statement shall be required in connection with said rules.

Section 95. Section 663.758, Florida Statutes, is created to read:

663.758 Reimbursement for travel.—If foreign travel is deemed necessary by the department to effectuate the purposes of this part, representatives of the department shall be reimbursed at the rates set forth in s. 288.03.

PART VIII

ADDITIONAL POWERS OF THE DEPARTMENT

Section 96. Section 658.08, Florida Statutes, is renumbered as section 663.813, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 658.08, F.S., for present text.)

663.813 Examination fees and assessments.—

(1) Each state bank and state trust company shall pay to the department examination fees and assessments as follows:

(a) A semiannual fee of $300, which amount shall be due and payable on or before January 30 and July 31 in each year; and

(b) A semiannual assessment, each in such amount as may be determined by the department, the formula for computation of which shall be uniform as to all state banks and shall be uniform as to all state trust companies (and the formula amount per $1,000 of total assets of state trust companies shall not be less than for state banks), but not exceeding 8 cents for each $1,000 of total assets as shown on the statement of condition of the bank or trust company as of the last business day in June and the last business day in December in each year, and each such assessment shall be due and payable on or before January 30 and July 31 in each year.

(2) Applications filed with the department shall be accompanied by payment of the following fees:

(a) Five thousand dollars for each application for authority to organize a new state bank or state trust company.

(b) One thousand dollars for each application by an existing bank or association for trust powers.

(c) Two thousand dollars for each application for authority to acquire a majority or controlling interest in an existing state bank or state trust company.

(d) One thousand dollars for each application for authority to relocate a state bank or trust company main office.

(e) The aggregate amount determined as herein provided for each application for conversion of a national bank or an industrial savings bank to a state bank, which aggregate amount shall be the sum of $300 plus such additional amount as may be determined by the department on the basis of its estimate of its costs but such additional amount shall not exceed a sum computed at the rate of 8 cents for each $1,000 of total assets of the national bank or industrial savings bank as shown on its statement of condition as of the date of the application for conversion. If the conversion occurs, fee as so computed will be credited to and will reduce the first semiannual assessment under subsection (1)(b).

(f) One thousand dollars for each application to establish a branch of a state bank or a branch of a state trust company.

(g) Two hundred fifty dollars for each application for authority to establish a trust service office of a state trust company or of a trust department of a state bank or association; and a like amount for each application by a bank or association with trust powers which is not a state bank or state association, for authority to establish a trust service office at a state bank, state association or state credit union.

(h) Two thousand five hundred dollars for each application for a merger, consolidation, or purchase of assets and assumption of liabilities; provided, however, that if three or more

banks or trust companies are involved in any such application the fee shall be $1,000 for each involved institution or $5,000, whichever is less.

(3) Each state trust company and each state bank or association exercising trust powers shall pay to the department, promptly upon its demand, a fee for the examination by the department of such state trust company or the trust department of such state bank or association, which examination fee shall be $125 per day for the examiner-in-charge plus $90 per day for each examiner participating in the examination.

(4) The amounts of all fees and assessments provided for in this section, except for subsection (5), shall be deemed to be maximum amounts and the department shall have authority to establish, and from time to time to change, fees and assessments of uniform application in amounts less than the maximum amounts stated in this section. The department is authorized to recover from any state bank and state trust company the department's actual costs for any examination of such state bank or state trust company which is in addition to the examinations required by chapter 658.

(5) There is hereby imposed a fee for the examination of international bank agencies or representative offices, which shall be the department's cost of conducting such examination, but in no event less than $100 per day for each examiner participating in the examination.

Section 97. Section 659.52, Florida Statutes, is renumbered as section 663.821, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 659.52, F.S., for present text.)

663.821 Banking business by unauthorized persons; use of name.—

(1)(a) No person other than a state bank or a national bank having its principal place of business in this state shall, in this state, engage in the business of soliciting or receiving funds for deposit or of issuing certificates of deposit or of paying checks; and no person shall establish or maintain a place of business in this state for any of the functions, transactions or purposes mentioned in this subsection. The issuance or sale by banks of travelers checks, money orders, or other instruments for the transmission or payment of money, by or through employees or agents of the bank off the bank premises shall not be deemed a violation of or inconsistent with the provisions of s. 663.234, relating to the place of transacting business by banks.

(b) No person other than a bank shall, in this state, transact business in the way or manner of a bank.

(2)(a) No person other than a bank shall, in this state:

1. Transact business under any name or title which contains the word "bank," "banker," "banking," or "trust company," or words of similar import, in any context or in any manner; or

2. Use any name, word, sign, symbol or device, in any context or in any manner; or

3. Circulate or use any letterhead, billhead, circular, paper or writing of any kind, or otherwise advertise or represent in any manner,

which indicates or reasonably implies that the business being conducted or advertised is the kind or character of business transacted or conducted by a bank or trust company or which is likely to lead any person to believe that such business is that of a bank or trust company; provided, however, that the words "bank," "banker," "banking," or "trust company," or the plural of any thereof, may be used by, and in the corporate or other name or title of, any company which is or becomes a bank holding company pursuant to the provisions of the Bank Holding Company Act of 1956, as amended (12 U.S.C., ss. 1841-1849), and any subsidiary of any such bank holding company which includes as a part of its name or title all or any part, or abbreviations, of the name or title of the bank holding company of which it is a subsidiary, and any trade organization or association, whether or not incorporated, functioning for the purpose of promoting the interests of banks or bank holding companies, the active members of which are banks or bank holding companies.

(b) No bank, other than a state bank or a national bank having its principal place of business in this state, shall establish or maintain an office or place of business in this state for the purpose of engaging in the business of lending money or soliciting for such purpose; and no bank holding company not authorized to own or control a bank in this state shall establish or maintain, directly or through a subsidiary, an office or place of business in this state for the purpose of soliciting loans for its bank subsidiaries.

(3) This section shall in nowise restrict or impair any right, authority or power granted by law to any savings and loan association or credit union organized and operating under the laws of the United States and having its principal office and place of business in this state, or any industrial savings bank, savings and loan association or credit union organized and operating under the laws of this state.

(4) It shall be unlawful for any person to violate any of the provisions of this section and any person who does so shall be liable for a fine in an amount not less than $1,000 nor more than $2,000 per day, or part thereof, during which such violation continues. Any court, in a proceeding brought by the department or by any bank the principal place of business of which is in this state or by any other person residing, or whose principal place of business is located, in this state and whose interests are substantially affected thereby, may enjoin any person from violating any of the provisions of this section. For the purposes of this subsection, the interests of a trade organization or association shall be deemed to be substantially affected if the interests of any of its members are so affected. In addition, the department may issue and serve upon any person violating any of the provisions of this section a complaint seeking a cease and desist order in accordance with the procedures, and in the manner prescribed by, s. 658.033.

(5) Nothing in this section shall be construed to prohibit the lawful establishment or the lawful operations of an Edge Act corporation; and nothing in this code shall be construed to prohibit any advertisement or other activity in this state by any person if such prohibition would contravene any applicable federal law which preempts the law of this state.

Section 98. Section 659.57, Florida Statutes, is renumbered as section 663.825, Florida Statutes, and is amended to read:

663.825 ~~659.57~~ Transaction of business by out-of-state banking corporations; exempt transactions in Banking Code.—

(1) Nothing in this code shall be construed to prohibit a ~~foreign~~ bank *having its principal place of business outside of this state* from:

(a) Contracting in this state with any person to acquire from such person a part or the entire interest in a loan which such person proposes to make, has heretofore made or hereafter makes, together with a like interest in any security instrument covering real or personal property in the state proposed to be given or hereafter or heretofore given to such person to secure or evidence such loan;

(b) Entering into mortgage servicing contracts with persons authorized to transact business in Florida, and enforcing in this state the obligations heretofore or hereafter acquired by it in the transaction of business outside of this state or in the transaction of any business authorized by this section;

(c) Acquiring, holding, leasing, mortgaging, contracting with respect to, or otherwise, protecting, managing, or conveying property in this state which has heretofore or may hereafter be assigned, transferred, mortgaged or conveyed to it as security for, or in whole or in part in satisfaction of, a loan or loans made by it or obligations acquired by it in the transaction of any business authorized by this section.

(d) Making loans or committing to make loans to any person located in this state and soliciting compensating deposit balances in connection therewith.

(2) No such ~~foreign~~ bank shall be deemed to be transacting business in this state, or be required to qualify so to do, solely by reason of the performance of any of the acts or business hereinbefore authorized in this section. Nothing in this section shall be construed as authorizing or permitting any *such* ~~foreign~~ bank to maintain an office within the state.

Section 99. Section 663.829, Florida Statutes, is created to read:

663.829 Transactions of directors.—Any bank or trust company may contract for, or purchase from, or sell to, any of its directors or from any firm of which any of its directors is a member, any property, real or personal, when such purchase or sale is made in the regular course of business upon terms not less favorable to the bank or trust company than those offered to others, or when such purchase or sale is authorized by a majority of the board of directors not interested in the sale or purchase of such property, such authority to be evidenced by the affirmative vote or written assent of such directors.

Section 100. Section 663.833, Florida Statutes, is created to read:

663.833 Prohibited acts and practices.—

(1) It shall be unlawful for any officer, director or employee of a state bank or trust company to ask for, willfully and knowingly receive or consent to receive any commission, emolument, gratuity, money, property, or thing of value for:

(a) Procuring, or endeavoring to procure, for any person a loan or extension of credit, from such bank; or

(b) Procuring, or endeavoring to procure, the purchase or discount of any note, draft, check, bill of exchange or other obligation by such bank.

Any person violating the provisions of this subsection shall be guilty of a felony in the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) It shall be unlawful for any officer, director, agent or employee of a state bank or trust company to:

(a) Knowingly receive or possess himself of any of its property otherwise than in payment of a just demand, and, with intent to deceive or defraud, to omit to make or cause to be made a full and true entry thereof in its books and accounts, or concur in omitting to make any material entry thereof; or

(b) Embezzle, abstract or misapply any money, property, or thing of value of the bank or trust company with intent to deceive or defraud such bank or trust company; or

(c) Knowingly make, draw, issue, put forth or assign any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond or other obligation, mortgage, judgment or decree without authority from the board of directors of such bank or trust company; or

(d) Make any false entry in any book, report or statement of such bank or trust company with intent to deceive or defraud such bank or trust company, other person, firm, or corporation, or with intent to deceive the deparment or any authorized representative appointed to examine the affairs of such bank or trust company; or

(e) Deliver or disclose to the department or any of its employees any examination report, report of condition, report of income and dividends, internal audit, account, statement, or document known by him to be fraudulent or false as to any material matter.

(3) It shall be unlawful for any officer of a state bank or trust company to knowingly place among the assets of said bank or trust company any note, obligation or security which the bank or trust company does not own or which to the officer's knowledge is fraudulent or otherwise worthless, or for any such officer to represent to the department that any note, obligation or security carried as an asset of such bank or trust company is the property of the bank or trust company and is genuine when it is known to such officer that such representation is false or that such note, obligation or security is fraudulent or otherwise worthless.

Section 101. Section 659.55, Florida Statutes, is renumbered as section 663.841, Florida Statutes, to read:

663.841 ~~659.55~~ Criminal penalties.—Any person responsible for an act or omission expressly declared to be unlawful or a criminal offense by this code shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or, if the act or omission was intended to defraud, of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

PART IX

INSOLVENCY; LIQUIDATION

Section 102. Section 663.903, Florida Statutes, is created to read:

663.903 Taking possession of insolvent state banks or trust companies.—

(1) Whenever the department has reason to conclude, based upon the reports furnished to it by a state bank or trust company examiner or upon other satisfactory evidence that any state bank or trust company:

(a) Is insolvent; or

(b) Is transacting its business in an unsound, unsafe or unauthorized manner such that it is threatened with imminent insolvency; the department may, in its discretion, forthwith designate and appoint a liquidator or receiver to take charge of the assets and affairs of such bank or trust company, and require of him such bond and security as the department deems proper, not exceeding double the amount that may come into his hands. The department may enlist the services of any state or local law enforcement agency in taking possession and securing the assets of the bank or trust company.

(2) A state bank or trust company is deemed to be insolvent when any of the following conditions exist:

(a) The capital stock, surplus, undivided profits and all assets are insufficient to meet liabilities; or

(b) The bank or trust company is unable to meet current obligations as they mature, even though assets may exceed liabilities; or

(c) The capital stock, surplus and undivided profits are exhausted by losses with no immediate prospect of replacement.

Section 103. Section 663.907, Florida Statutes, is created to read:

663.907 Appointment of receiver or liquidator.—

(1) Upon taking possession of a state bank or trust company pursuant to s. 663.903, the department shall appoint either a receiver to conserve the assets of the institution or a liquidator to liquidate the assets of the institution and wind up its affairs.

(2) The Federal Deposit Insurance Corporation created under the Federal Deposit Insurance Act, shall be appointed by the department as receiver or liquidator of any state bank, the deposits of which are to any extent insured by the corporation, and which shall have been closed by the department. Upon appointment, the corporation may act without bond as receiver or liquidator and shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of such institution, its depositors and other creditors. If the corporation declines to accept the tendered appointments, the department may appoint and thereafter dismiss or replace such other receiver or liquidator as deemed necessary or advisable.

Section 104. Section 663.910, Florida Statutes, is created to read:

663.910 Manner and time within which taking possession shall be confirmed.—The department, immediately upon appointing such liquidator or receiver, shall serve notice upon the chief executive officer or president, or upon any other person having the charge or management of any such bank or trust company, informing him of its action in appointing such liquidator or receiver, and notifying him that the department will apply on a date named therein not to exceed 10 days from the date of service of such notice to a circuit judge in the circuit court in which the principal office of such bank or trust company is located for an order confirming its action. A copy of such application together with a notice of hearing thereon shall be served on the person receiving the above notice prior to the time set for such hearing. The department or the bank or trust company is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar. Upon the department's showing at the hearing on such application that such bank or trust company is insolvent or threatened with imminent insolvency, the court

shall enter an order confirming the department's action and the appointment of such liquidator or receiver; otherwise, the court shall enter an order dismissing the liquidator or receiver and such liquidator or receiver shall immediately relinquish his control over the assets and affairs of such bank or trust company.

Section 105. Section 663.913, Florida Statutes, is created to read:

663.913 Receiver; powers and duties.—

(1) Where the Federal Deposit Insurance Corporation is appointed receiver of the bank, it may proceed independently with the receivership pursuant to its rules and regulations.

(2) Any other receiver appointed pursuant to s. 663.907 shall be subject to the supervision of the department and shall have the power to:

(a) Take possession of the books, records and assets of every description of the bank or trust company and sue for and collect all debts, dues and claims belonging to the bank or trust company;

(b) Operate the business of the bank or trust company pursuant to the authority granted by its articles of incorporation and the laws of this state in an effort to manage and conserve the bank or trust company's assets and place such bank or trust company in a sound, safe and solvent condition;

(c) Sue and defend, compromise and settle all claims involving the bank or trust company;

(d) Subject to circuit court approval, sell any or all real and personal property of the bank or trust company and sell or compound all bad or doubtful debts;

(e) Pay all expenses of the receivership, which expenses shall be a first charge against the assets of the bank or trust company; and

(f) Borrow such sum of money as may be necessary or expedient to protect and conserve the assets and business of the bank or trust company and in connection therewith to secure such borrowings by the pledge, hypothecation or mortgage of the bank or trust company's assets; and

(g) If necessary to pay the debts of such bank or trust company, sue for and enforce the individual liability of the stockholders.

(3) Within 30 days of his appointment, the receiver shall file a statement of condition of the bank or trust company with the department, in addition to such other interim reports as the department may require. Upon receipt of the report of condition, the department may:

(a) Upon a finding that the bank or trust company is in a safe, sound and solvent condition, surrender possession of such bank or trust company bank to its directors for the purpose of permitting the bank or trust company to resume business on such terms and conditions as the department shall prescribe; or

(b) Appoint a liquidator to immediately liquidate the assets of the bank or trust company and wind up its affairs; or

(c) Grant a further period of time to the receiver to rehabilitate the affairs of the bank or trust company; or

(d) Appoint a new receiver.

Section 106. Section 663.916, Florida Statutes, is created to read:

663.916 Liquidator; powers and duties.—

(1) Where the Federal Deposit Insurance Corporation is appointed liquidator or makes a decision to liquidate a bank it has been appointed receiver of, it may proceed independently with liquidation pursuant to its rules and regulations.

(2) Any other liquidator appointed pursuant to s. 663.907 shall, subject to the supervision of the department, have the power to:

(a) Take possession of the books, records and assets of every description of the bank or trust company and sue for and collect all debts, dues and claims belonging to the bank or trust company;

(b) Sue and defend, compromise and settle all claims involving the bank or trust company;

(c) Subject to circuit court approval, sell any or all of the real and personal property of the bank or trust company and sell or compound all bad or doubtful debts;

(d) Pay all expenses incurred in the liquidation process, which expenses shall be a first charge against the assets of the bank or trust company and shall be fully paid before any final distribution or payment of dividends to creditors, shareholders or stockholders; and

(e) Borrow such sum of money as may be necessary or expedient in aiding in the liquidation of the bank or trust company, and in connection therewith to secure such borrowings by the pledge, hypothecation or mortgage of the assets of the bank or trust company; and

(f) If necessary to pay the debts of such bank or trust company, sue for and enforce the individual liability of the stockholders.

(3) Such liquidator shall pay all moneys received to the State Treasurer to be held as a special deposit for the use and benefit of the creditors subject to the order of the department, and also shall make quarterly reports, or when called upon, to the department of all his acts and proceedings.

Section 107. Section 661.20, Florida Statutes, is renumbered as section 663.919, Florida Statutes, and is amended to read:

663.919 ~~661.20~~ Transfers, etc., void after act of insolvency.—Any and all transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any bank or trust company, or of deposits to its credit, all assignments of mortgages, securities or real estate, or of any judgments or decrees in its favor, all deposits of money, bullion or other valuable thing for its use, or for the use of any of its stockholders or creditors, and all payments of money to either, made after the commission of an act of insolvency or in contemplation thereof made with a view to the preference of one creditor to another, shall be ~~utterly null and~~ void.

Section 108. Section 661.21, Florida Statutes, is renumbered as section 663.922, Florida Statutes, and is amended to read:

663.922 ~~661.21~~ Notice to present claims.—The department shall, upon appointing a liquidator *other than the Federal Deposit Insurance Corporation*, cause notice to be given, by advertisement in a newspaper of general circulation in the county where the bank *or trust company* is located, once each week for 9 consecutive weeks, calling on all persons, firms, or corporations who may have claims against such bank or trust company, to present the same and to make legal proof thereof.

Section 109. Section 661.22, Florida Statutes, is renumbered as section 663.926, Florida Statutes, and is amended to read:

663.926 ~~661.22~~ Claims, unclaimed dividends and undistributed funds.—All claims of every kind and nature against a state bank or trust company which has been placed in the hands of a liquidator must be properly sworn to and filed with the liquidator thereof within 1 year from the date of the qualification of the liquidator thereof of the bank or trust company, and no claim not so filed within 1 year from the date of the qualification of the liquidator thereof or prior to the expiration of any additional period for which the time for filing claims may be extended by the department shall be included by the liquidator or department in the distribution of the assets. The department may, in its discretion, extend the time for filing claims for an additional period not exceeding 1 year, and may, for good cause shown, permit a claim to be filed after the time for filing same has elapsed. Any secured claim filed within the said 1 year or such time as the time for the filing of claims has been extended, may be amended at any time prior to the final distribution of the assets in the hands of the liquidator. The liquidator, with the approval of the department and the circuit court, may value any security held by a claimant and allow as a common claim any balance of the claim remaining beyond such value of the security, and it shall not be necessary for such claimant to liquidate such security prior to such valuation, nor shall such valuation in anywise affect or impair the right of such claimant to liquidate such security. Any dividend check not called for within 2 years after the same is issued shall be canceled, and the money represented thereby shall be put back into the general account

for distribution to depositors and creditors who may have claimed their dividends; provided, however, that before the cancellation of any such dividend warrant the department shall give notice of its intention so to do in a newspaper published in the county in which the insolvent bank *or trust company* is located and if no newspaper is located within said county, then the notice shall be run in a newspaper of general circulation in an adjoining county, and for good cause shown the department may issue to a claimant a dividend check representing any prior dividend checks canceled. Whenever the depositors and other creditors of any such bank or trust company have been paid dividends representing 100 percent of all claims which have been duly proved against any such bank or trust company, the undistributed funds then on hand for the account of such bank or trust company not represented by dividend warrants shall be paid to such bank or trust company at the expiration of a period of 2 years from the time of the closing out of any such receivership.

Section 110. Section 661.23, Florida Statutes, is renumbered as section 663.930, Florida Statutes, to read:

663.930 ~~661.23~~ Disposition of unclaimed dividend checks.—Whenever dividends representing 100 percent of all claims which have been duly proved against any state bank or trust company which has heretofore been placed or will hereafter be placed in the hands of a receiver or liquidator, or the liquidation of the assets of which has been handled under the supervision of the department have been declared and there is any dividend check or warrant not called for within 2 years after the final dividend, making the total of 100 percent of dividends, is declared, any such dividend check or warrant, final or otherwise, shall be canceled and the moneys represented thereby shall be paid to the state bank or trust company upon whose account such dividend check or warrant was issued. Undistributed funds on hand at the time of closing out any such receivership or liquidation not represented by dividend checks or warrants shall be paid to such state bank or trust company at the expiration of a period of 2 years from the time of such closing out of any such receivership or liquidation.

Section 111. Section 661.24, Florida Statutes, is renumbered as section 663.934, Florida Statutes, and is amended to read:

663.934 ~~661.24~~ Expenses and compensation of liquidators *or receivers;* disposition of remainder of proceeds after payment of all claims.—All expenses of any liquidator *or receiver* shall be paid out of the assets of such bank, or trust company, before distribution of the proceeds thereof. The compensation of the liquidator *or receiver other than the Federal Deposit Insurance Corporation* shall be fixed by the department, and shall be based upon the amount of work actually necessary and performed, and shall in no case exceed 5 percent of the cash collections. From time to time, after full provisions having first been made for the expenses of the liquidating agency, and the payment of liens for taxes and preferred claims, the department shall make ratable dividend of the money in the hands of the state treasurer on all such claims as may have been proved to its satisfaction or adjudicated in a court of competent jurisdiction, and as the proceeds of the assets of such bank, or trust company, are paid over to the liquidator *or receiver,* shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, after all claims have been paid, shall be paid over to the shareholders of such bank, or trust company, or their legal representatives, in proportion to the stock by them respectively held, or their interest therein as appearing.

Section 112. Section 661.25, Florida Statutes, is renumbered as section 663.938, Florida Statutes, to read:

663.938 ~~661.25~~ Purchase of property by department to protect liquidator's trust.—Whenever any liquidator, duly appointed by the department, and who shall have qualified and entered upon the discharge of his trust, shall find it in his opinion necessary to fully protect and benefit his said trust, to the extent that said trust may have in any property, real or personal, by reason of any bond, mortgage, lien, assignment, equity or other proper legal claim attaching thereto, and which said property is to be sold under execution, decree of foreclosure, or any proper order of any court of competent jurisdiction, or reclaimed or repossessed by any person having title opposed to such equity of his trust, he may certify the facts in the case, together with his opinion as to the value of the property, and the value of the equity his trust may have in same, and the amount that may be necessary to purchase such property, to the department, and if the department shall, in its judgment, deem it to the best interest of the said trust, it may draw upon the funds to the credit of said trust in the hands of the state treasurer to the amount necessary for the purchase of said property for the said trust.

Section 113. Section 661.26, Florida Statutes, is renumbered as section 663.941, Florida Statutes, and is amended to read:

663.941 ~~661.26~~ Receivers *or liquidators* under supervision of department.—The provisions of this *part* ~~chapter~~ shall apply to all receivers *or liquidators* of any bank, or trust company, heretofore appointed by the order of any circuit court, and all such receivers *or liquidators,* both those hereunder and those hereafter appointed by the circuit court, shall at all times be under the supervision and control of the department, and subject at all times to summary discharge and dismissal by it, and any vacancy in such receivership may be filled by the department at any time.

Section 114. Section 661.34, Florida Statutes, is renumbered as section 663.945, Florida Statutes, and is amended to read:

663.945 ~~661.34~~ Penalty for embezzlement of funds by *receiver or liquidator* ~~conservator~~; removal.—Any *receiver or liquidator* ~~conservator~~ appointed under the provisions of this *code* ~~law~~ for any bank or trust company who embezzles, abstracts or willfully misapplies any moneys, funds or credits coming into his hands as such conservator shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ~~Any person selected as conservator by the department shall be subject to removal at any time. Any vacancy in such conservatorship by removal or resignation may be filled by the department, as provided for the appointment of a conservator in the first instance.~~

Section 115. Section 661.36, Florida Statutes, is renumbered as section 663.949, Florida Statutes, to read:

663.949 ~~661.36~~ Preservation of records of insolvent banks.—The general ledger of any insolvent bank *or trust company* in use at the time of its failure, any subsequent general ledger used in the course of its liquidation, and the records of claims as filed with the liquidator, shall be preserved by the department.

Section 116. Section 661.37, Florida Statutes, is renumbered as section 663.953, Florida Statutes, and is amended to read:

663.953 ~~661.37~~ Destruction of records of insolvent bank *or trust company* by liquidator.—The liquidator of any insolvent state bank *or trust company* in liquidation under the laws of the state, with the consent of the department, in writing, and upon court order, may destroy or cause to be destroyed such records other than those mentioned in s. *663.949* ~~661.39~~ of any solvent state bank *or trust company* in liquidation or which may hereafter be in liquidation under the laws of the state, as in the judgment of the department and the court are not necessary to the liquidation of said insolvent state bank *or trust company.*

Section 117. Section 661.38, Florida Statutes, is renumbered as section 663.957, Florida Statutes, and is amended to read:

663.957 ~~661.38~~ Prima facie evidence.—The general ledger, list of claimants, examiner's final report made at the time of the failure of the bank *or trust company* and such other records of the department's office relating to any closed bank *or trust company,* or any duly authenticated copy thereof, shall be prima facie evidence of the subject matter therein set forth.

Section 118. Section 661.39, Florida Statutes, is renumbered as section 663.961, Florida Statutes, and is amended to read:

663.961 ~~661.39~~ Voluntary liquidation.—Any bank or trust company may go into liquidation and be closed by a vote of its stockholders owning two-thirds of its stock. Whenever a vote is taken to go into liquidation, the board of directors shall cause this fact to be certified to the department and publication thereof to be made for a period of 2 months in a newspaper of general circulation located in the county in which the bank *or trust company* is closing up its affairs and notifying its creditors to present their claims against the bank *or trust company* for payment.

Section 119. Section 661.40, Florida Statutes, is renumbered as section 663.965, Florida Statutes, and is amended to read:

663.965 ~~661.40~~ Procedure in voluntary liquidation.—When a bank or trust company decides to go into voluntary liquidation, the president and cashier, or other appropriate officers, shall, before beginning publication of the notice required by law furnish the department with a full and complete detailed statement of the affairs of the bank or trust company, and shall thereafter forward to the department on the first Monday in each month a like detailed statement until all of the liabilities of the bank or trust company shall have been settled in full, provided that if the department is not satisfied with the report of any bank or trust company intending to go into voluntary liquidation, or if at any time it is not satisfied with the progress of such liquidation, it shall have full authority to proceed under *s. 663.907* ~~s. 661.20~~, or otherwise, as the law directs.

Section 120. Section 661.42, Florida Statutes, is renumbered as section 663.969, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 661.42, F.S., for present text.)

663.969 Disposition of unclaimed funds of bank or trust company in voluntary liquidation.—In all cases of voluntary liquidation of any bank or trust company, when after 3 years from the notice of liquidation duly given or published, there are any unclaimed funds due to the depositors of said bank or trust company that cannot be distributed by reason of there being no claimants, and after all other depositors who have filed claims or presented demands for payment have been fully paid, then such funds shall be disposed of as provided in chapter 717. Said bank or trust company shall certify to the department in a list of unclaimed funds showing the amount of same and the name or names of the person or persons in which said deposits were made, or for whose benefit said funds appear, as shown by the books and records of said bank or trust company.

Section 121. Section 661.43, Florida Statutes, is renumbered as section 663.973, Florida Statutes, and is amended to read:

663.973 ~~661.43~~ County, municipality, school board, drainage district, etc., authorized to settle, compromise or adjust frozen deposits.—Any county, municipality, school board, drainage district, or other taxing district or public body corporate, or any division of same, existing under the laws of the state having deposits of money which said deposits are frozen in any banking institution in the state, or having deposits in any banking institution in said state, which banking institution is in the hands of a liquidator, ~~conservator~~ or receiver, may compromise, settle and adjust such deposits by accepting as satisfaction thereof any real or personal property or monetary consideration, provided that such settlement, compromise or adjustment shall be approved in writing by the judge of the circuit court having jurisdiction. The compromise settlement or adjustment of deposits shall be made by the governing board as constituted under the laws of Florida having custody and control of such deposits, and upon the making of such settlement, compromise or adjustment, the governing board making the same shall be authorized to surrender to the banking institution having such deposit, or to the person in charge thereof, any certificate of deposit or other evidence of such deposit. The provisions of this section shall not apply to any deposits which are liquid and subject to withdrawal or which are fully secured by collateral.

Section 122. Section 661.44, Florida Statutes, is renumbered as section 663.977, Florida Statutes, and is amended to read:

663.977 ~~661.44~~ Unclaimed dividends; disposition.—

(1) Whenever there are any dividend checks or warrants which have been issued ~~under the provisions of ss. 661.15-661.17, inclusive,~~ and which have not been called for or delivered within 2 years from the date of such dividend distribution, such dividend checks or warrants shall be canceled and the moneys represented thereby shall be put back into the general account and redistributed to those depositors and claimants who have claimed their dividends; provided, that where dividends or distribution to depositors or claimants have equaled 100 percent of their original claim, or will by this distribution equal 100 percent of their original claim, then all funds in excess of 100 percent of the original claim shall be paid to the bank or trust company; provided, further, that before the cancellation of any such dividend checks or warrants, 30 days' notice of intention so to do shall be published in the county in which the bank or trust company is or was located, and if no newspaper is located within said county, then the notice shall be published in a newspaper of general circulation in an adjoining county, and before such cancellation an order from the circuit court shall be obtained approving the disposition of the unclaimed dividends.

(2) Whenever there are any redistributed dividend checks or warrants which have been issued under subsection (1) hereof, and which have not been called for or delivered within 2 years from such redistribution, such redistributed dividend checks or warrants shall be canceled, and the moneys represented thereby shall be paid into the general revenue fund of the state, provided that before the cancellation of any such redistributed dividend checks or warrants 30 days' notice of intention so to do shall be published in the county in which the bank or trust company is or was located, and if no newspaper is located within said county, then the notice shall be published in a newspaper of general circulation in an adjoining county and before such cancellation an order from the circuit court shall be obtained approving the disposition of the unclaimed redistributed dividends.

CHAPTER 664

BANKING CODE—TRUST FUNCTIONS

PART I

DEFINITIONS AND GENERAL PROVISIONS

Section 123. Section 664.103, Florida Statutes, is created to read:

664.103 Definitions.—Subject to other definitions contained in other sections of this code, and unless the context otherwise requires, in this chapter:

(1) "Commercial department" of a bank having trust powers means the functional divisions or departments of the bank which conduct its general banking business, including, but not limited to, the divisions or departments which accept demand and time deposits and paychecks, but excluding the trust department.

(2) "Fiduciary account" means the estate, trust or other fiduciary relationship which, by any governing instrument or in any other lawful manner, has been or is established or provided for with a trust company, trust department or other person, and includes the assets, rights, liabilities and obligations thereof.

(3) "Fiduciary capacity" means the status or position, assigned or assumed, of a fiduciary.

(4) "Governing instrument" means a will, a trust agreement, trust indenture or any other communication which creates or provides for a trust in any lawful form or manner, an order or judgment or decree of a court or an appointment by a court in any form, or any other designation, appointment, agreement, statement, instruction, message, or information, the terms or effect of which creates, establishes or otherwise provides for a fiduciary account or relationship, or the terms or effect of which creates, appoints or otherwise provides for or requires a person to act in a fiduciary capacity, or the terms or effect of which contains or provides for grants or limitations of, or directions or instructions to or with respect to, the authorities, powers or discretions exercisable by a fiduciary with respect to a fiduciary account. A governing instrument may be written, transcribed, recorded, or otherwise transmitted or made, if the contents thereof, if not in writing, can be converted to writing which can be determined to be a sufficient transcription of the appointment, designation, directions, instructions, message or information of the originator thereof; provided, however, that nothing in this paragraph shall be construed as amending, modifying or otherwise affecting any law relating to wills, trust agreements or other instruments required by law to be in writing, or the execution or manner of execution or amendment of any thereof.

(5) "Investment authority" means the responsibility or power conferred by action or operation of law or by a provision of a governing instrument to make, select or change investments.

(6) Terms used but not defined in this chapter, but which are expressly in chapters 518, 658, 663, 732-735, 737, 738, 744 or 747 shall, in this chapter, unless the context otherwise requires, have the meanings ascribed to them in said chapters; and references in any of said chapters to a "trust company" or to "trust companies" shall include every trust department as defined in s. 663.104(27).

Section 124. Section 660.08, Florida Statutes, is renumbered as section 664.107, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 660.08, F.S., for present text.)

664.107 Deposit of securities with State Treasurer.—

(1) Before transacting any trust business in this state every trust company and every bank or state or federal association having trust powers shall give satisfactory security by the deposit or pledge of security of the kind or type provided in this section having at all times a market value in an amount equal to 25 percent of the issued and outstanding capital stock of such bank, state and federal stock association or trust company, or in the case of a state and federal mutual association an equivalent amount determined by the department, or the sum of $25,000, whichever is greater; provided, however, that the value of the security deposited or pledged pursuant to the provisions of this section by a state trust company, a state bank or state association having trust powers or a national bank or federal association having its principal office in this state and having trust powers, shall not be required to exceed $500,000. Any notes, mortgages, bonds, or other securities other than shares of stock, eligible for investment by a state bank, state association or a state trust company, or eligible for investment by fiduciaries, shall be accepted as satisfactory security for the purposes of this section.

(2) The State Treasurer shall determine whether the security deposited or pledged pursuant to this section, or tendered for such deposit or pledge, is of the kind or type permitted, and has a market value in the amount required, by subsection (1), and the security required by this section shall be deposited with or to the credit of, or pledged to, the State Treasurer for the account of each bank, state and federal association or trust company depositing or pledging the same and shall be used, if at all, by the liquidator of such bank, association or trust company with first priority being given to claims on account of the trust business or fiduciary functions of such bank, association or trust company or, prior to liquidation, for the payment of any judgment or decree which may be rendered against such bank, association or trust company in connection with its trust business or its fiduciary functions if such judgment or decree is not otherwise paid by, or out of other assets of, such bank, association or trust company.

(3) Any security of any kind which has been deposited or pledged as provided in this section may at any time, by or upon the direction of such bank, association or trust company which deposited or pledged such security, be withdrawn and released from such pledge provided that simultaneously therewith satisfactory security as provided in this section in such amount, if any, as may be necessary in order to comply with the requirements of this section, is substituted for the security so withdrawn and released. The provisions of subsections (3), (4), (5), (6) and (7) of s. 18.11 relating to collateral security for deposits of money of the state shall be applicable with respect to the depositing or pledging of securities for the purposes of this section except that the safekeeping receipt provided for therein shall be adapted to the purposes of this section and further except that the approvals and authorizations provided for in said subsections shall be made by the State Treasurer.

Section 125. Section 660.07, Florida Statutes, is renumbered as section 664.111, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 660.07, F.S., for present text.)

664.111 Exemption from bond and other security as fiduciary.—A trust company or trust department maintaining security with the State Treasurer as required by s. 664.107, shall not be required by the state or any of its political subdivisions or by a court of this state to furnish any bond or other security as a condition of, or in connection with, acting in any fiduciary capacity which such trust company or trust department is lawfully permitted to accept or assume.

Section 126. Section 664.115, Florida Statutes, is created to read:

664.115 Use of personnel and facilities.—To the extent not prohibited by law, the trust department of a bank or association, for or in connection with any of its fiduciary functions or trust business or related activities, may utilize personnel, facilities, and services of the commercial department of that bank or the nontrust departments of that association and of any business organization which is a bank holding company under the provisions of the Bank Holding Act of 1956, as amended (12 U.S.C. 1841, et seq.), or a savings and loan holding company of which that bank is a subsidiary as defined in said act or that association is a subsidiary, or of any other such subsidiary of that bank or savings and loan holding company; and to the same extent the commercial department of a bank or the nontrust departments of an association or any such bank or savings and loan holding company of which that bank or association is a subsidiary, or any other subsidiary of such bank or savings and loan holding company, for or in connection with any of the business activities or functions of such commercial department or nontrust departments, bank or savings and loan holding company or other subsidiary, may utilize personnel, facilities, and services of the trust department of such bank or association.

Section 127. Section 660.03, Florida Statutes, is renumbered as section 664.119, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 660.03, F.S., for present text.)

664.119 Segregation of books, records and assets; fiduciary assets not liable.—

(1) Each trust company and trust department shall maintain its fiduciary books and records separate and distinct from other records of the trust company or of the bank or association of which the trust department is a part, and shall segregate all assets held in any fiduciary capacity from the general or other assets of the trust company or of the bank or association of which the trust department is a part.

(2) No assets received or held in a fiduciary capacity by any trust company or trust department shall be liable for the debts or the obligations of the trust company or of the bank or association of which the trust department is a part.

PART II

TRUST COMPANY BRANCHES; TRUST SERVICE OFFICES; TRUST DEPARTMENTS; LICENSING

Section 128. Section 664.203, Florida Statutes, is created to read:

664.203 General trust business by trust companies and departments.—The granting or issuance of a charter to a trust company and the granting of trust powers to a bank or association, with powers expressly restricted or otherwise limited to the conduct of less than a general trust business, are not authorized under this code.

Section 129. Subsection (1) of section 659.061, Florida Statutes, is amended and is renumbered as section 664.211, Florida Statutes, to read:

664.211 ~~659.061~~ Place of transacting trust business; *trust company branches* ~~trust service offices~~.—

(1) Any trust company ~~heretofore or hereafter incorporated pursuant to this chapter~~ shall have one principal place of doing business as designed in its articles of incorporation.

(2)(a) In addition, with the approval of the department and upon such conditions as the department shall prescribe, including a satisfactory showing by the trust company that public convenience and necessity will be served thereby, any trust company may establish branches within the limits of the county in which the parent trust company is located. ~~The location of a parent trust company or of a branch trust company may be moved if the department determines the public convenience and necessity will be served by such move, but the location of a parent trust company or of a branch trust company may not be moved beyond the limits of the county in which it is located. The term "parent trust company" shall be construed to mean the trust company office at which the principal functions of the trust company are conducted.~~

(b) An application for a branch trust company shall be in writing in such form as the department prescribes and supported by such information, data, and records as the department may require to make findings necessary for approval. *Upon the filing of an application for the establishment of any branch trust company permitted by paragraph (a), the department*

shall make an investigation with respect to compliance with the requirements of paragraph (a) for the establishment of any such branch trust company, and in so doing, the department shall investigate and consider all factors relevant to such requirements, including the following:

1. The sufficiency of the capital accounts of the trust company in relation to the number and valuation of its fiduciary accounts, including any increase reasonably to be anticipated by reason of the establishment of the proposed branch, and the additional fixed assets if any are proposed for the branch trust company and its operations, without undue risk to the trust company or its fiduciary accounts;

2. The sufficiency of earnings and earning prospects of the trust company, including the proposed branch, to support the anticipated expenses and any anticipated operating losses of the branch during its formative or initial years;

3. The sufficiency and quality of management available to operate the branch;

4. The name of the proposed branch reasonably identifies the branch as a branch of the parent trust company and is not likely to unduly confuse the public; and

5. Substantial compliance by the applicant with applicable law governing its operations.

(c) When the department has approved an application, it shall issue a certificate authorizing the operation of the branch trust company and specifying the date on which it may be opened and the place where it will be located.

(3) The location of a parent trust company or of a branch trust company may be moved if the department determines the public convenience and necessity will be served by such move, but the location of a parent trust company or of a branch trust company may not be moved beyond the limits of the county in which it is located. The term "parent trust company" shall be construed to mean the trust company office at which the principal functions of the trust company are conducted.

(4) In addition to transacting business at its principal place of doing business or at a branch trust company, a *state* trust company may transact its business *at one or more trust service offices as provided in s. 664.215* ~~as hereinafter set forth in this section~~.

Section 130. Subsections (2) through (8) of section 659.061, Florida Statutes, are amended and renumbered as subsections (1) through (7) of section 664.215, Florida Statutes, and a new subsection (8) is added to said section to read:

664.215. ~~659.061~~ *Trust service offices* ~~Place of transacting trust business; trust service offices.—~~

(1)~~(2)~~In addition to its principal office and any branch trust company authorized under *s. 664.211* ~~subsection (1)~~, a trust company *or a trust department* ~~as defined in subsection 658.02(13), organized under the laws of Florida or organized under the laws of the United States~~ with its principal place of doing business in Florida may maintain one or more trust service offices at the location of any bank, *association, or credit union* which is organized under the laws of Florida or under the laws of the United States with its principal place of doing business in Florida. However, a trust service office may be established *at such bank* only after the trust company *or the trust department* has secured the consent of a majority of the stockholders *or members* entitled to vote *on such proposal* at a at a meeting of stockholders *or members*, and a majority of the board of directors, of the bank, *association, or credit union* at which a trust service office is proposed to be maintained, and a certificate of authorization has been issued to the trust companied by the required *nonrefundable* fee.

(2)~~(3)~~(a) An application for approval to establish a trust service office shall be in such form and contain such information as the department may reasonably require and be accompanied by the required *nonrefundablee* fee.

(b) The department shall issue a certificate approving the establishment of a trust service office by a trust company *or a trust department* if the department determines that:

1. The trust company *or trust department* has complied with the *applicable* capital requirements; ~~of s. 659.04~~;

2. Provision has been made for suitable quarters and staffing for the trust service *office*; and

3. If the trust service office is to be established at a bank *or association* without existing trust powers, *or at a credit union*, the establishment of the proposed trust service office will not unduly injure any existing trust companies *or trust departments* in the community where the trust service office is to be located.

(3)~~(4)~~ Upon the failure of the trust service office to open for business within 60 days after receipt of the certificate of authorization from the department, the certificate shall be deemed void.

(4)~~(5)~~ The trust company *or trust department* shall have the power to conduct any trust business at a trust service office which it is permitted to conduct at its principal office unless limited by the provisions of any agreement between the bank, *association or credit union* and the trust company *or trust department.*

(5)~~(6)~~(a) Unless an election has been made pursuant to paragraph (b), when a trust service office is established by a trust company *or a trust department* at the location of a bank *or association* which has trust powers, the bank *or association* may retain and continue to exercise its trust powers following the establishment of the trust service office.

(b) If the bank *or association* and *the* trust company *or trust department* so elect in the application for approval to establish a trust service office at the location of a bank *or association* that has trust powers, and if the department is satisfied that the interests of beneficiaries of the estates, trusts, and other fiduciary relationships being serviced ~~by the bank~~ will be adequately protected, the department shall issue an order authorizing the following:

1. The trust company *or trust department, upon complying with all applicable requirements of law,* shall be substituted for, succeed to, and replace the bank *or association* as fiduciary. The trust company *or trust department,* as the successor fiduciary, shall *thereupon* succeed to all the powers, rights, duties, and privileges of the bank *or association* as fiduciary of all *such* estates, trusts, guardianships, and other fiduciary relationships in which the bank *or association* is serving *to which the trust company or trust department shall have been lawfully substituted.*

2. During the time the trust company *or trust department* maintains a trust service office at the location of the bank *or association,* the trust company *or trust department* shall be deemed to be named the fiduciary in all instruments in which the bank *or association* is named the fiduciary, even if the bank *or association* is not serving as fiduciary at the time the trust service office is established, *in the manner and to the extent and with the same effect as though there had been a merger of the bank and the trust company or trust department.*

3. *Upon complying with all requirements of law with respect thereto,* the bank *or association* shall be relieved from all of its fiduciary duties, *in connection with all fiduciary accounts and relationships with respect to which the trust company or trust department has been substituted as fiduciary or with respect to which it has resigned and been relieved as provided by law* and *upon being so relieved of all its fiduciary duties* the bank *or association although retaining its trust powers in an inactive status unless it surrenders them as provided by law* shall not *thereafter* exercise its trust powers so long as there is a trust service office transacting business at the bank *or association.* The substitution of the trust company *or trust department* for the bank *or association* as fiduciary shall occur and be effective on the day the trust company *or trust department* opens the trust service office for business, *or on such later date as may be specified by court order, or by any written consent or agreement, which lawfully effectuates the designation, by substitution or otherwise, of the trust company or trust department as the fiduciary with respect to any particular fiduciary account.*

(c) When a trust service office is established at a bank *or association* that has retained its trust powers *in an active status,* the trust company *or trust department* may at any time be substituted as fiduciary as provided in paragraph (b) by filing an election with the department. The election to substitute the trust company *or trust department* for the bank *or association* as fiduciary must contain the consent of a majority

of the stockholders *or members* entitled to vote *on such proposal* at a meeting of stockholders *or members*, and a majority of the board of directors, of the bank *or association* at which the trust service office has been established.

(d) This subsection shall not affect any substitution of fiduciaries made under *former s. 659.061(6)(d)* ~~this subsection~~ prior to May 31, 1976.

~~(c) This subsection shall not be construed as permitting a trust company to transfer the administration of any estate or any trust to a county outside the county wherein the bank is located.~~

(6)~~(7)~~ Nothing in *the financial institutions codes* ~~the banking laws of this state~~ shall be construed to prohibit a person from serving in a dual capacity as an officer or director of a bank, *association, or credit union* at which a trust service office is located and an officer or director of the trust company *or trust department* which has a trust service office at that bank, *association or credit union.*

(7)~~(8)~~ A trust company *or trust department* may terminate a trust service office only with the prior approval of the department, which shall only grant its approval after being satisfied that the interests of all beneficiaries of the estates, trusts, and other fiduciary relationships being serviced by the trust company *or trust department* as fiduciary at that trust service office will be adequately protected. Upon termination of the trust service office, the trust company *or trust department* shall continue to exercise its fiduciary powers, rights, duties, and privileges as fiduciary of the estates, trusts, and other fiduciary relationships *which, at the time of such termination, were* being serviced at that trust service office and shall continue to be deemed the named fiduciary of all instruments naming the bank *or association* as fiduciary which became effective and operative prior to the termination of the trust service office ~~at that bank~~. However, any beneficiary of an estate or trust ~~which is~~ being serviced at the trust service office at the time of the termination of the trust service office may petition the court of competent jurisdiction in the county where, *at the time of such termination,* the trust service office *was* ~~is~~ located for removal of the trust company *or the trust department* as fiduciary and for appointment of a successor fiduciary. The court shall grant the petition upon being satisfied that such action is in the best interests of the beneficiaries of the trust or estate.

(8) A trust service office as provided for in this section is a special service facility and is not a branch or a branch office of a trust company or a trust department.

Section 131. Section 664.219, Florida Statutes, is created to read:

664.219 Trust department licensing.—

(1) When authorized by the department as provided in this section a state bank or association may establish a trust department for the purpose of conducting trust business.

(2) A written application for trust powers shall be filed with the department in such form and containing such information as the department may reasonably require. The application shall be accompanied by the required nonrefundable fee.

(3) Upon the filing of an application the department shall investigate and consider:

(a) The public convenience and advantage to be served by the establishment of the proposed trust department.

(b) The general character and management ability of the principal executive officers of the applicant bank or association.

(c) The quality of the supervision to be given to the fiduciary activities, including the qualifications, experience and character of the proposed principal officers of the trust department.

(d) The general condition of the applicant bank or association, and the sufficiency of earnings and earning prospects of the applicant bank or association, including the proposed trust department, to support the anticipated expenses and any anticipated operating losses of the trust department during its formative or initial years.

(e) Any other matters relevent to the application and the establishment and operation of the proposed trust department.

(4) Expenses necessarily incurred by the department in the conduct of investigations required by this section shall, in the case of applications which require investigations by the department outside the state, be assessed against the applicant bank or association on an actual cost incurred basis, and shall be in addition to other fees required by law. Failure to promptly reimburse the department upon its demand shall be grounds for denial of such application or revocation of any approval thereof.

(5) The department shall approve the application if it finds that:

(a) Public convenience and advantage will be served by the establishment of the proposed trust department.

(b) The general condition of the applicant bank or association is sufficient to support the proposed trust department.

(c) The earnings and earning prospects of the applicant bank or association, including the earning prospects of the proposed trust department, are sufficient to support the anticipated expenses and any anticipated operating losses of the trust department during its formative or initial years.

(d) The capital structure of the bank or association is adequate to support the trust department.

(e) The proposed trust officers have or will be supplied with sufficient trust and related investment, financial, and managerial experience, ability, and standing to operate the trust department.

(f) Provision has been made for the trust department to occupy suitable quarters at the location specified in the application.

(6) If applicable federal law requires the approval of a federal regulatory agency for the establishment of a trust department by the applicant bank or association, approval by the department, by final order or otherwise, shall be deemed subject to approval by such federal regulatory agency, and a final order of denial by such federal regulatory agency will terminate and revoke the final or other order issued by the department approving the application.

(7) Upon approval of an application by the department and such federal regulatory agency, if required, the department shall issue and deliver to the applicant a certificate or other document granting trust powers to the applicant and authorizing it to establish a trust department and engage in trust business.

PART III

TRUST COMPANIES AND TRUST DEPARTMENTS; GENERAL POWERS AND OPERATIONS

Section 132. Section 660.01, Florida Statutes, is renumbered as section 664.303, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 660.01, F.S., for present text.)

664.303 General powers.—Every trust company and every trust department shall have:

(1) The right and power to act, alone or jointly with any other person, in any and every fiduciary capacity for or in connection with any and all fiduciary accounts of or pertaining to any business organization or other person, and any government, governmental body or other governmental entity or officer or body politic, and to engage in and conduct a general trust business.

(2) All the rights, privileges and immunities, and all the duties and obligations, appertaining to any fiduciary capacity assigned to or assumed by it, and to fiduciaries generally.

(3) The right and the power to effectuate, exercise, carry out and otherwise implement, in any lawful manner, any and all its lawful duties, obligations, rights, privileges and immunities, in connection with any fiduciary capacity assigned to or assumed by it and in connection with the conduct of its trust business; provided, however, that nothing in this chapter shall be construed as authorizing a trust company or trust department to accept deposits except in its fiduciary capacity.

Section 133. Section 660.09, Florida Statutes, is renumbered as section 664.307, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 660.09, F.S., for present text.)

664.307 Oaths, affidavits and acknowledgements.—In any case in which a trust company or the trust department of a bank or association is required to make an oath, affirmation, affidavit or acknowledgement in connection with any fiduciary capacity in which it is acting or is preparing to act, the chairman of the board of directors, the president, any vice president, any trust officer or assistant trust officer, the cashier or secretary or any other officer expressly authorized by action of the board of directors of such trust company, such association or such bank, shall make, and shall subscribe if required, any such oath, affirmation, affidavit or acknowledgement for and on behalf of such trust company, such association or bank.

Section 134. Section 660.011, Florida Statutes, is renumbered as section 664.311, Florida Statutes, and is amended to read:

664.311 ~~660.011~~ *Fiduciary* ~~Trust~~ agency contracts.—Any trust company *or trust department* acting in a fiduciary capacity may employ any other trust company *or trust department* as an agent to advise or assist in the performance of its administrative duties and to render investment advice. Instead of acting personally, any trust company *or trust department* may employ any other trust company *or trust department* to perform any act of administration, whether or not discretionary, provided that the trust company *or trust department* serving as such agent shall observe the same standard of care as is required of the *principal* fiduciary trust company *or trust department* with respect to each fiduciary *account* or other relationship affected by such agency. The establishment of such agency relationship shall neither diminish nor increase the standard by which the *performance of the principal* fiduciary trust *company or trust department* ~~company's performance~~ as a fiduciary, is governed. In any suit or other proceeding involving an evaluation of fiduciary performance, such agent's performance shall be deemed that of the *principal* fiduciary trust company *or trust department.*

Section 135. Sections 660.04, 660.05, and 660.06, Florida Statutes, are renumbered as section 664.315, Florida Statutes, and are amended to read:

(Substantial rewording of sections. See ss. 660.04, 660.05, 660.06, F.S., for present text.)

664.315 Security for deposit of fiduciary funds.—

(1) If security, including insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is furnished as provided in subsection (2), funds held in a fiduciary account by a trust company or a trust department awaiting investment, distribution or payment of debts, taxes or expenses may, unless prohibited by the governing instrument or other court order, be deposited in demand or time accounts of a bank or association; and unless otherwise expressly directed by the governing instrument or in writing by a beneficiary, a fiduciary shall not be required to invest current income accruing to a fiduciary account if, within 90 days after receipt thereof, such income is to be distributed or will be used for payment of debts, taxes or expenses; and in addition, in any case of a demonstrated need of or benefit to a fiduciary account or beneficiaries thereof, or when the investment or administration circumstances of a fiduciary account or beneficiaries thereof cause it to appear prudent or otherwise appropriate, a trust company or trust department may invest funds held by it in a fiduciary account in time deposits in, or issued by, a bank or association, of such type or maturity as appears appropriate at the time of the investment, including maturities in excess of 1 year; and in the case of a trust department, any such deposits may be made in the commercial department of the fiduciary bank or the nontrust departments of the fiduciary association. Funds so deposited and secured may be used by the depositary bank or association in the conduct of its business, and it shall pay interest on any such time deposits at a rate not less than the standard interest rate it pays on time deposits of the same type, and having substantially the same characteristics, including size and maturity; and if the depositary bank or association pays interest on such deposits at a rate equal to or in excess of such standard rates, it shall not be subject to any claim for an amount of interest or for potential earnings in excess of the interest so paid but subject, however, in the case of the depositary trust company or trust department, to the provisions of s. 518.11. In this section the term "depositing trust company or trust department" shall mean the trust company or the trust department depositing funds of a fiduciary account; and "depository bank or association" shall mean the bank or association, including the fiduciary bank or association, in which such funds are deposited.

(2) A trust company or trust department shall not deposit any funds of a fiduciary account in any bank or association in an amount in excess of the insurance provided by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation unless the depositary bank or association shall first set aside under the control of the depositing trust company or trust department, as collateral security for the pro rata benefit of each fiduciary account whose funds are so deposited, readily marketable securities which are eligible under the laws of this state for investment by banks, associations or fiduciaries, having a market value not less than the amount of the funds so deposited which exceeds the insurance provided by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Substitutions and withdrawals of such securities may be made from time to time but the aggregate amount of the market value of the securities so set aside shall at all times be at least equal to the amount herein required, and it shall not be necessary that the securities so set aside be segregated as to the funds of each separate fiduciary account which are so deposited. Specifically identified securities effectively pledged for the purposes required herein, including those held under a safekeeping receipt as permitted by law, shall be deemed to be set aside under the control of the depositing trust company or trust department whether or not in its actual physical possession.

(3) Until all funds of fiduciary accounts deposited by a depositing trust company or trust department have been withdrawn from the depositary bank or association, no other creditor or stockholder of the depositary bank or association shall have any claim or right to the securities so set aside as collateral; and in the event of the failure of the depositary bank or association the depositing trust company or trust department, and the fiduciary accounts whose funds were so deposited, shall have a first and paramount lien on the securities so set apart as collateral, in addition to their claim against the estate of the depositary bank or association.

Section 136. Section 664.319, Florida Statutes, is created to read:

664.319 Loans by and to fiduciary accounts.—

(1) A trust company or trust department may make a loan to a fiduciary account from the funds belonging to another fiduciary account if the making of such loans to a designated fiduciary account is authorized by the governing instrument of the fiduciary account from which such loans are made, or is authorized by other court order.

(2) A state bank or association having a trust department may make a loan from the funds used by the bank or association in its general business, to a fiduciary account, including a fiduciary account held in its own trust department, and may take as security therefor assets of the fiduciary account, provided such transaction is fair to the fiduciary account.

Section 137. Section 664.323, Florida Statutes, is created to read:

664.323 Sales between fiduciary accounts.—A trust company or a trust department may sell assets held by it in a fiduciary account to itself as fiduciary of another fiduciary account if the transaction is fair to both fiduciary accounts and if such transaction is not prohibited by the terms of the governing instrument of either fiduciary account.

PART IV

RESTRICTED AND PROHIBITED TRANSACTIONS AND ACTIVITIES

Section 138. Section 664.403, Florida Statutes, is created to read:

664.403 Self dealing.—

(1) Except as provided in s. 664.315, funds held by a trust company or a trust department shall not be invested in the obligations or securities of the trust company or of the bank or association of which the trust department is a part, unless authorized by the governing instrument or other court order; provided, however, that if the retention of obligations or securities of the trust company or the bank or association of

which the trust department is a part is authorized by the governing instrument or by other court order, the trust company or trust department in its fiduciary capacity may exercise rights to purchase securities of the trust company or of the bank or association of which the trust department is a part, when offered pro rata to stockholders; and when the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired.

(2) Assets of a fiduciary account held by a trust company or a trust department shall not be sold or transferred, by loan or otherwise, to the trust company or the bank or association of which the trust department is a part, or to its directors, officers or employees except:

(a) When lawfully authorized by the governing instrument or by other court order;

(b) As provided in Part V of this chapter;

(c) With the approval of, or when required by, the department in order to prevent loss to a fiduciary account in any case where the trust company or the trust department has incurred a liability in the handling of the assets of the fiduciary account.

Section 139. Section 660.10, Florida Statutes, is renumbered as section 664.411, Florida Statutes, and is amended to read:

664.411 ~~660.10~~ *Corporations; certain fiduciary functions prohibited* ~~Trust powers and duties.~~—All corporations except banks *or associations* and trust companies incorporated under the laws of this state and having trust powers and except national banking associations *or federal associations* located in this state and having trust powers, are prohibited from exercising any of the powers or duties and from acting in any of the capacities, within this state, as follows:

(1) As *personal representative* ~~executor or administrator~~ of the estate of any decedent, whether such decedent was a resident of this state or not, and whether the administration of the estate of such decedent be original or ancillary; provided, that if the *personal representative* ~~executor or administrator~~ of the estate of a nonresident decedent be a corporation duly authorized, qualified and acting as such *personal representative* ~~executor or administrator~~ in the jurisdiction of the domicile of the decedent, it may, as a foreign *personal representative* ~~executor or administrator~~ perform such duties and exercise such powers and privileges as are required, authorized or permitted by s. *734.101* ~~734.30~~.

(2) As guardian of any infant, insane person or person physically or mentally incompetent whether domiciled in this state or not.

(3) As trustee under any will or other testamentary instrument, provided any corporation that is authorized to act as trustee under the laws of the place where it has its principal place of business may receive bequests as trustee of money or intangible personal property and devises of real property located in Florida and may sell, transfer and convey the property.

(4) As trustee of any real estate in this state or any interest therein under any agreement whereby the beneficial interest in such property is vested in others.

(5) As trustee under any deed of trust or other instrument executed after June 10, 1937, conveying or encumbering any real or tangible personal property in this state given to secure bonds or other evidence of indebtedness unless in such deed of trust or other instrument a trust company or bank having trust powers and located in this state or an individual residing in this state shall be named as cotrustee; and no suit shall be brought to foreclose any such deed of trust or other instrument unless such cotrustee or successor cotrustees of like qualifications be a party plaintiff.

(6) As receiver or trustee under appointment of any court in this state.

(7) As assignee, receiver or trustee of any insolvent person or corporation or under any assignment for the benefit of creditors.

(8) As fiscal agent, transfer agent or registrar of any municipal or private corporation, provided that this prohibition shall not be so construed as to prevent banks, *associations* and trust companies not located in this state from acting within the state where located as fiscal agent, transfer agent or registrar of municipal or private corporations of this state; provided further, however, that nothing herein shall prevent any Florida corporation not a bank, *association* or trust company and not having trust powers from being its own fiscal agent, transfer agent or registrar concerning its own affairs, stock or securities. Provided, however, that nothing in this section or in any other law of this state shall be construed to prohibit a foreign bank, *foreign association* or foreign trust company as trustee of any charitable foundation or endowment, employees' pension, retirement or profit-sharing trust, alone or together with a cotrustee from: Contracting in this state or elsewhere with any person to acquire from such person a part or the entire interest in a loan which such person proposes to make, has heretofore made or hereafter makes, together with a like interest in any security instrument covering real or personal property in the state proposed to be given or hereafter or heretofore given to such person to secure or evidence such loan; servicing directly or entering into servicing contracts with persons, and enforcing in this state the obligations heretofore or hereafter acquired by it in the transaction of business outside of this state or in the transaction of any business authorized or permitted hereby; or acquiring, holding, leasing, mortgaging, contracting with respect to, or otherwise, protecting, managing, or conveying property in this state which has heretofore or may hereafter be assigned, transferred, mortgaged or conveyed to it as security for, or in whole or in part in satisfacton of, a loan or loans made by it or obligations acquired by it in the transaction of any business authorized or permitted hereby; provided, further, that no such foreign bank, *foreign association* or trust company shall be deemed to be transacting business in this state, or be required to qualify so to do, or to be unlawfully exercising powers or duties or acting in an unlawful or prohibited capacity or to be violating any of the provisions of this section or of any other law of this state, solely by reason of the performance of any of the acts or business hereinbefore permitted or authorized hereby; and provided, further, that nothing herein shall be construed as authorizing or permitting any foreign bank, *association*, or trust company to maintain an office within this state.

PART V

COMMON TRUST FUNDS

Section 140. Section 660.11, Florida Statutes, is renumbered as section 664.503, Florida Statutes, and is amended to read:

664.503 ~~660.11~~ Establishment of common trust funds.—

(1) Any ~~bank or~~ trust company *or trust department* ~~qualified to act as fiduciary in this state~~ may establish one or more common trust funds for the exclusive purpose of furnishing investments to itself as fiduciary, including estates, guardianships, managing agencies, and all other fiduciary relationships, now in existence or hereafter created, requiring or authorizing investment of funds held as fiduciary including managing agencies, or to itself and others, as cofiduciaries. It may, as such fiduciary or cofiduciary, invest funds which it lawfully holds for investment in interests in such common trust funds if such investment is not prohibited by the instrument, judgment, decree, or order creating such fiduciary relationship and if, in the case of cofiduciaries, the ~~bank or~~ trust company *or trust department* procures the consent of its cofiduciary or cofiduciaries to such investment, which consent such cofiduciary is hereby authorized to grant. The full management of the fund shall at all times be in full charge of such ~~bank and~~ trust company *or trust department*, and no cofiduciary shall have any right to interfere in the management of such common trust funds.

(2) For the purposes of this section, the term "~~bank or~~ trust company *or trust department*" shall include two or more ~~banks or~~ trust companies *or trust departments* which are members of the same affiliated group as defined in s. 1504 of the Internal Revenue Code of 1954, *as amended*, with respect to any fund established pursuant to this section of which any of such ~~banks or~~ trust companies *or trust departments* is trustee, or two or more of such ~~banks or~~ trust companies *or trust departments* are cotrusteees. The fiduciary relationship that exists between an individual ~~bank or~~ trust company *or trust department* and its customers shall not be altered due to the fact of the enactment of this subsection.

Section 141. Section 660.12, Florida Statutes, is renumbered as section 664.507, Florida Statutes, and is amended to read:

664.507 ~~660.12~~ Common trust fund investments.—No bank, *association* or trust company shall mingle its own funds with any common trust fund managed by such ~~bank or~~ trust company *or trust department*, and every investment of a common trust fund shall, at all times, be such as would be a proper investment for each fiduciary account owning an interest in such common trust fund.

Section 142. Section 660.13, Florida Statutes, is renumbered as section 664.511, Florida Statutes, and is amended to read:

664.511 ~~660.13~~ Common trust fund to be audited annually.—A *trust company or trust department* ~~bank~~ administering a common trust fund shall keep proper records, which in addition to all other necessary and proper matters shall show at all times the proportionate interest of each *fiduciary account* ~~trust~~ in the common trust fund, and at least once during each period of 12 months, *shall* cause an audit to be made of the common trust fund by auditors responsible only to the board of directors of the *trust company or trust department* ~~bank~~. The report of such audit shall include a list of the investments comprising the common trust fund at the time of the audit, which shall show the valuation placed on each item on such list by the *board of directors or the* trust investment committee of the *trust company or trust department* ~~bank~~ as of the date of the audit, a statement of purchases, sales and any other investment changes, and of income and disbursements since the last audit, and appropriate comments as to any investment in default as to payment of principal or interest. The reasonable expenses of any such audit made by independent public accountants may be charged to the common trust fund. The bank *or association* shall manage such common trust funds without charge, save necessary expenses, and shall send a copy of the latest report of such audit annually to each person to whom a regular periodic accounting of the *fiduciary accounts* ~~trusts~~ participating in the common trust fund ordinarily would be rendered or shall send advice to each such person annually that the report is available and that a copy will be furnished without charge upon request.

Section 143. Section 660.14, Florida Statutes, is renumbered as section 664.515, Florida Statutes, and is amended to read:

664.515 ~~660.14~~ Common trust fund court accountings.—Unless ordered by a court of competent jurisdiction, the ~~bank or~~ trust company *or trust department* operating such common trust funds is not required to render a court accounting with regard to such funds; but it may, by application to the circuit court, secure approval of such an accounting after such notice, and on such conditions as the court may establish.

PART VI

SUBSTITUTION OF FIDUCIARIES; SURRENDER OF TRUST POWERS

Section 144. Section 660.012, Florida Statutes, is renumbered as section 664.603, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 660.012, F.S., for present text.)

664.603 Substitution of fiduciaries.—

(1) The provisions of this section shall apply to the transfer of fiduciary accounts by substitution and for those purposes these provisions shall constitute alternative procedures to those provided or required by any other provisions of law relating to the transfer of fiduciary accounts or the substitution of persons acting or who are to act in a fiduciary capacity. In this section, and only for its purposes: "original fiduciary" shall mean any trust company or trust department which, at the time of the initiation of the proceedings provided for in this section, holds or has been named or otherwise designated to hold a fiduciary capacity, alone or with others, with respect to any fiduciary account, and which proposes in the proceedings provided for in this section to terminate its fiduciary capacity with respect to such fiduciary account by the substitution of a proposed substitute fiduciary; and "proposed substitute fiduciary" means any trust company or trust department qualified under the laws of this state to act in the fiduciary capacity to which it is proposed in said proceedings to be substituted in the place and stead of the original fiduciary.

(2) Any original fiduciary and any proposed substitute fiduciary may, with respect to any fiduciary account or accounts which they shall mutually select, initiate proceedings by joining in the filing of a petition in the Circuit Court, requesting the substitution of the proposed substitute fiduciary for the original fiduciary as to such fiduciary account or accounts. The petition may be filed in the county in which the main office of the original fiduciary is located and, except to the extent inconsistent with the provisions of this section, shall be governed by the Florida Rules of Civil Procedure; provided, however, that if any fiduciary account is then the subject of a proceeding in a court in this state pursuant to the Florida Probate Code, the Florida Guardianship Law or pursuant to chapter 737 or chapter 747, the petition relating to such fiduciary account shall be filed in that proceeding and shall be governed by the procedural or other relevant rules applicable to such proceeding except to the extent inconsistent with the provisions of this section.

(3) Unless a waiver or consent shall be filed in the proceedings as provided in subsection (4), the provisions of s. 731.301(1)(a), (c) and (d) shall apply with respect to notice of the proceedings to all persons who are then cofiduciaries with the original fiduciary, other than a person joining as a petitioner in the proceedings, to all persons named in the governing instrument as a substitute or successor to the fiduciary capacity of the original fiduciary, to the persons then living who are entitled under the governing instrument to appoint a substitute or successor to act in the fiduciary capacity of the original fiduciary, to all vested beneficiaries of the fiduciary account, and to all then living originators of the governing instrument. Unless a waiver or consent shall be filed in the proceedings as provided in subsection (4), the provisions of s. 731.301(2) shall apply with respect to notice to all contingent beneficiaries of the fiduciary account. Only the persons or classes of persons described in the foregoing provisions of this subsection shall be deemed to be interested persons for the purposes of this section and the proceedings and notices provided for in this section; and the provisions of ss. 731.301(3) and 731.303(4) and (5), relating to notice requirements, the effect of notice and representation of interests, shall apply to the proceedings provided for in this section.

(4) Any interested person, including a guardian ad litem, administrator ad litem guardian of the property, personal representative, trustee, or other fiduciary, may waive any right of notice and may consent to any action or proceeding which may be permitted by this section. Any such waiver or consent must be filed in the proceedings and may be filed at any time, and the notice requirements of this section shall not apply to any person who files any such waiver or consent.

(5) If no answer which constitutes an objeciton to the petition or the relief requested therein, or which otherwise requires a hearing, is served on the petitionrs and filed with the court in which the proceeding is pending, by any interested person or class of persons to whom notice has been given as provided in subsection (3), within 30 days from the service of such notice, the petition shall be considered ex parte as to such interested person or class of persons. If an answer which constitutes an objection to the petition or the relief requested therein, or which otherwise requires a hearing, is timely served and filed by any interested person or class of persons, a hearing shall be set and reasonable notice given. The court, upon consideration of the petition and the interests of the interested persons, shall either grant or deny the relief requested by the petition; and if said relief is granted the court shall order the proposed substitute fiduciary to be submitted in the place and stead of the original fiduciary, in the fiduciary capacity theretofore held by the original fiduciary, effective on such date as shall be specified in the court order which shall not be more than 30 days from the date of the entry of such order unless a longer period, not exceeding 90 days from the date of the entry of said order, shall be requested by the petitioners. The date so specified may be referred to in this section as the effective date of the order for substitution. The court shall order the requested substitution unless it determines that such substitution would constitute or create a material detriment to the estate, trust or other fiduciary account, or to the interests of the beneficiaries thereof.

(6) All court costs and the fees of guardians ad litem arising in connection with any proceeding hereunder shall be paid by the petitioners, and shall not be charged to any fiduciary account.

(7) On the effective date of the order for substitution the original fiduciary shall transfer and deliver to the trust company or trust department so substituted by the court's order for substitution, each fiduciary account with respect to which the order for substitution is applicable, together with all documents and records pertaining thereto and all other information in the

possession of the original fiduciary which may be necessary for the proper continuation of the fiduciary functions; and thereupon the trust company or trust department so substituted shall hold the fiduciary capacity previously held by the original fiduciary, and shall have all the rights, powers and duties theretofore held or exercisable by the original fiduciary by virtue of its former fiduciary capacity, but the trust company or trust department so substituted shall not exercise any right or power which, by the governing instrument, is expressly made personal to the original fiduciary. The proceedings in which the order for substitution was entered shall not be finally terminated until settlement of the final account of the original fiduciary pursuant to the provisions of subsection (8).

(8) Within 30 days after the effective date of an order for substitution entered hereunder, the original fiduciary shall file a final account with the court and shall send a copy thereof to each interested person who does not file a waiver or consent, together with a notice of the filing of the final account. The trust company or trust department substituted for the original fiduciary by the court's order for substitution shall be deemed to be an interested party for the purposes of this subsection. Objections to a final account may be filed by any interested party who has not filed a waiver or consent and, to be considered by the court, any such objections must be filed with the court and served on the original fiduciary within 60 days after a copy of the final account and notice of the filing of the final account have been sent to such interested person. Objections shall be tried and determined by the court upon the application of the original fiduciary or any interested person who has not filed a waiver or consent. Upon expiration of the time for filing objections if no objections have been timely filed, or at such earlier time as waivers or consents have been filed by all interested persons, or if objections have been timely filed by an interested person entitled to do so, then upon the hearing on any such objections, the court shall enter an appropriate order on such final account and on all unapproved annual or other accounts previously filed. If consents to a final account are filed with the court by all interested persons to whom a copy of the final account is required hereunder to be sent, the court shall enter an order approving such account and all unapproved annual or other accounts previously filed. Unless previously or otherwise barred by adjudication, waiver, consent, limitations, or the foregoing provisions of this subsection, an action for breach of trust or breach of fiduciary duties or responsibilities, against an original fiduciary in whose place and stead another trust company or trust department has been substituted pursuant to the provisions of this section, is barred for any beneficiary who has received a final, annual or periodic account or other statement fully disclosing the matter unless a proceeding to assert the claim is commenced within 6 months after receipt of the final, annual, or periodic account or statement. In any event, and notwithstanding lack of full disclosure, all claims against such original fiduciary which has issued a final account or statement received by the beneficiary and has informed the beneficiary of the location and availability of records for his examination, are barred as provided in chapter 95. A beneficiary has received a final account or statement if, being an adult, it is received by him or if, being a minor, or disabled person, it is received by his representative as described in s. 731.303.

(9) The filing of a petition hereunder or the substitution of fiduciaries pursuant to law shall not be deemed as the resignation by any trust company or trust department of any fiduciary capacity or relationship.

Section 145. Section 664.606, Florida Statutes, is created to read:

664.606 Surrender of fiduciary powers.—Any state bank or association which has been granted trust powers and which desires to surrender such rights shall file with the department a certified copy of the resolution of its board of directors signifying such desire. Upon receipt of such resolution, the department shall make an investigation and when it is satisfied that the trust department has been discharged from all fiduciary duties which it has undertaken, it shall issue a certificate to such bank or association certifying that it is no longer authorized to exercise trust powers.

Section 146. Section 664.610, Florida Statutes, is created to read:

664.610 Receivership or voluntary liquidation.—

(1) If a liquidator or receiver is appointed for a trust company or a state bank or association having a trust department, the liquidator or receiver shall, pursuant to the instructions of the department and the orders of any court and the federal regulatory agency having jurisdiction, proceed to close such fiduciary accounts as can be closed promptly and transfer all other fiduciary accounts to substitute fiduciaries.

(2) If a trust company or a state bank or association having a trust department is placed in voluntary liquidation, the liquidating agent shall, in accordance with applicable law, proceed at once to liquidate the affairs of the trust company and the trust department with respect to its fiduciary accounts, as follows:

(a) All fiduciary accounts over which a court is exercising jurisdiction shall be closed or disposed of as soon as practicable in accordance with the orders or instructions of such court; and

(b) All other fiduciary accounts which can be closed promptly shall be closed as soon as practicable and final accounting made therefor, and all remaining accounts shall be transferred to substitute fiduciaries in accordance with law.

Section 147. Section 30.52, Florida Statutes, is amended to read:

30.52 Handling of public funds.—The sheriff shall keep public funds in his custody, either in his office in an amount not in excess of the burglary, theft, and robbery insurance provided, the cost of which is hereby authorized as an expense of the office, or in a depository in an amount not in excess of the security provided pursuant to s. *663.545* ~~659.24~~, and the regulations of the Department of Banking and Finance. The title of the depository accounts shall include the word "sheriff" and the name of the county, and withdrawals from the accounts shall be made by checks signed by the duly qualified and acting sheriff of the county, or his designated deputy or agent.

Section 148. Subsection (2) of section 219.075, Florida Statutes, is amended to read:

219.075 Investment of surplus funds by county officers.—

(2) Except when another procedure is prescribed by law, ordinance, or court order as to particular funds, the tax collector shall, as soon as feasible after collection, deposit in a bank designated as a depository of public funds, as provided in s. *663.545* ~~659.24~~, all taxes, fees, and other collections received by him and held prior to distribution to the appropriate taxing authority. Immediately after such funds have cleared and have been properly credited to his account, the tax collector shall invest such funds according to the provisions of this section. The earnings from such investments shall be apportioned at least quarterly on a pro-rata basis to the appropriate taxing authorities. However, the tax collector may deduct therefrom such reasonable amounts as are necessary to provide for costs of administration of such investments and deposits.

Section 149. Subsection (1) of section 220.62, Florida Statutes, is amended to read:

220.62 Definitions.—For purposes of this part:

(1) The term "bank" shall mean a bank holding company registered under the Bank Holding Company Act of 1956 of the United States, 12 U.S.C. ss. 1841-1849, as amended, or a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any state, or of any territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by state, territorial, or federal authority having supervision over banking institutions. The term "bank" shall also include any banking association, corporation, or other similar organization organized and operated under the laws of any foreign country, which banking association, corporation, or other organization is also operating in this state pursuant to *part VII of chapter 663* ~~s. 659.67~~.

Section 150. Section 737.105, Florida Statutes, is amended to read:

737.105 Qualification of foreign trustee.—Unless otherwise doing business in this state, local qualification by a

foreign trustee is not required in order for the trustee to receive distribution from a local estate. Nothing in this chapter shall affect the provisions of s. *664.411* ~~660.10~~,

Section 151. Chapters 658, 659, 660, and 661, Florida Statutes, shall stand repealed under the provisions of the Regulatory Reform Act of 1976 as amended, except for those sections of such chapters that are renumbered, amended and readopted herein.

Section 152. Chapter 663 and chapter 664, Florida Statutes, as created by this act, shall stand repealed on July 1, 1986, and shall be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended.

Section 153. This act shall take effect July 1, 1980, except that if this act becomes a law after such date, it shall operate retroactively to such date.

The Committee on Commerce offered the following amendments which were moved by Senator W. D. Childers and failed:

Amendment 1 to House Amendment 1—On page 21, lines 24-31, strike "In determining whether an applicant meets the requirements of this subsection the department shall consider all materially relevant factors, including:

(a) The location and services offered by existing banks, trust companies, trust departments and trust service offices in the community.

(b) The general economic and demographic characteristics of the area."

Amendment 2 to House Amendment 1—On page 22, lines 5-14, strike "In determining whether an applicant meets the requirements of this subsection the department shall consider all materially relevant factors including:

(a) Current economic conditions and the growth potential of the area in which the proposed state bank or trust company intends to locate.

(b) The growth rate, size, financial strength, and operating characteristics of banks, trust companies, trust departments and trust service offices in the service areas of the proposed bank."

Amendment 3 to House Amendment 1—On page 22, lines 15-22, strike "in such amount as the department shall deem adequate, but in no case shall the paid-in capital stock be less than $800,000. In addition to the capital required, every state bank or trust company hereafter organized shall establish a paid-in surplus equal in amount to not less than 20 percent of its paid-in capital and a fund to be designated as undivided profits equal to not less than 5 percent of its paid-in capital." and insert: adequate

Amendment 4 to House Amendment 1—On page 22, lines 23 and 24, strike "and directors have sufficient banking or trust" and insert: have sufficient banking or trust company experience, ability and standing, and the proposed directors have sufficient business

Amendment 5 to House Amendment 1—On page 27; 28, line 13-28; 1-5, strike "Upon the filing of an application for the establishment of any branch permitted by paragraph (a), the department shall make an investigation with respect to compliance with the requirements of paragraph (a) and shall investigate and consider all factors relevant to such requirements, including the following:

1. The sufficiency of capital accounts in relation to the deposit liabilities of the bank, including the proposed branch, and the additional fixed assets, if any, which are proposed for the branch and its operations, without undue risk to the bank or its depositors;

2. The sufficiency of earnings and earning prospects of the bank, including the proposed branch, to support the anticipated expenses and any anticipated operating losses of the branch during its formative or initial years;

3. The sufficiency and quality of management available to operate the branch;

4. The name of the proposed branch to determine if it reasonably identifies the branch as a branch of the parent bank and is not likely to unduly confuse the public; and

5. Substantial compliance by the applicants with applicable law governing their operations."

Amendment 6 to House Amendment 1—On page 145, line 26, strike "at the rates set forth in s. 288.03" and insert: in the manner provided in s. 288.011

Amendment 7 to House Amendment 1—On page 210, line 22, insert: Section 151. Section 48.185, Florida Statutes, is created to read:

48.185 Service on and jurisdiction of persons dealing with international banking organizations. The terms of any agreement, relating to service, service of process and jurisdiction by a Florida court or a United States court, between a person, transacting an international banking transaction, and an international banking organization shall be enforceable in accordance with the agreement.

(Other sections to be renumbered consecutively)

Amendment 8 to House Amendment 1—On page 22, lines 5-14, strike "In determining whether an applicant meets the requirements of this subsection the department shall consider all materially relevant factors including:

(a) Current economic conditions and the growth potential of the area in which the proposed state bank or trust company intends to locate.

(b) The growth rate, size, financial strength, and operating characteristics of banks, trust companies, trust departments and trust service offices in the service areas of the proposed bank."

Amendment 9 to House Amendment 1—On page 4, line 20, after "liquidation;" insert: creating s. 48.185, Florida Statutes, providing for service of process and jurisdiction over international banking transactions;

Amendment 2—title amendment (attached to original bill)

On motion by Senator W. D. Childers, the Senate concurred in the House Amendments.

CS for SB 347 as amended passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	McClain	Stuart
Anderson	Gorman	McKnight	Thomas
Barron	Grizzle	Myers	Tobiassen
Beard	Hair	Neal	Trask
Carlucci	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Ware
Childers, D.	Holloway	Scarborough	Williamson
Childers, W. D.	Jenne	Scott	Winn
Dunn	MacKay	Skinner	
Fechtel	Maxwell	Steinberg	

Nays—None

The bill was ordered engrossed and then enrolled.

SPECIAL ORDER

HB 1758—A bill to be entitled An act relating to professional regulation; amending s. 476.014, Florida Statutes, renaming chapter 476, Florida Statutes, as the "Barbers' Act"; amending s. 476.034(3), (4), (5) and (6), Florida Statutes, renaming the Florida Barbers' Board and eliminating references to the Division of Occupations and the Florida Barbering Practice Commission; amending s. 476.054, Florida Statutes, conforming language; amending s. 476.064(1) and (3), Florida Statutes, and adding subsection (4) thereto, eliminating reference to a secretary of the Barbers' Board and eliminating quorum requirements; authorizing the board to adopt rules; amending s. 476.074, Florida Statutes, authorizing the Department of Professional Regulation to provide inspection services; amending s. 476.084, Florida Statutes, conforming language; amending s. 476.114(1)(b), Florida Statutes, eliminating the requirement that a person must have graduated from a state-licensed barber

school to practice in Florida; amending s. 476.134(2) and (3), Florida Statutes, deleting reference to the commission; eliminating the requirement that the practical demonstration of barbering must be graded by the board; adding subsection (3) to s. 476.154, Florida Statutes, providing for license renewals; amending ss. 476.194(2) and 476.214(2), Florida Statutes, deleting reference to the commission; repealing s. 476.094, Florida Statutes, relating to the Florida Barbering Practice Commission; providing for conditional repeal; creating s. 459.0095, Florida Statutes; authorizing the issuance of limited licenses to certain persons licensed in another state and retired; restricting areas in which such persons may practice; providing for supervision; providing for conditional repeal; amending s. 462.02(1), Florida Statutes, deleting obsolete departmental names; amending s. 462.04, Florida Statutes, providing that the head of the Board of Naturopathic Examiners shall be a chairman and vice-chairman and deleting reference to a secretary; amending s. 462.08, Florida Statutes, providing for biennial licenses; amending s. 462.13, Florida Statutes, providing that the chairman of the board and the secretary of the department must sign and attest to licenses; amending s. 562.15(1) and 462.18, Florida Statutes, conforming to the act; amending s. 462.19, Florida Statutes, providing for license renewal and procedures concerning inactive license status; amending s. 466.007(1)(c), Florida Statutes, relating to qualification for licensure of pharmacists; amending s. 465.016(1)(l), Florida Statutes, relating to the labeling of unit doses in certain facilities; providing for conditional repeal; amending s. 466.006(3), Florida Statutes, requiring certain applicants for licensure as dentists to have taken an examination within a specified period prior to application; amending s. 466.017(2), Florida Statutes, deleting the scheduled repeal of provisions authorizing druggists to fill dentist's prescriptions; amending s. 466.024(3), Florida Statutes, deleting certain inoperative language relating to the delegation of certain duties by dentists to dental hygienists and dental auxiliaries; amending s. 466.025(2), Florida Statutes, providing for the future repeal of provisions authorizing the issuance of permits to unlicensed dentists serving as institutional dentists; providing for conditional repeal; amending s. 474.203(1), Florida Statutes, revising an exemption from application of the chapter; providing for a veterinary faculty certificate; amending s. 474.207(1), Florida Statutes, relating to licensure by examination; requiring that the Board of Veterinary Medicine adopt by rule a passing score if it adopts use of a national examination; deleting a requirement that an applicant must have passed the examination given by the National Board of Veterinary Medical Examiners; providing for conditional repeal; repealing s. 477.013(3), Florida Statutes; amending ss. 477.013(1), (2) and (4), 477.015(1), 477.016, 477.018, 477.019(1)(b), (4), (5) and (6), 477.021(1), (6), and (7), 477.022(1)-(5), 477.023(2), (3)(a), (8) and (9), 477.024, 477.025(2), (8) and (9), 477.026(1) and (3), and 477.039, Florida Statutes; redefining "cosmetologist"; revising requirements relating to demonstration of competency for license renewal; eliminating the Florida Cosmetology Practice Commission and providing for assumption of its duties by the Board of Cosmetology; providing rulemaking powers of the board; correcting references to the board, the Department of Professional Regulation, and the Professional Regulation Trust Fund; repealing s. 477.027, Florida Statutes, relating to complaints and departmental action thereon; amending s. 480.033, Florida Statutes, conforming definitions to the act; amending s. 480.035(1) and (5), Florida Statutes, and adding a subsection, correcting references to the Board of Massage and Department of Professional Regulation and deleting the required selection by the board of a secretary-treasurer; providing for rules; amending ss. 480.041(4), (5), and (6), 480.042(1), 480.043(1), (2), (5), (8), and (9), and 480.044(1) and (4), Florida Statutes, transferring various powers of the Florida Massage Practice Commission to the board; repealing ss. 480.037, 480.038, and 480.045, Florida Statutes, abolishing the commission and removing provisions relating to local services and complaint procedures; amending s. 455.209(2), Florida Statutes, clarifying provisions with respect to the defense of professional regulatory board members for their acts or omissions; providing for legal counsel; amending s. 310.042(1), Florida Statutes, relating to organization of the Board of Pilot Commissioners; amending s. 310.111, Florida Statutes, relating to casualty investigations; repealing ss. 310.093 and 310.099, Florida Statutes, relating to rulemaking authority of the board and relating to complaints against licensed state pilots and disciplinary proceedings conducted pursuant thereto; providing for conditional repeal; repealing ss. 481.301-481.331, Florida Statutes, relating to landscape architecture; amending s. 477.019(1)(b) and (4), Florida Statutes, eliminating the requirement that standards for establishing a level of competency equivalent to certain training be service based; eliminating reexamination as a requirement for renewal of license registration; amending s. 477.021(6), Florida Statutes, providing conformity and requiring completion of certain continuing education programs as a condition of license renewal; providing an effective date.

—was read the second time by title.

Senators Hair and Dunn offered the following amendments which were moved by Senator Dunn and adopted:

Amendment 1—On page 40, line 15, strike all of said section and insert a new Section 60:

476.104. Florida Statutes is hereby repealed.

Amendment 2—On page 24, between lines 12 and 13, insert: Section 34. 474.214, Florida Statutes is amended to read: 474.214(1)(n) performing or prescribing unnecessary *or unauthorized* treatment.

Section 35. 474.215, Florida Statutes is amended to read:

474.215(5) *Any practitioner who provides veterinary service on a house-call basis and who does not maintain a veterinary establishment for receipt of patients shall not be required to obtain a premise permit, but must provide for minimum equipment and facilities as established by rule.*

Section 36. 474.220, Florida Statutes is amended to read:

474.220 *Each person who provides veterinary medical services shall maintain medical records, as established by rule.*

(Renumber subsequent sections.)

Amendment 3—On page 38, between lines 2 and 3, insert: Section 55. 489.127, Florida Statutes is amended to read:

489.127(1)(f) *engage in the business or act in the capacity of a contractor without being duly registered or certified.*

(2) Any person who violates any of the provisions of this *part* ~~section~~ is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(Renumber subsequent sections.)

Amendment 4—On page 22, between lines 25 and 26, insert: Section 31. Section 473.307, Florida Statutes, is amended to read:

473.307 Experience.—If application is made prior to August 2, 1983, an applicant who passes the examination shall be entitled to be licensed as a certified public accountant pursuant to s. 473.308 if the applicant:

(1) Has worked for a period of at least 1 year under the supervision of a certified public accountant engaged in the full-time *private* practice of public accounting; or

(2) Has been employed for a least 1 year as an auditor, or accountant, or in a similar position, by a unit of federal, state, or local government, provided the position required the use of accounting skills and the applicant was supervised during such employment by a certified public accountant who was employed on a full-time basis. Experience which satisfies this requirement includes but is not limited to employment as:

(a) An Auditor or accounting analyst on the staff of the accounting department of the Florida Public Service Commission; or

(b) An accountant or postauditor on the staff of the Auditor General; or

(3)~~(2)~~ Has successfully completed at least 1 additional year of accounting courses at an accredited college or university.

(Renumber subsequent sections.)

Amendment 5—On page 30, lines 20-29, strike all of section 42. amending 477.024, Florida Statutes.

Senator Peterson moved the following amendment which was adopted:

Amendment 6—On page 40, between lines 18 and 19, insert: Section 61 Section 481.306, Florida Statutes, is created to read:

481.306 Authority to make rules:—The board may adopt such rules, not inconsistent with law, as may be necessary to carry out the duties and authority conferred upon the board by this chapter and as may be necessary to protect the health, safety and welfare of the public.

Section 2. Paragraph (b) of subsection (1) of section 481.323, Florida Statutes, is amended to read:

481.323 Prohibitions; penalties.—

(1) No person shall knowingly:

(a) Practice landscape architecture unless the person is a holder of a valid license issued pursuant to this act;

(b) Use the name or title "landscape architect," "landscape architecture," ~~"landscape designer,"~~ or "landscape architectural." or words to that effect, or advertise any title or description tending to convey the impression that he is a landscape architect when the person is not then the holder of a valid license issued pursuant to this act;

Section 63. Subsections (3), (4) and (5) of section 481.329, Florida Statutes, are amended to read:

481.329 Exceptions; exemptions from licensure.—

(3) This act shall not be deemed to prohibit any person from making any plans, drawings, or specifications for any real or personal property owned by him so long as he does not use the title, term, or designation "landscape architect," ~~"landscape designer,"~~ "landscape architectural," "landscape architecture," "landscape engineering," or any description tending to convey the impression that he is a landscape architect, unless he is registered as provided in this part or is exempt from registration under the provisions of this part.

(4) This part shall not be deemed to prohibit any nurseryman, nursery stock dealer, or agent as defined by chapter 581 who is required by chapter 581 to hold a valid license issued by the Division of Plant Industry of the Department of Agriculture and Consumer Services and who does hold a valid license to engage in the business of selling nursery stock in this state, insofar as he engages in the preparation of plans or drawings as an adjunct to merchandising his product, so long as he does not use the title, term, or designation "landscape architect," ~~"landscape designer,"~~ "landscape architectural," "landscape architecture," "landscape engineering," or any description tending to convey the impression that he is a landscape architect unless he is registered as provided in this part or is exempt from registration under the provisions of this part.

(5) This part shall not be construed to affect chapter 467, chapter 471, chapter 472, or chapter 492, respectively, except that no such person shall use the designation or term "landscape architect," "landscape architectural," "landscape architecture," "landscape engineering," ~~"landscape designer,"~~ or any description tending to convey the impression that he is a landscape architect, unless he is registered as provided in this act.

and renumber accordingly.

Senators Hair and Dunn offered the following amendments which were moved by Senator Dunn and adopted:

Amendment 7—On page 3 in title, line 16, after "repeal;" insert: amending s. 473.307, Florida Statutes, revising experience requirements;

Amendment 8—On page 3, in title, line 27, after "Examiners;" insert: amending 474.214 prohibiting unauthorized treatment; amending 474.215 prohibiting premise permit for house-call practitioners; amending 474.220 to require adequate medical treatment records be maintained.

Senator Hair moved the following amendment which was adopted:

Amendment 9—On page 4 in title, line 2, strike "477.024,"

Senators Hair and Dunn offered the following amendments which were moved by Senator Dunn and adopted:

Amendment 10—On page 2, in title, line 3, after "Commission;" insert: repealing 476.104 requiring HRS to inspect Barbershops.

Amendment 11—On page 5, in title, line 15, strike lines 15 and 16

Senator Hair moved the following amendment which was adopted:

Amendment 12—On page 5, in title, line 5, after the word "counsel;" insert: amending 489.127 to prohibit practice as a contractor without registration or certification, providing a penalty;

Senator Peterson moved the following amendment which was adopted:

Amendment 13—On page 5 in title, line 27, strike line 27 and insert: relating to the regulation of landscape architecture; creating s. 481.306, Florida Statutes; authorizing the Board of Landscape Architecture to adopt certain rules regulating the practice of landscape architecture; amending ss. 481.323(1)(b), 481.329(3), (4), (5), Florida Statutes; deleting designation as "landscape designer" from prohibited acts under chapter 481, Florida Statutes; providing an effective date.

On motion by Senator Dunn, by two-thirds vote HB 1758 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fechtel	Johnston	Stuart
Anderson	Frank	McClain	Thomas
Barron	Gordon	McKnight	Tobiassen
Beard	Gorman	Myers	Trask
Carlucci	Grizzle	Neal	Vogt
Chamberlin	Hair	Peterson	Williamson
Childers, D.	Henderson	Poole	Winn
Childers, W. D.	Holloway	Scarborough	
Dunn	Jenne	Steinberg	

Nays—None

HB 536—A bill to be entitled An act relating to nonpartisan elections for judicial officers; amending s. 105.041(2), Florida Statutes, revising language on the ballot statement; providing an effective date.

—was read the second time by title.

Senator Steinberg moved the following amendments which were adopted:

Amendment 1—On page 1, lines 20 and 21, strike said lines and insert: Section 2. Section 101.161, Florida Statutes, is amended to read:

101.161 Constitutional amendment or other public measure.—Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed *in clear and unambiguous language* on the ballot after the list of candidates, followed by the word "*yes* ~~for~~," and also by the word "*no* ~~against.~~" *and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection.* The wording of the substance of the amendment or other public measure *and the ballot title* to appear on the ballot shall be embodied in the joint resolution, constitutional revision commission proposal, constitutional convention proposal, or enabling resolution or ordinance ~~and shall be furnished to the supervisor of elections of each county in which such public measure is to be voted on~~. The substance of an amendment proposed by initiative *and the ballot title* shall be prepared by the sponsor and approved by the Secretary of State in accordance with rules adopted pursuant to s. 120.54. *The ballot title shall consist of a caption not exceeding 15 words in length by which the measure is commonly referred to or spoken of. The substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure.* The Department of State shall give each proposed constitutional amendment a designating number for convenient reference. This number designation shall appear on the ballot. *Designating numbers shall be assigned in the order of filing or certification of the amendment. The Department of State shall furnish the designating number, the ballot title and the substance of each amendment or public measure to the supervisor of elections of each county in which such amendment or public measure is to be voted on.*

Section 3. This act shall take effect upon becoming a law, except that section 2 shall take effect January 1, 1981.

Amendment 2—On page 1 in title, lines 2 and 3, strike said lines and insert: An act relating to elections; amending s. 101.-161, Florida Statutes; providing that language of constitutional amendments or other public measures be printed in clear and unambiguous language and that the effect of an affirmative or negative vote be made clear; establishing the length of the substance and the ballot title for constitutional amendments; amending s. 105.041(2),

On motion by Senator Steinberg, by two-thirds vote HB 536 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	McKnight	Stuart
Anderson	Gorman	Myers	Thomas
Barron	Grizzle	Neal	Tobiassen
Beard	Hair	Peterson	Trask
Carlucci	Henderson	Poole	Vogt
Chamberlin	Hill	Scarborough	Ware
Childers, D.	Holloway	Scott	Williamson
Childers, W. D.	Jenne	Skinner	Winn
Fechtel	McClain	Steinberg	

Nays—None

HB 191—A bill to be entitled An act relating to elections; amending s. 102.012(8), Florida Statutes, relating to the elimination of pollworker's certificates; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil offered the following amendments which were moved by Senator Hair and adopted:

Amendment 1—On page 1, lines 16-18, strike ~~A certificate shall be issued by the supervisor of elections to each person completing such training.~~ and insert: A certificate *may* ~~shall~~ be issued by the supervisor of elections to each person completing such training.

Amendment 2—On page 1, lines 3-4, strike "relating to the elimination of pollworker's certificates" and insert: making the issuance of pollworker's certificates permissive

On motion by Senator Hair, by two-thirds vote HB 191 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gorman	Neal	Tobiassen
Anderson	Grizzle	Peterson	Trask
Beard	Hair	Poole	Vogt
Carlucci	Henderson	Scarborough	Ware
Chamberlin	Hill	Scott	Williamson
Childers, D.	Holloway	Skinner	Winn
Childers, W. D.	Jenne	Steinberg	
Fechtel	McClain	Stuart	
Frank	McKnight	Thomas	

Nays—None

HB 35—A bill to be entitled An act relating to cruelty to animals; amending s. 828.05, Florida Statutes; specifying conditions under which injured domestic animals may be destroyed by certain officers; providing that such officers shall not be liable for such action; providing an effective date.

—was read the second time by title. On motion by Senator Gorman, by two-thirds vote HB 35 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Carlucci	Childers, D.	Fechtel
Anderson	Chamberlin	Childers, W. D.	Frank
Gorman	Jenne	Scott	Tobiassen
Grizzle	McClain	Skinner	Trask
Henderson	McKnight	Steinberg	Vogt
Hill	Myers	Stuart	Williamson
Holloway	Scarborough	Thomas	Winn

Nays—None

Votes after roll call:

Yea—Hair, Peterson

SB 378—A bill to be entitled An act relating to grand jurors; amending s. 905.01(1), Florida Statutes, and adding subsection (3) to said section; increasing the maximum number of persons that may serve on county grand juries; prescribing the compensation to be paid to county grand jurors; providing an effective date.

—was read the second time by title. On motion by Senator Winn, by two-thirds vote SB 378 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Grizzle	Neal	Tobiassen
Anderson	Hair	Peterson	Trask
Beard	Henderson	Poole	Vogt
Carlucci	Hill	Scarborough	Ware
Chamberlin	Holloway	Scott	Williamson
Childers, W. D.	Jenne	Skinner	Winn
Fechtel	McClain	Steinberg	
Frank	McKnight	Stuart	
Gorman	Myers	Thomas	

Nays—None

SB 889—A bill to be entitled An act relating to public safety; directing the State Fire Marshal to study the need for early warning fire detection equipment in all multi-family dwellings; providing an effective date.

—was read the second time by title. On motion by Senator Winn, by two-thirds vote SB 889 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gordon	McClain	Steinberg
Anderson	Gorman	McKnight	Stuart
Beard	Grizzle	Myers	Thomas
Carlucci	Hair	Neal	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Hill	Poole	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Fechtel	Jenne	Scott	Williamson
Frank	MacKay	Skinner	Winn

Nays—None

SB 509—A bill to be entitled An act relating to the Board of Real Estate; amending s. 475.011(2) and (3), Florida Statutes, providing for a licensing exemption for certain persons selling their own real estate; providing for conditional repeal; providing an effective date.

—was read the second time by title.

Pending further consideration of SB 509, on motion by Senator Hill, by two-thirds vote HB 821 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Hill—

HB 821—A bill to be entitled An act relating to the Board of Real Estate; amending s. 475.011(2) and (3), Florida Statutes, providing for a licensing exemption for certain persons selling their own real estate; amending s. 475.182(1), Florida Statutes, relating to license renewal; amending s. 475.482, Florida Statutes, providing for certain disbursement of The Real Estate Recovery Fund; amending s. 475.484, Florida Statutes, to conform to the act; providing for conditional repeal; providing an effective date.

—a companion measure, was substituted for SB 509 and read the second time by title. On motion by Senator Hill, by two-thirds vote HB 821 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Anderson	Gorman	Maxwell	Steinberg
Barron	Hair	McClain	Stuart
Beard	Henderson	McKnight	Trask
Chamberlin	Hill	Myers	Vogt
Childers, D.	Holloway	Neal	Ware
Fechtel	Jenne	Peterson	Winn
Frank	MacKay	Scott	

Nays—2

Mr. President Williamson

SB 509 was laid on the table.

By the Committee on Commerce and Senator Anderson—

CS for SB 735—A bill to be entitled An act relating to credit life and disability insurance; amending s. 627.679(1), Florida Statutes; modifying a limitation on credit life insurance; amending s. 627.680, Florida Statutes; modifying provisions relating to a limitation on total indemnities; increasing the allowable amount of such insurance to $20,000; amending s. 627.681(1), Florida Statutes; renumbering s. 627.681(2), Florida Statutes, and adding a new subsection (2); deleting credit disability insurance from extending beyond the term of the indebtedness; limiting the term for credit disability insurance; providing for conditional repeal; providing an effective date.

—was read the first time by title and SB 735 was laid on the table.

Pending further consideration of CS for SB 735, on motion by Senator Anderson, the rules were waived and by two-thirds vote HB 245 was withdrawn from the Committee on Commerce.

On motion by Senator Anderson—

HB 245—A bill to be entitled An act relating to credit life and disability insurance; amending s. 627.679(1), Florida Statutes, modifying a limitation on credit life insurance; amending s. 627.680, Florida Statutes, modifying provisions relating to a limitation on total indemnities; increasing the allowable amount of such insurance to $20,000; providing for conditional repeal; providing an effective date.

—a companion measure, was substituted for CS for SB 735 and read the second time by title.

Senator Anderson offered the following amendments which were adopted:

Amendment 1—On page 1, between lines 13 and 14, insert: Section 1. Subsection (1) of section 627.679, Florida Statutes, is amended to read:

627.679 Amount of insurance; credit life.—

(1) The amount of credit life insurance written under one or more policies shall not exceed by more than $5 *total of the payments* ~~the original face amount~~ of the specific contracts of indebtedness in connection with which it is written,~~; except, that~~ where the indebtedness is repayable in substantially equal installments *or one installment or a single payment* ~~the amount of insurance shall never exceed the approximate unpaid balance of the loan~~.

Section 2. Section 627.680, Florida Statutes, is amended to read:

627.680 Same; credit disability.—

(1) The total indemnities provided under the terms of credit disability coverage shall not exceed by more than $5 the *total of payments,* ~~amount of the initial indebtedness; except, that~~ where the indebtedness is repayable in substantially equal installments ~~the amount of insurance shall never exceed the approximate unpaid balance of the loan~~.

(2) The total amount of credit disability insurance on the life of any debtor with respect to any loan or loans covered in one or more insurance policies, as defined in s. 627.677(2) shall at no time exceed *$20,000* ~~$10,000~~.

Section 3. Subsection (1) of section 627.681, Florida Statutes, is amended, present subsection (2) is renumbered as subsection (3), and a new subsection (2) is added to said section to read:

627.681 Term and evidence of insurance.—

(1) The term of credit life insurance ~~or credit disability insurance~~ coverages shall not extend more than 15 days beyond the term of the indebtedness except where extended without additional cost to the insured borrower or purchaser, and in no event shall the term of the insurance policy exceed 10 years from the date of issue thereof.

(2) The term of the credit disability insurance on any debtor insured under this section shall not exceed 60 months from the date of issue thereof.

Section 4. Section 627.677, Florida Statutes, is amended to read:

627.677 Definitions.—

(1) Credit life insurance is that form of term life insurance which precludes debtor selection as to beneficiary or assignee under which the life of a borrower of money or a purchaser *or a lessee* of goods is insured in connection with a specific loan or credit transaction. The policy, certificate, or statement shall be issued on a plan especially designed for the sole purpose of meeting the requirements of the definition of this section and shall bear the description "creditor-debtor insurance only" or words of similar import on the face of each such policy, certificate or statement. There are three recognized forms:

(a) Group credit life insurance is that form of insurance which is subject to the provisions of s. 627.553 (debtor groups).

(b) Franchise credit life insurance is that form of insurance by which a master policy is issued to and in favor of a creditor and under which debtors are insured at the option of the creditor.

(c) Individual credit life insurance is individual insurance upon the life of an individual debtor in favor of a creditor.

(2) Credit disability insurance is that form of insurance under which a borrower of money or a purchaser *or a lessee* of goods is insured in connection with a specific loan or credit transaction against loss of time resulting from accident or sickness.

Renumber subsequent sections.

Amendment 2—On page 1, line 13, insert: Section 1. Paragraph (e) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses.—

(1) The department shall issue a license as to an individual qualified therefor, as agent authorized to transact as such thereunder a limited class of business, in any of the following categories:

(e) Credit life or disability insurance.—License covering only credit life or disability insurance as defined in part VIII of chapter 627, the license to be issued only to an individual employed by a life or disability insurer as an officer or other salaried or commissioned representative, or an individual employed by or associated with a lending or financing institution or creditor, and authorizing sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. *However, only the individual or entity whose tax identification number is used in receiving or credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer.* No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of life or disability insurance coverage.

Section 2. Subsection (3) is added to section 627.677, Florida Statutes, to read:

627.677 Definitions.—

(3) A creditor agent is any lending or financing institution or other creditor, or a representative of such an institution

or creditor, which writes credit life or disability insurance on the life or health of a debtor.

(Renumber subsequent sections.)

Amendment 3—On page 1 in title, line 3, after the semicolon insert: amending s. 626.321(1)(e), Florida Statutes; providing that certain individuals or entities receiving commissions from the sale of credit life or disability insurance shall be the licensed agents of the insurer; adding s. 627.677(3), Florida Statutes; defining creditor agent;

Amendment 4—On page 1 in title, line 3, after "insurance;" insert: amending s. 627.677, Florida Statutes; providing for credit life and credit disability insurance for lessees of goods; amending s. 627.679(1), Florida Statutes; modifying a limitation on credit life insurance; amending s. 627.680, Florida Statutes; modifying provisions relating to a limitation on total indemnities; increasing the allowable amount of such insurance to $20,000; amending s. 627.681(1), Florida Statutes; renumbering s. 627.681(2), Florida Statutes, and adding a new subsection (2); deleting credit disability insurance from extending beyond the term of the indebtedness; limiting the term for credit disability insurance;

On motion by Senator Anderson, by two-thirds vote HB 245 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Mr. President	Frank	Holloway	Scarborough
Anderson	Gordon	MacKay	Scott
Chamberlin	Gorman	McClain	Skinner
Childers, D.	Hair	McKnight	Steinberg
Childers, W. D.	Henderson	Peterson	Trask
Fechtel	Hill	Poole	Vogt

Nays—None

Votes after roll call:

Yea—Myers, Winn

SB 735 was laid on the table.

SB 605—A bill to be entitled An act relating to the Beverage Law; creating s. 562.165, Florida Statutes; providing for personal or family production of beer and wine; amending s. 561.01(7), Florida Statutes, providing a definition; repealing s. 564.035, Florida Statutes, as amended, relating to production of wine for family use; providing an effective date.

—was read the second time by title.

Senator Gordon moved the following amendment which failed:

Amendment 1—On page 2, line 7, strike entire line 7 and insert: 1.01(14).

Pending further consideration of SB 605, on motion by Senator Holloway, the rules were waived and by two-thirds vote HB 1505 was withdrawn from the Committees on Commerce and Ways and Means.

On motion by Senator Holloway—

HB 1505—A bill to be entitled An act relating to the Beverage Law; creating s. 562.165, Florida Statutes, providing for personal or family production of beer and wine; amending subsection 561.01(7), Florida Statutes, providing a definition; repealing s. 564.035, Florida Statutes, relating to production of wine for family use; providing an effective date.

—a companion measure, was substituted for SB 605 and read the second time by title. On motion by Senator Holloway, by two-thirds vote HB 1505 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	Henderson	McClain
Anderson	Gordon	Hill	McKnight
Chamberlin	Gorman	Holloway	Myers
Childers, W. D.	Grizzle	Jenne	Peterson
Fechtel	Hair	Maxwell	Poole
Scarborough	Steinberg	Vogt	Winn
Scott	Thomas	Ware	
Skinner	Tobiassen	Williamson	

Nays—3

Childers, D.	Johnston	Trask

Votes after roll call:

Yea to Nay—Peterson

SB 605 was laid on the table.

By the Committee on Health and Rehabilitative Services and Senator MacKay—

CS for SB 1256—A bill to be entitled An act relating to physicians; amending s. 409.352(1), Florida Statutes, and adding subsection (3) to said section; providing legislative intent; providing for an extended exemption under certain specified conditions for the employment by the Department of Health and Rehabilitative Services of physicians who are not licensed in this state; providing for a report to the Legislature; providing an effective date.

—was read the first time by title and SB 1256 was laid on the table.

On motion by Senator MacKay, by two-thirds vote CS for SB 1256 was read the second time by title.

Senator Gordon moved the following amendments which were adopted:

Amendment 1—On page 3, line 15, before "Section 2." insert SB 819 starting with line 26 on page 1 through line 26 on page 6. Renumber subsequent sections.

Section 1. Paragraph (cc) is added to subsection (1) of section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the board.—

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

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug or a compound designated as a Schedule II controlled substance, pursuant to chapter 893, to or for any person except for the treatment of narcolepsy, hyperkinesis, behavioral syndrome in children characterized by the following group of developmentally inappropriate symptoms: moderate to severe distractibility, short attention span, hyperactivity, emotional lability and impulsivity, or drug induced brain dysfunction, or for the differential diagnostic psychiatric evaluation of depression, the treatment of depression shown to be refractory to other therapeutic modalities, or for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attending continuing education courses, to submit to reexamination, or to work under the supervision of another physician.

Section 2. Paragraph (cc) is added to subsection (1) of section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action by the board.—

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

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug or a compound designated as a Schedule II controlled substance, pursuant to chapter 893, to or for any person except for the treatment of narcolepsy, hyperkinesis, behavioral syndrome in children characterized by the following group of developmentally inappropriate symptoms: moderate to severe distractability, short attention span, hyperactivity, emotional lability and impulsivity, or drug induced brain dysfunction, or for the differential diagnostic psychiatric evaluation of depression, the treatment of depression shown to be refractory to other therapeutic modalities, or for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify to the department an application for licensure.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.

Section 3. Paragraph (h) is added to subsection (1) of section 462.14, Florida Statutes, to read:

462.14 Revocation of license.—

(1) The license or registration of a practitioner of naturopathy may be revoked, suspended, or annulled, or such practitioner may be reprimanded, upon the following grounds:

(h) That he has prescribed, ordered, dispensed, administered, supplied, sold, or given any drug which is an amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance, pursuant to chapter 893, to or for any person except for the treatment of narcolepsy, hyperkinesis, behavioral syndrome in children characterized by the following group of developmentally inappropriate symptoms: moderate to severe distractability, short attention span, hyperactivity, emotional lability and impulsivity, or drug induced brain dysfunction, or for the differential diagnostic psychiatric evaluation of depression, the treatment of depression shown to be refractory to other therapeutic modalities, or for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

Section 4. Paragraph (s) of subsection (1) of section 466.028, Florida Statutes, is amended to read:

466.028 Grounds for disciplinary action; action by the board.—

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

(s) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or *sympathomimetic amine drug or* a compound *designated as a Schedule II controlled substance, pursuant to chapter 893,* ~~derivative, congener, or analogue thereof~~ to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(2) When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate his competency through a written or practical examination or to work under the supervision of another licensee.

(f) Restricting the authorized scope of practice.

Section 65. Paragraph (b) of subsection (1) of section 893.08, Florida Statutes, is amended to read:

893.08 Exceptions.—

(1) The following may be distributed at retail without a prescription, but only by a registered pharmacist:

(b) Any compound, mixture, or preparation containing any depressant or stimulant substance described in s. 893.03(2)(a) or (c) *except any amphetamine drug or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to chapter 893;* in s. 893.03(3)(a); or in Schedule IV, if:

1. The compound, mixture, or preparation contains one or more active medicinal ingredients not having depressant or stimulant effect on the central nervous system, and

2. Such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the controlled substances which do have a depressant or stimulant effect on the central nervous system.

Amendment 2—On page 1, in title, lines 10-11, after the semicolon strike "providing an effective date" and insert: adding ss. 458.331(1)(cc), 459.015(1)(cc), 462.14(1)(h), Florida Statutes; providing that the prescribing, ordering, dispensing, administering, supplying, selling, or giving of certain drugs to or for any person, except for the treatment or investigation of specified conditions or ailments, shall be grounds for suspension or revocation of licensure as a physician or osteopathic physician or naturopath; amending s. 466.028(1)(s), Florida Statutes; providing further description of certain drugs that may be used by dentists for clinical investigation; amending s. 893.08(1)(b), Florida Statutes; excepting any drug which is an amphetamine or sympathomimetic amine drug or a compound designated as a Schedule II controlled substance from those drugs which may be distributed at retail by a registered pharmacist; providing an effective date.

On motion by Senator Myers, by two-thirds vote CS for SB 1256 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Anderson	Grizzle	Myers	Thomas
Beard	Hair	Neal	Tobiassen
Chamberlin	Hill	Peterson	Trask
Childers, D.	Holloway	Poole	Vogt
Childers, W. D.	Jenne	Scarborough	Williamson
Fechtel	Johnston	Scott	Winn
Frank	Maxwell	Skinner	
Gordon	McClain	Steinberg	
Gorman	McKnight	Stuart	

Nays—1

Mr. President

SB 964—A bill to be entitled An act relating to matching federal aid funds by the Department of Transportation; amending s. 334.21(4)(b), Florida Statutes; deleting the requirement that the department budget sufficient funds to match all federal aid; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote SB 964 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gordon	McClain	Thomas
Anderson	Gorman	McKnight	Tobiassen
Barron	Grizzle	Peterson	Trask
Chamberlin	Hair	Poole	Vogt
Childers, D.	Hill	Scarborough	Ware
Childers, W. D.	Holloway	Scott	Williamson
Dunn	Jenne	Skinner	Winn
Fechtel	Johnston	Steinberg	
Frank	Maxwell	Stuart	

Nays—None

Vote after roll call:

Yea—Myers

CS for SB 814, by the Committee on Governmental Operations and Senator Jenne, was read the first time by title and SB 814 was laid on the table.

On motions by Senator Jenne, by two-thirds vote HB 694 was withdrawn from the Committees on Governmental Operations and Ways and Means.

On motion by Senator Jenne—

HB 694—A bill to be entitled An act relating to liquefied petroleum gas; adding a subsection to s. 527.01, Florida Statutes, providing a definition; adding subsections to s. 527.02, Florida Statutes, requiring certain dealers in liquefied petroleum gas, installation, and gas appliances, and equipment to pass an examination to qualify for licensure by the Department of Insurance; exempting current licensees; adding new subsections (4) and (5) to s. 527.06, Florida Statutes, providing department jurisdiction of bulk plant locations with certain container or aggregate capacity; creating s. 527.061, Florida Statutes, authorizing the department to conduct certain inspections; creating s. 527.062, Florida Statutes, authorizing the department to investigate certain accidents involving liquefied petroleum gas; providing that records and reports are open for public inspection unless withheld from public inspection by court order; authorizing the department to assist local governments; authorizing the department to publish certain safety information and to adopt rules for safe storage and transportation of liquefied petroleum gas and certain equipment; providing for conditional repeal; providing an effective date.

—a companion measure was substituted for CS for SB 814 and read the second time by title.

Senator Jenne moved the following amendments which were adopted:

Amendment 1—On page 5, line 6, strike "after 20 days unless the department obtains" and after "inspection" insert: until 20 days after receipt by the department. The department may obtain

Amendment 2—On page 5, line 8, strike period (.) and insert: beyond the 20 day period.

Amendment 3—On page 3, line 31, after "more;" insert: or

Amendment 4—On page 3, line 23, after "Section 3." insert: present

Amendment 5—On page 1, lines 11 and 12 in title, strike "adding new subsections (4) and (5) to s. 527.06" and after the semicolon (;) on line 11 insert: renumbering s. 527.06(4)

Amendment 6—On page 1, lines 20-23 in title, strike "providing that records and reports are open for public inspection unless withheld from public inspection by court order;" and after the semicolon (;) on line 20 insert: providing for confidentiality of records and reports;

Further consideration of HB 694 as amended was deferred.

By the Committee on Health and Rehabilitative Services and Senator Poole—

CS for SB 1096—A bill to be entitled An act relating to termination of pregnancies; amending s. 390.012, Florida Statutes, relating to adoption of rules regulating abortion clinics; providing a penalty; providing an effective date.

—was read the first time by title and SB 1096 was laid on the table.

On motion by Senator Poole, by two-thirds vote CS for SB 1096 was read the second time by title.

Senator Poole moved the following amendment which was adopted:

Amendment 1—On page 1, lines 16-18, strike all of said lines and insert:

operation of such clinics~~, and to that end it may adopt and enforce~~ rules necessary and proper to carry out such standards. These rules shall be comparable to rules which

Senator Gordon moved the following amendment which failed:

Amendment 2—On page 1, line 25, strike "rules" and insert: rules must demonstrate a compelling state interest, and

Pending further consideration of CS for SB 1096 as amended, on motion by Senator Poole, by two-thirds vote HB 1240 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator Poole—

HB 1240—A bill to be entitled An act relating to termination of pregnancies; amending s. 390.012, Florida Statutes, relating to adoption of rules regulating abortion clinics; providing a penalty; providing an effective date.

—a companion measure, was substituted for CS for SB 1096. On motions by Senator Poole, by two-thirds vote HB 1240 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Gorman	Maxwell	Stuart
Anderson	Grizzle	McClain	Trask
Beard	Hair	McKnight	Vogt
Chamberlin	Henderson	Neal	Ware
Childers, D.	Holloway	Peterson	Winn
Dunn	Jenne	Poole	
Fechtel	Johnston	Scott	
Frank	MacKay	Steinberg	

Nays—None

Votes after roll call:

Yea—Myers, Skinner

CS for SB 1096 was laid on the table.

Senator Scarborough presiding

SB 841—A bill to be entitled An act relating to the regulation of coastal construction; amending s. 161.042, Florida Statutes; requiring requests to the Department of Environmental Regulation relating to the deposition of spoil material to be used for beach nourishment be made by the person responsible for the excavation; amending s. 161.052(1), Florida Statutes, and adding subsection (10) to said section; providing that where an erosion control line has been established, said line shall be considered the mean high water line if located more

landward than the presently existing mean high water line; requiring coastal counties and municipalities to notify the Department of Natural Resources of receipt of a permit application for construction proposed seaward of the coastal construction control lines and to notify applicants of state permit requirements; amending s. 161.053(2), Florida Statutes, and adding subsection (12) to said section; providing that the coastal construction control line shall be subject to review at the discretion of the Department of Natural Resources after certain considerations; requiring coastal counties and municipalities to notify the Department of Natural Resources of receipt of a permit application for construction proposed seaward of the coastal construction control lines and to notify applicants of state permit requirements; creating s. 161.054, Florida Statutes; providing for fines, liability for damages, and enforcement through liens; amending s. 161.091(1)(d), Florida Statutes; authorizing the Department of Natural Resources to pay a specified percentage of the cost of inland sand transfer projects, provided certain conditions are met by local authorities; providing an effective date.

—was read the second time by title. On motion by Senator Vogt, by two-thirds vote SB 841 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Anderson	Frank	MacKay	Skinner
Beard	Gorman	Maxwell	Steinberg
Carlucci	Grizzle	McClain	Stuart
Chamberlin	Hair	McKnight	Thomas
Childers, D.	Henderson	Neal	Trask
Childers, W. D.	Holloway	Peterson	Vogt
Dunn	Jenne	Poole	Ware
Fechtel	Johnston	Scarborough	Winn

Nays—None

Vote after roll call:

Yea—Myers

CS for SB 701, by the Committee on Judiciary-Civil and Senator Hair, was read the first time by title and SB 701 was laid on the table.

On motion by Senator Hair, the rules were waived and by two-thirds vote CS for HB 918 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Hair—

CS for HB 918—A bill to be entitled An act relating to distress for rent; amending s. 83.11, Florida Statutes, requiring certain information in a complaint for distress for rent and requiring verification; amending s. 83.12, Florida Statutes, providing for the content of the writ and enforcement thereto; amending s. 23.13, Florida Statutes, providing circumstances under which a levy on property is sufficient service on the defendant; creating s. 83.135, Florida Statutes, providing for a hearing on the motion of the defendant with respect to dissolution of a writ; providing an effective date.

—a companion measure, was substituted for CS for SB 701 and read the second time by title. On motion by Senator Hair by two-thirds vote CS for HB 918 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Anderson	Frank	MacKay	Steinberg
Barron	Gorman	McClain	Stuart
Beard	Grizzle	McKnight	Thomas
Carlucci	Hair	Neal	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Holloway	Poole	Vogt
Childers, W. D.	Jenne	Skinner	Ware
Dunn	Johnston	Scarborough	Winn

Nays—None

Vote after roll call:

Yea—Fetchel, Myers

CS for SB 701 was laid on the table.

SB 1202—A bill to be entitled An act relating to the sale of collateral securities; amending ss. 18.12 and 18.13, Florida Statutes; providing procedures and requirements for the sale of collateral securities; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations offered the following amendments which were moved by Senator Hair and adopted:

Amendment 1—On page 1, line 13, after the word "Treasurer" insert: , *acting as the State Board of Administration.*

Amendment 2—On page 2, line 7, after "Treasurer," insert: *acting as the State Board of Administration.*

Pending further consideration of SB 1202 as amended, on motion by Senator Hair, the rules were waived and by two-thirds vote HB 1303 was withdrawn from the Committee on Ways and Means.

On motion by Senator Hair—

HB 1303—A bill to be entitled An act relating to the sale of collateral securities; amending ss. 18.12 and 18.13, Florida Statutes; providing procedures and requirements for the sale of collateral securities; providing an effective date.

—a companion measure, was substituted for SB 1202 and read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1303 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Anderson	Frank	MacKay	Thomas
Barron	Gorman	McClain	Tobiassen
Beard	Grizzle	Neal	Trask
Carlucci	Hair	Peterson	Vogt
Chamberlin	Henderson	Poole	Ware
Childers, D.	Hill	Scarborough	Winn
Childers, W. D.	Holloway	Scott	
Dunn	Jenne	Skinner	
Fechtel	Johnston	Stuart	

Nays—None

Vote after roll call:

Yea—Myers

SB 1202 was laid on the table.

Consideration of SB 1209 was deferred.

SB 327—A bill to be entitled An act relating to gasoline and oil inspection; amending s. 525.06, Florida Statutes; providing for the posting of a bond in lieu of confiscation; deleting the requirement of posting a sign designating the degree of gravity of product sold; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator Trask and adopted:

Amendment 1—On page 1, line 21, after the period (.) strike: *"A bond in the amount of"* and insert: *A refundable bond in cash or by certified check in the amount of*

Amendment 2—On page 1, in title, line 4, strike "bond." and insert: a refundable cash bond or certified check

Pending further consideration of SB 327 as amended, on motion by Senator Trask, the rules were waived and by two-thirds vote HB 368 was withdrawn from the Committee on Commerce.

On motion by Senator Trask—

HB 368—A bill to be entitled An act relating to gasoline and oil inspection; amending s. 525.06, Florida Statutes; pro-

viding for the posting of a refundable bond in lieu of confiscation; deleting the requirement of posting a sign designating the degree of gravity of product sold; providing an effective date.

—a companion measure, was substituted for SB 327 and read the second time by title. On motion by Senator Trask, by two-thirds vote HB 368 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Anderson	Grizzle	McKnight	Thomas
Barron	Hair	Neal	Tobiassen
Carlucci	Henderson	Peterson	Trask
Chamberlin	Hill	Poole	Vogt
Childers, D.	Holloway	Scarborough	Williamson
Fechtel	Jenne	Scott	Winn
Frank	Johnston	Steinberg	
Gorman	McClain	Stuart	

Nays—None

Votes after roll call:

Yea—W. D. Childers, Myers

SB 327 was laid on the table.

The President presiding

Consideration of Senate Bills 337 and 419 was deferred.

SB 487—A bill to be entitled An act relating to education; amending s. 230.23(4)(m), Florida Statutes; requiring each district school board to establish the amount to be paid for each exceptional student contract with a nonpublic school; providing an effective date.

—was read the second time by title.

Senator Frank moved the following amendment which was adopted:

Amendment 1—On page 3, between lines 26 and 27, insert: Section 2. Subsection (3) of section 228.121, Florida Statutes, is amended to read:

228.121 Nonresident tuition fee.—

(3) No tuition shall be charged pupils whose parent, parents, or guardian are in the federal military service or are civilian employees, the cost of whose education is provided in part or in whole by federal subsidy to state-supported schools, or whose parent, parents, or guardian are migratory agricultural workers. *No tuition shall be charged pupils who reside in residential care facilities operated by the Department of Health and Rehabilitative Services and who receive their education under s. 230.23(4)(n).*

Section 3. Section 231.381, Florida Statutes, is created to read:

231.381 Transfer of sick leave and annual leave.—In implementing the provisions of ss. 230.23(4)(n) and 402.22(1)(d), educational personnel in Department of Health and Rehabilitative Services residential care facilities who are employed by a district school board may request, and the district school board shall accept, a lump sum transfer of accumulated sick leave for such personnel to the maximum allowed by policies of the district school board, notwithstanding the provisions of s. 110.122. Educational personnel in Department of Health and Rehabilitative Services residential care facilities who are employed by a district school board under the provisions of s. 402.22(1)(d) may request, and the district school board shall accept, a lump sum transfer of accumulated annual leave for each person employed by the district school board in a position in the district eligible to accrue vacation leave under policies of the district school board.

Section 4. Subsections (5) and (6) of section 402.22, Florida Statutes, are amended to read:

402.22 Education program for students who reside in residential care facilities operated by the Department of Health and Rehabilitative Services.—

(5) Students committed to the Department of Health and Rehabilitative Services and placed in youth services residential and day programs, with the exception of students committed to the Florida School for Boys at Okeechobee, shall be assigned to the educational alternatives or other basic or special programs as appropriate provided by the district school board in the county in which the youth services facility is located. The school board of Okeechobee County shall generate by *weighted* FTE *multiplied by the base student allocation* the funding necessary for the students committed to the Florida School for Boys at Okeechobee to be assigned to and participate in the educational programs provided by the Indian River Community College and by intergovernmental agreement. Such funds shall be transferred to the Indian River Community College.

(6) Instructional and special education services which are provided to youth services clients in the Department of Health and Rehabilitative Services residential care facilities by local school districts shall not be less than the level of contact hours provided during the 1978-1979 fiscal year. Instructional and special educational services which are provided to mental health and retardation clients in the Department of Health and Rehabilitative Services residential care facilities by local school districts shall not be less than 180 days or 900 hours; however, the 900 hours may be distributed over a 12-month period, *unless otherwise stated in rules developed by the State Board of Education with the concurrence of the Department of Health and Rehabilitative Services promulgated pursuant to s. 402.22(7).*

Section 5. If chapter 231, Florida Statutes, is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsquently amended, it is the intent of the Legislature that section 2 of this act shall also be repealed on the same date as is therein provided.

(Renumber subsequent sections.)

Senators Steinberg, Gordon and McKnight offered the following amendment which was moved by Senator Steinberg:

Amendment 2—On page 3, lines 27-28, strike all of Section 2 and insert:

8.(a) Each district school board shall establish a breakfast program which shall make breakfast available to all pupils in each district school in kindergarten through 6th grade unless the elementary school only goes through grade 5, then this law would apply only through grade 5, which is receiving funds under Title I of the Elementary and Secondary Education Act, or which meet the criteria for an "especially needy school, contained in Title 7, Code of Federal Regulations, Sections 220.9(c) and 230.2(i). Programs so required shall be made available no later than September 1, 1981.

(b) If a school cannot, for good cause, meet the deadline of this subsection, the Commissioner of Education may grant an extension of time.

(c) The Commissioner of Education shall make every reasonable effort to ensure that any school designated an "especially needy school" receives the highest rate of reimbursement to which it is entitled pursuant to 42 U.S.C. 1773 for each free and reduced price breakfast served.

(d) A school is not required to have a breakfast program pursuant to this subsection if fewer than 100 pupils would participate in the program or if the school is on double sessions.

(e) The State shall pay from the General Revenue Fund all efficient costs attributed to the breakfast program, as determined by the Commissioner, that are not reimbursed by federal funds. The state shall not pay for costs incurred due to inefficiently managed or operated programs, or failure to take advantage of all federal subsidies or financial assistance available for the program, or provision of a breakfast of higher quality than the minimum breakfast required by the Child Nutrition Act.

(f) A school district may operate breakfast programs providing for food preparation in central locations for distribution to designated satellite schools.

Section 2. This act shall take effect July 1, 1980 or upon becoming a law, whichever occurs later.

Senator Scarborough presiding

Point of Order

Senator Tobiassen raised a point of order that the amendment was not germane to the bill in that it pertains to chapter 228 whereas the bill pertains to chapter 230.

The presiding officer requested the chairman of the Committee on Rules and Calendar, Senator Barron, to examine the amendment and advise the chair.

Further consideration of SB 487 was deferred.

Senator Barron subsequently advised the Chair as follows: Senator Steinberg's school breakfast amendment is SB 143, reported favorably by the Committees on Education and Ways and Means. It is now on the calendar and a similar House Bill is still in the House Appropriations Committee. School breakfasts is an independent, new question to the bill that has to do with school board payments to be made to private schools for education of exceptional students. The amendment relates to a different subject and is not in a natural or logical sequence to the subject matter of the original proposal. It is my opinion that the amendment is not germane.

The presiding officer ruled the point raised by Senator Tobiassen well taken and the amendment out of order.

Senator Frank moved the following amendment which was adopted:

Amendment 3—On page 1 in title, line 6, after the semicolon, insert: amending s. 228.121(3), Florida Statutes, providing an exemption from payment of nonresident tuition fee for pupils residing in residential care facilities operated by the Department of Health and Rehabilitative Services; creating s. 231.385, Florida Statutes, providing for the transfer of sick leave and annual leave for certain personnel; amending s. 402.22(5), Florida Statutes, revising the funding formula for the Florida School for Boys at Okeechobee; providing for conditional repeal; providing for a waiver of rules;

The President presiding

On motion by Senator Frank, by two-thirds vote SB 487 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Maxwell	Skinner
Anderson	Grizzle	McClain	Steinberg
Beard	Hair	McKnight	Stuart
Carlucci	Henderson	Myers	Trask
Chamberlin	Hill	Neal	Ware
Childers, D.	Jenne	Peterson	Williamson
Childers, W. D.	Johnston	Scarborough	Winn
Fechtel	MacKay	Scott	

Nays—None

Senator Scarborough presiding

By the Committee on Economic, Community and Consumer Affairs and Senator Thomas—

CS for SB 666—A bill to be entitled An act relating to the Florida Uniform Land Sales Practices Law; amending s. 498.005(5), Florida Statutes, providing that leases of more than 5 years shall be considered "disposition" of interest in subdivided lands under said law; amending s. 498.007(2), (4), and (6), Florida Statutes; providing for equitable relief and venue for actions commenced by the Division of Florida Land Sales and Condominiums; limiting the extent to which registrations, property reports, or similar documents filed in other states or with the Federal Government may be accepted; requiring accounting methods to conform to the rules of the Board of Accountancy; amending s. 498.017(2), Florida Statutes; providing for registration renewal; amending s. 498.023(1), (2), and (3), Florida Statutes; prohibiting the offer or disposition made within this state to persons without the state of subdivided land located without the state; extending the period during which the purchase contract may be cancelled; requiring sales contracts to include provisions for specific inspection and refund rights for certain purchasers; amending s. 498.025(1), (2), and (3), Florida Statutes; revising exemptions and conditions required with respect thereto; correcting a cross-reference; requiring that a subdivider file a notice of exemption prior to offering certain exempted property and providing a penalty with respect thereto; providing requirements with respect to the granting of additional exemptions by the division; amending s. 498.027(1)(b) and (f), Florida Statutes, prohibiting the registration or disposition of portions of platted lots unless certain conditions are complied with; amending s. 498.029(1), Florida Statutes, providing that a delay of the approval of applications shall be for a specified period of time; amending paragraphs (e) and (f) of s. 498.031(1), Florida Statutes, adding a paragraph (g) thereto, and amending subsections (2) and (3) thereof; providing for division inquiry into whether registered property is usable for the purpose for which it is sold; providing for the denial of an application which does not comply with application requirements; revising requirements relating to furnishing of fingerprints and certain other information by applicants; amending s. 498.033(2), (3), and (7), Florida Statutes; requiring registrants to comply with certain obligations; revising requirements regarding changes made by a registrant after an order of registration has been issued; revising requirements relating to required financial statements; amending s. 498.039(1), (3), and (4), Florida Statutes, and adding a new subsection; providing that the division may require certain registrants to establish encumbrance escrow accounts; including information on property tax payments in required reports; providing for escrow accounts to assure the payment of real property taxes; amending s. 498.041, Florida Statutes; providing for annual renewal; providing for an annual report; providing for transitional adjustments; repealing s. 498.043, Florida Statutes, relating to annual reports; amending s. 498.045(2), (9), and (10), Florida Statutes, relating to registration and regulation of salesmen and brokers; increasing fines; amending s. 498.049(1)(d) and (e) and (4), Florida Statutes, and adding paragraph (1)(f); providing grounds for suspension and revocation of registration; providing for civil penalties and other appropriate remedies; providing for liability; providing for effective date of an order imposing a civil penalty; amending s. 498.051(1), Florida Statutes, and adding subsection (3), relating to cease and desist orders; specifying the affirmative action that may be taken by a person pursuant to such order; amending s. 498.053, Florida Statutes, relating to notices to show cause; amending s. 498.063, Florida Statutes, updating the saving clause; providing for conditional repeal; providing an effective date.

—was read the first time by title and SB 666 was laid on the table.

On motions by Senator Thomas, by two-thirds vote CS for SB 666 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Anderson	Gorman	Myers	Tobiassen
Beard	Grizzle	Neal	Trask
Carlucci	Hair	Peterson	Vogt
Chamberlin	Hill	Scarborough	Ware
Childers, W. D.	Holloway	Scott	Williamson
Dunn	Jenne	Skinner	Winn
Fechtel	MacKay	Steinberg	
Frank	McClain	Stuart	
Gordon	McKnight	Thomas	

Nays—None

SB 702—A bill to be entitled An act relating to the jurisdiction of the circuit courts; amending s. 26.012(1), Florida Statutes; giving the circuit courts jurisdiction of appeals from county courts except appeals of county court orders and judgments declaring invalid a state statute or provision of the State Constitution; providing an effective date.

—was read the second time by title.

Senator Hair moved the following amendments which were adopted:

Amendment 1—On page 1, between lines 20 and 21, insert:

Section 2. Section 26.363, Florida Statutes, is amended to read:

26.363 Eighteenth judicial circuit.—The regular spring and fall terms of the circuit court of the eighteenth judicial circuit of the state shall be held semiannually at the times hereinafter specified, to wit:

SPRING TERMS.

Brevard County—fourth ~~Tuesday~~ *Monday* in March.

Seminole County—third ~~Tuesday~~ *Monday* in April.

FALL TERMS.

Brevard County—Second ~~Tuesday~~ *Monday* in October.

Seminole County—First ~~Tuesday~~ *Monday* in November.

(Renumber subsequent section.)

Amendment 2—On page 1, line 8, after the word "Constitution;" insert: amending s. 26.363, Florida Statutes; redesignating the dates for the regular spring and fall terms of the circuit court of the eighteenth circuit;

Pending further consideration of SB 702, on motion by Senator Hair, the rules were waived and by two-thirds vote HB 1670 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Hair—

HB 1670—A bill to be entitled An act relating to circuit courts; amending s. 26.012(1), Florida Statutes; providing an exception to circuit court jurisdiction of appeals from county courts; providing an effective date.

—a companion measure, was substituted for SB 702 and read the second time by title.

Senator Hair moved the following amendment which was adopted:

Amendment 1—On page 1, line 5, after the word "courts;" insert: amending s. 26.363, Florida Statutes; redesignating the dates for the regular spring and fall terms of the circuit court of the eighteenth circuit;

On motion by Senator Hair, by two-thirds vote HB 1670 as amended was read the third time by title, passed, and certified to the House. The vote on passage was:

Yeas—31

Anderson	Grizzle	McClain	Thomas
Beard	Hair	McKnight	Tobiassen
Carlucci	Henderson	Neal	Trask
Chamberlin	Hill	Peterson	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Fechtel	Jenne	Scott	Williamson
Frank	MacKay	Skinner	Winn
Gorman	Maxwell	Stuart	

Nays—None

Vote after roll call:

Yea—Myers

SB 702 was laid on the table.

SB 864—A bill to be entitled An act relating to the State Road Arbitration Board; amending s. 337.32(3), Florida Statutes; granting the board jurisdiction to hear matters concerning $100,000 or less; providing an effective date.

—was read the second time by title.

The Committee on Transportation offered the following amendments which were moved by Senator Holloway and adopted:

Amendment 1—On page 1, line 19, strike *"$100,000"* and insert: *$50,000*

Amendment 2—On page 1, line 20, after the word "less" insert: *per contract*

Amendment 3—On page 1, in title, line 5, strike "$100,000" and insert: $50,000

On motion by Senator Holloway, by two-thirds vote SB 864 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Anderson	Grizzle	McKnight	Stuart
Carlucci	Henderson	Myers	Thomas
Chamberlin	Hill	Neal	Tobiassen
Childers, D.	Holloway	Peterson	Trask
Childers, W. D.	Jenne	Poole	Vogt
Dunn	Johnston	Scarborough	Ware
Fechtel	MacKay	Scott	Winn
Frank	Maxwell	Skinner	
Gorman	McClain	Steinberg	

Nays—None

Vote after roll call:

Yea—Hair

SB 911 was taken up and on motion by Senator Peterson, the rules were waived and by two-thirds vote HB 621 was withdrawn from the Committee on Transportation.

On motion by Senator Peterson—

HB 621—A bill to be entitled An act relating to motor vehicles; amending s. 320.084(1), Florida Statutes, providing that the free motor vehicle license plate currently available to disabled veterans shall also be issued with respect to motor vehicles leased by such veterans; providing an effective date.

—a companion measure, was substituted for SB 911 and read the second time by title.

Senator Carlucci moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 2 and 3, insert: Section 2. Subsection (1) of section 320.025, Florida Statutes, is amended to read:

320.025 Confidential *or fictitious* motor vehicle license; application for registration.—

(1) Confidential motor vehicle licenses shall be issued *under fictitious names* only for motor vehicles of law enforcement agencies of the state, county, municipal, and federal governments. The requesting agency shall file a written application with the department on forms furnished by the department, which application shall include a statement that the license plate will be used for law enforcement activities requiring concealment of publicly leased or owned motor vehicles and a statement of the position classifications of the individuals who are authorized to use the license plate. *The department may modify its records to reflect the fictitious identity of the owner or lessee until such time as the license plate and registration are surrendered to it.*

Section 3. This act shall constitute an exception to other statutes relating to falsification of public records, false swearing, and similar matters. It shall also constitute an exception to section 119.07, Florida Statutes, as to the application of a law enforcement agency and the authorization for the maintenance of such confidential records as are necessary to carry out its intended purposes. It shall not be construed to impliedly prohibit other personations, fabrications, or creation of false identifications by law enforcement officers in the official performance of covert operations.

(Renumber subsequent sections.)

Amendment 2—On page 1 in title, line 7, after the semicolon insert: amending s. 320.025(1), Florida Statutes; providing for the issuance of motor vehicle license plates to fictitious persons when motor vehicles so registered are to be used in law enforcement operations; providing for confidentiality of certain records;

On motion by Senator Peterson, by two-thirds vote HB 621 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Anderson	Grizzle	McClain	Stuart
Beard	Hair	McKnight	Thomas
Carlucci	Henderson	Myers	Tobiassen
Chamberlin	Hill	Neal	Trask
Childers, D.	Holloway	Peterson	Vogt
Dunn	Jenne	Poole	Ware
Fechtel	Johnston	Scott	Williamson
Frank	MacKay	Skinner	Winn
Gorman	Maxwell	Steinberg	

Nays—None

SB 911 was laid on the table.

SB 1209 was taken up and on motion by Senator Henderson—

HB 1556—A bill to be entitled An act relating to energy conservation in state-owned buildings; amending s. 255.252(3), Florida Statutes; providing that it shall be state policy to retrofit existing state-owned buildings to accomplish energy conservation; providing an effective date.

—a companion measure was substituted therefor and read the second time by title. On motion by Senator Henderson, by two-thirds vote HB 1556 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Anderson	Gordon	Maxwell	Stuart
Barron	Gorman	McClain	Thomas
Carlucci	Grizzle	McKnight	Tobiassen
Chamberlin	Hair	Myers	Trask
Childers, D.	Henderson	Peterson	Vogt
Childers, W. D.	Hill	Scarborough	Ware
Dunn	Holloway	Scott	
Fechtel	Johnston	Skinner	
Frank	MacKay	Steinberg	

Nays—None

Vote after roll call:

Yea—Winn

SB 1209 was laid on the table.

SB 1174—A bill to be entitled An act relating to the removal of public officials; creating s. 112.52, Florida Statutes; providing a general method for removal of public officials when no other method has been provided; providing an effective date.

—was read the second time by title.

Senator Vogt moved the following amendment which was adopted:

Amendment 1—On page 1, lines 20 and 21, strike "or indirectly out of or pertaining to" and insert: out of

Senator Thomas moved the following amendments which were adopted:

Amendment 2—On page 2, strike all of lines 9 and 10 and insert: Section 2. Section 112.44, Florida Statutes, is amended to read:

112.44—Failure to prove charges; attorney's fees.—In the event any officer suspended by the Governor shall not be removed by the Senate, he shall be reinstated, and the Senate may provide that the county, district, or state, as the case may be, shall pay reasonable attorney's fees and costs of the reinstated officer upon his exoneration. *; or the Legislature may at any time after such reinstatement provide for the payment of reasonable attorney's fees and costs or the salary and emoluments of office from the date of suspension to the date of reinstatement from general revenue funds. The appropriation for such fees, costs, and salary and emoluments may be contained in the general appropriations act or any other appropriate general act.* Part V of chapter 112 shall constitute sufficient authority for the payment of such attorney's fees and costs as the officer may reasonably have incurred in his own defense.

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

Amendment 3—On page 1 in title, strike all of line 6 and insert: method has been provided; authorizing payment by the legislature of attorney's fees, costs, salary, and emoluments of reinstated officers; providing an

On motion by Senator Vogt, by two-thirds vote SB 1174 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Anderson	Hair	Neal	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Hill	Poole	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Dunn	Jenne	Scott	Williamson
Fechtel	Johnston	Skinner	Winn
Frank	Maxwell	Steinberg	
Gorman	McClain	Stuart	
Grizzle	McKnight	Thomas	

Nays—None

Vote after roll call:

Yea—Myers

On motion by Senator Ware, by unanimous consent—

HM 641—A memorial to the Congress of the United States urging passage of legislation to permit state workfare programs without jeopardizing federal funding for welfare.

—was read the second time in full. On motion by Senator Ware, HM 641 was adopted and certified to the House. The vote on adoption was:

Yeas—35

Anderson	Gorman	McClain	Stuart
Barron	Grizzle	McKnight	Thomas
Beard	Hair	Neal	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Hill	Poole	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Dunn	Jenne	Scott	Williamson
Fechtel	Johnston	Skinner	Winn
Frank	Maxwell	Steinberg	

Nays—None

Vote after roll call:

Yea—Myers

By the Committee on Health and Rehabilitative Services and Senators Trask and Peterson—

CS for SB 884—A bill to be entitled An act relating to Medicaid fraud control; creating s. 11.55, Florida Statutes; authorizing the Auditor General to conduct a statewide program of Medicaid fraud control; authorizing the Auditor General to enter premises, examine records, investigate alleged patient abuse, and investigate alleged misappropriation of patients' funds; specifying duties of Department of Health and Rehabilitative Services; authorizing the Auditor General to subpoena witnesses and materials; requiring certain violations to be referred to the state attorney; providing an appropriation; providing an effective date.

—was read the first time by title and SB 884 was laid on the table.

On motion by Senator McKnight, by two-thirds vote CS for SB 884 was read the second time by title.

Senator McKnight moved the following amendments which were adopted:

Amendment 1—On page 2, lines 20-22, strike "(g) Safeguard the privacy rights of all individuals and provide safeguards to prevent the misuse of information under the Auditor General's control." and insert: (g) Safeguard the privacy rights of all individuals and provide safeguards to prevent the use of patient medical records for any reason beyond the scope of a specific investigation for fraud or abuse or both, without the patient's written consent.

Amendment 2—On page 2, line 27, after the word "examine" insert: all

Amendment 3—On page 3, lines 4-5, strike "of physicians"

Amendment 4—On page 3, lines 11-17, strike all of Section 2 and renumber subsequent sections

Amendment 5—On page 3, between lines 17-18, insert: Section 3. Subsection (4) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.741 shall be primary, except that benefits received under any workers' compensation law or Medicaid as provided under 42 U.S.C. s. 1396 et seq. 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. 627.730-627.741. *Any credits taken as a result of Medicaid benefits received shall be subject to the provisions of s. 409.266 (3)(a).*

Section 4. The repeal of section 627.736, Florida Statutes, by chapter 76-168, Laws of Florida, as amended, shall not be affected by the amendment of that section by this act.

(Renumber subsequent sections)

Amendment 6—On page 3, between lines 17-18, insert: Section 3 Subsection (1) of section 287.057, Florida Statutes, is amended to read:

287.057 Purchase of professional and technical services.—

(1) No purchase of professional or technical services shall be made by the state or any agency thereof, except:

(a) Purchases made by the Legislature.~~, unless the same is~~

(b) Purchases evidenced by a written agreement embodying all provisions and conditions of the purchase and executed prior to the rendering of any service under the agreement except in cases of valid emergencies certified by the agency head.

(c) Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Health and Rehabilitative Services. This exception shall be valid for a period not to exceed 90 days after the date of delivery of service to any Medicaid recipient and shall not be renewed by the department.

Amendment 7—On page 3, between lines 17 and 18, insert: Section 3. Paragraph (b) of subsection (1) and paragraphs (e) and (f) of subsection (5) of section 409.266, Florida Statutes, are amended and subsections (6), (7), (8), (9), (10), and (11) are added to said section to read:

409.266 Medical assistance.—

(1) The department is designated as the state agency responsible for the administration of Medicaid funds under Title XIX of the Social Security Act and, to the extent moneys are appropriated, is authorized to provide payment for medical services to any person who:

(b) Has not sufficient income resources or assets, as determined by the department, to provide needed medical care without utilizing his resources required to meet his basic needs for shelter, food, clothing, and personal expenses. ~~Interest on savings accounts of $1,000 or less held in the name of a Medicaid recipient shall not be considered income to be applied toward the monthly cost of institutional care.~~

(5) The following services may also be provided in addition to the federally required Medicaid services, provided that the department promulgates and enforces rules requiring appropriate program monitoring or prior authorization and review of services, coinsurance, bulk purchasing where fiscally beneficial, written certification from providers that services were rendered, and other procedures necessary to prevent fraud and abuse in the utilization of these services:

(e) The services of a licensed otolaryngologist, otologist, or ~~audiologist upon the referral of a~~ physician which services are required to determine hearing aid candidacy; however, ~~if, in the opinion of the department, the services of such professionals are unavailable, the department may authorize~~ a physician *other than an otolaryngologist or otologist shall refer persons to an audiologist, otolaryngologist, or otologist for evaluation and testing* ~~to determine hearing aid candidacy.~~

(f) Hearing aids and the dispensing, service, and repair of hearing aids provided by a person licensed to fit and sell hearing aids, provided that dispensing, services, and repair of hearing aids shall be purchased based on bids let by the department at the district, subdistrict, or service network level, *or may be purchased in bulk by the department if bulk purchasing is less expensive*; however, no hearing aid shall be made available to a Medicaid recipient under this section unless the candidacy for a hearing aid has been determined ~~by an otolaryngologist, an otologist, an audiologist upon the referral of a physician, or a physician~~ as provided in this subsection, and only one hearing aid may be issued to any Medicaid recipient during a 3-year period, unless an exception to this limitation is made by the department, on a case-by-case basis, in accordance with the provisions of the rules required under this subsection. The department shall periodically review expenditures for these services, and if expenditure trends indicate a higher rate of utilization than can be funded by the current appropriation for these services, the secretary is authorized, after providing 2 weeks' notice to participating providers and eligible recipients, to either temporarily or permanently terminate reimbursement for these services. All providers and recipients of these services shall be subject to the penalty provisions of s. 409.325 regarding Medicaid fraud. Except as provided in this subsection, the department shall not require copayment or coinsurance on Medicaid services without legislative authorization.

(6) Any suspected criminal violation or fraudulent activity by any provider pursuant to this section shall be referred to the Medicaid fraud control unit in the office of the Auditor General for investigation.

(7) The department may impose administrative sanctions on a provider participating in the Medicaid program when:

(a) The provider has been convicted of fraud related to Medicaid or Medicare. Any sanction imposed for this reason shall be limited to termination from further participation in the Medicaid program.

(b) The provider has been convicted of a criminal offense under state or federal law relating to the practice of his profession.

(c) The provider is suspended or terminated from the Medicare program for cause.

(d) The provider's license has not been renewed for cause or has been revoked, suspended, or terminated by the licensing agency of this state or another state.

(e) The provider's certification for participation in the Medicare program or Medicaid program has been expired for 30 days or has been suspended or terminated by another state or the Federal Government.

(f) The provider has refused access to Medicaid related records to authorized auditors or investigators acting as employees or agents of the department, the Auditor General of the State of Florida, a state attorney, or the Federal Government.

(g) The provider is in noncompliance with officially adopted departmental Medicaid policy manuals, the Florida Administrative Code, Florida Statutes, and Federal Rules and Regulations as they pertain to the Medicare program, the licensing of the provider, and the certification of the provider for participation in the Medicaid Program furnished to the provider by the department.

(h) The provider fails to comply with conditions prescribed in any Medicaid provider agreement executed between the department and the provider or contained in certifications found on claim forms signed and submitted by the provider or a duly authorized representative.

(i) The provider has furnished goods or services to a recipient which are:

1. In excess of his or her needs,

2. Harmful to the recipient, or

3. Of inferior quality.

Such determinations shall be based on competent medical judgement and evaluations.

(j) The provider submits or causes to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is entitled under the Medicaid program.

(k) The provider charges recipients for services over and above that paid by the Medicaid program for those services.

(l) The provider is indicted for fraudulent billing practices or negligent practice resulting in death or injury to the provider's patient. Sanctions applied for this reason will be limited to suspension of the provider from the Medicaid program for the period of the indictment.

(8) The following sanctions may be imposed on providers who violate the provisions of paragraph (7):

(a) Suspension of a provider for a specific period of time not to exceed 1 year.

(b) Termination of a provider from the program, with reinstatement based on submission of a new application and department approval.

(c) Imposition of a fine which shall be up to $500 for each violation. Each day a violation occurs, it shall be considered a separate violation, and shall be subject to a separate fine; but in no event shall any provider be fined more than $10,000.

(d) Requirement that all claims submitted by the provider receive a prepayment review by Medicaid staff prior to approval for payment.

(e) Requirement that the provider participate in a provider education program to be specified or approved by the department.

(9) The determination of the appropriate administrative sanction to be applied shall consider:

(a) The seriousness and extent of the violation or violations.

(b) Any prior history of violations by the provider.

(c) The degree to which a lesser sanction will be sufficient to remedy the provider's violations.

(d) The impact on Medicaid patient's access to medical care if the provider is terminated or suspended.

(e) Evidence of continued violation within the provider's management control of Medicaid program policies and rules and regulations after written notification of said violation to the provider.

(f) Actions by licensing agencies in this state or other states in which the provider operates.

(10) Medical assistance payments to a provider, received as a result of a violation of this section, may be withheld pending completion of an investigation under this section when there is reasonable cause to believe that a provider has committed one or more violations resulting in such payments. However, where payments are withheld the monthly medical assistance payment shall not be reduced by more than 10 percent. Payments withheld under this section shall be paid to a provider within 60 days at 10 percent interest per year upon determining that no such violations have occurred.

(11) The department shall adopt rules necessary to implement the provisions of this act.

Section 4. Section 409.335, Florida Statutes, is amended to read:

409.335 Recovery of payments made due to mistake or fraud.—

(1) Whenever it becomes apparent that any person has received any benefits under this chapter to which he is not entitled, either through simple mistake or fraud, the department shall take all necessary steps to recover the overpayment, unless it is determined that extreme hardship would result if repayment were forced at that time. The department shall establish a policy and cost-effective rules to be used in the recovery of such overpayments.

(2) When the department has made a probable cause determination and alleged an overpayment to a Medicaid provider, the department, after notice to the provider, may:

(a) Withhold, and continue to withhold during the pendency of an administrative hearing pursuant to chapter 120, any medical assistance reimbursement payments until such time as the overpayment is recovered, unless within 30 days after receiving notice thereof the provider:

1. Makes repayment in full; or

2. Establishes a repayment plan that is satisfactory to the department.

(b) Withhold, and continue to withhold during the pendency of an administrative hearing pursuant to chapter 120, medical assistance reimbursement payments if the terms of the repayment plan are not adhered to by the provider.

(c) Should a provider request an administrative hearing pursuant to chapter 120, Florida Statutes, such hearing shall be conducted within 90 days following receipt by the provider of the final audit report, absent exceptionally good cause shown as determined by the administrative hearing officer. Upon issuance of a final order the balance outstanding of the amount determined to constitute the overpayment shall become due.

(d) Any withholding of payments by the department pursuant to this section shall be limited such that the monthly medical assistance payment shall not be reduced by more than 10 percent.

3. In all final agency actions and orders issued by hearing officers that relate to recovery of medical assistance overpayments made due to mistake of the provider or fraud, the department shall make a motion to impose an interest penalty at 10 percent per year from the date of final agency action or order by a hearing officer until the overpayment is recovered by the department. When the hearing officer's decision is such that an overpayment was not made in an amount as great as identified by the department, any collections made by the department pursuant to subsection (2) shall be reimbursed to the provider by the department with interest at 10 percent per year.

(Renumber subsequent sections)

Amendment 8—On page 1 in title, line 2, strike "fraud control"

Amendment 9—On page 1 in title, line 15, before the word "providing" insert: amending s. 287.057(1), Florida Statutes; providing a limited exception for health care providers who provide Medicaid services;

Amendment 10—On page 1 in title, line 15, after the semicolon insert: amending s. 409.266(1)(b), (5)(e), (f), Florida Statutes, and adding subsections (6)-(11) to said section; conforming provision to federal eligibility requirements; requiring that physicians, other than otolaryngologist or otologist to refer patients for evaluation and testing; providing for bulk purchasing of dispensing, service, and repair of hearing aids by the Department of Health and Rehabilitative Services; providing for referral, to the Auditor General's office, of cases of suspected fraud or criminal violations; providing for suspension or termination of provider participation agreements and withholding of medical assistance reimbursement payments under certain circumstances; providing for imposition of administrative fines against providers for certain specified acts; amending s. 409.335, Florida Statutes; providing for recovery of overpayments; providing that pendency of an administrative hearing shall not delay recovery of overpayments; providing for interest penalties on overpayments;

Amendment 11—On page 1 in title, line 15, before the word "providing" insert amending s. 627.736(4), Florida Statutes;

requiring credits to be taken as a result of Medicaid benefits received be subject to the provisions of s. 409.266(3)(a), Florida Statutes;

Amendment 12—On page 1 in title, lines 14-15, strike "providing an appropriation;"

Pending further consideration of CS for SB 884 as amended, on motion by Senator McKnight, by two-thirds vote HB 1812 was withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator McKnight—

HB 1812—A bill to be entitled An act relating to medical assistance; amending ss. 409.266(1)(b) and (5)(e) and (f), Florida Statutes, and adding subsections (6)-(8) to said section; conforming provision to federal eligibility requirements; removing the services of an audiologist from certain provided services; providing for specified physician referral for certain evaluation and testing; providing for bulk purchasing of dispensing, service, and repair of hearing aids by the Department of Health and Rehabilitative Services; requiring the department to protect use of patient records; providing for referral, to the Auditor General's office, of cases of suspected fraud or criminal violations; providing for suspension or termination of provider participation agreements under certain circumstances; providing for imposition of administrative fines against providers for certain specified acts; providing for determination of appropriate administrative sanctions; providing rulemaking authority of the department; providing for the withholding of payments; providing for repayment of overpayments; providing for an administrative hearing; providing for an interest penalty; providing an effective date.

—a companion measure, was substituted for CS for SB 884 and read the second time by title. On motion by Senator McKnight, by two-thirds vote HB 1812 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Anderson	Gorman	Maxwell	Thomas
Beard	Grizzle	McClain	Tobiassen
Carlucci	Hair	McKnight	Trask
Chamberlin	Henderson	Neal	Vogt
Childers, D.	Hill	Poole	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Jenne	Scott	Winn
Fechtel	Johnston	Skinner	
Frank	MacKay	Steinberg	

Nays—None

Votes after roll call:

Yea—Myers, Peterson

CS for SB 884 was laid on the table.

On motion by Senator Johnston, the rules were waived and time of adjournment was extended until 12:15 p.m.

On motions by Senator McKnight, by two-thirds vote HB 1312 was withdrawn from the Committees on Rules and Calendar and Ways and Means.

On motion by Senator McKnight, by unanimous consent—

CS for HB 1312—A bill to be entitled An act relating to Medicaid; creating s. 11.55, Florida Statutes, authorizing the Auditor General to conduct a statewide Medicaid fraud control program; providing specific powers; granting inspection and certain judicial powers to the Auditor General; providing an appropriation; amending s. 287.057(1), Florida Statutes; providing a limited exception for medical practioners who provide Medicaid services; requiring credits to be taken as a result of Medicaid benefits received be subject to the provisions of s. 409.266(3)(a), Florida Statutes; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator McKnight, by two-thirds vote CS for HB 1312 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Anderson	Gorman	Maxwell	Thomas
Beard	Grizzle	McClain	Tobiassen
Carlucci	Hair	McKnight	Trask
Chamberlin	Henderson	Neal	Vogt
Childers, D.	Hill	Poole	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Jenne	Scott	Winn
Fechtel	Johnston	Skinner	
Frank	MacKay	Steinberg	

Nays—None

Votes after roll call:

Yea—Myers, Peterson

On motion by Senator Holloway, by two-thirds vote SB 1325 was placed at the end of the special order calendar.

On motion by Senator Don Childers, by unanimous consent—

HB 1111—A bill to be entitled An act relating to education; allowing district school boards and community college boards of trustees to develop educational centers for gifted junior high school students; providing for funding; providing an effective date.

—was read the second time by title. On motion by Senator Don Childers, by two-thirds vote HB 1111 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Anderson	Gorman	McKnight	Thomas
Barron	Grizzle	Myers	Tobiassen
Carlucci	Hair	Neal	Trask
Childers, D.	Henderson	Peterson	Vogt
Childers, W. D.	Jenne	Poole	Ware
Dunn	Johnston	Scarborough	Williamson
Fechtel	Maxwell	Skinner	Winn
Frank	McClain	Stuart	

Nays—1

Beard

Vote after roll call:

Nay to Yea—Beard

Consideration of SB 741 and CS for SB's 796 and 914 was deferred.

The Senate recessed at 12:15 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—33:

Mr. President	Gordon	MacKay	Steinberg
Anderson	Gorman	McKnight	Stuart
Beard	Grizzle	Myers	Trask
Carlucci	Hair	Neal	Vogt
Chamberlin	Henderson	Peterson	Williamson
Childers, D.	Hill	Poole	Winn
Childers, W. D.	Holloway	Scarborough	
Fechtel	Jenne	Scott	
Frank	Johnston	Skinner	

SPECIAL ORDER, continued

HB 1517—A bill to be entitled An act relating to private wire services; creating chapter 365, Florida Statutes; providing definitions; prohibiting furnishing or using wire service for gambling; providing that such unlawful use of wire service is a public nuisance; providing that it is unlawful for any public utility to furnish private wire service except in pursuance of a written contract; providing exceptions; requiring state attorneys to review, investigate, and approve or disapprove such contracts; providing procedure for discontinuance of such service; prohibiting use of wire service for any purpose not stated in the contract; providing penalties; prohibiting certain uses of

telephones, obscene calls, and automated solicitation; providing penalties; providing for a cohesive statewide emergency telephone number "911" plan; repealing the existing chapter 365, Florida Statutes, including provisions relating to attorney general's authority, authority of the Department of Legal Affairs and state attorneys to investigate private wire service contracts, procedure for canceling such contracts, and procedures, orders, and evidence in private wire service proceedings; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil offered the following amendment which was moved by Senator Hair:

Amendment 1—On page 2, line 1, strike everything after the enacting clause and insert: Section 1. Sections 365.01, 365.02, 365.03, 365.04, 365.05, 365.08, 365.09, 365.13, and 365.14, Florida Statutes, are designated as part I of chapter 365, Florida Statutes, and amended to read:

PART I

PRIVATE WIRE SERVICES

365.01 Definitions.—*As used in this part:* ~~The following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.~~

~~(1) The term "commissioners" when used in this chapter shall mean the Florida public service commissioners of the state.~~

(1)~~(2)~~ "Dissemination" means the act of transmitting, distributing, advising, spreading, communicating, conveying or making known.

~~(3) "Person" means a corporation (including a public utility), partnership or association, as well as a natural person.~~

(2)~~(4)~~ "Private wire" means any and all "wire service," service equipment, facilities, conduits, poles, wires, circuits, systems by which or by means of which service is furnished for communication purposes, either through the medium of telephone, telegraph, teletypewriter, loudspeaker, radio, television, or any other means, or by which the voice or electrical impulses are sent over a wire, but shall not include private wires used for fire or burglar alarm purposes, nor telegraph messenger cell boxes and circuits used in connecting therewith, time clock circuits used for furnishing correct time service, nor any private wires used by any department or agency of the United States Government or of this state or by any municipality or other political subdivision of this state.

(3)~~(5)~~ "Public utility" means a person, partnership, association or corporation, now or hereafter owning or operating in the state, equipment or facilities for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

~~(6) The singular shall include the plural.~~

365.02 Unlawful to furnish or use wire service for gambling.—It *is* ~~shall be~~ unlawful for any public utility knowingly to furnish to any person any private wire for use or intended for use in the dissemination of information in furtherance of gambling or for gambling purposes. *It is also unlawful for,* ~~or for~~ any person knowingly to use any private wire in the dissemination of information in furtherance of gambling or for gambling purposes.

365.03 Unlawful use declared a public nuisance.—The use of any private wire for ~~use in the~~ dissemination of information in furtherance of gambling or for gambling purposes is ~~hereby declared to be~~ a public nuisance and subject to abatement as provided for in ss. 60.05 and 60.06.~~; but~~ This remedy of injunction *is* ~~shall be~~ in addition to ~~and not in lieu of~~ any remedy provided by this *part* ~~chapter~~ or otherwise provided by law.

365.04 Private wire; contract to declare purpose; exceptions.—It *is* ~~shall be~~ unlawful for any public utility to furnish to any person any private wire, except in pursuance of a written contract signed by the person contracting for *the* ~~said~~ private wire and responsible under the terms of the contract for the payment for the service, and by the person in possession or control of any place or location designated in the contract for installation or connection of *such* ~~said~~ private wire, which contract shall include a detailed ~~written~~ statement of the purpose for which such private wire is intended to be used.~~; provided, that~~ This section shall not apply to the furnishing of any private wire in case of public emergency, or where the furnishing of the ~~said~~ wire is for a temporary purpose not to exceed 48 hours.~~; provided, however, that~~ This section relating to *written* contracts shall not apply to any private wire furnished for use in radio broadcasting, or to any protective service operating under a franchise granted by any municipality, or for use in interstate commerce, for use of newspaper of general circulation, or recognized press association furnishing their news service or for use of any agricultural or marketing agency or broker, railroad, pipeline, common carrier, public utility furnishing service to the public and requiring wires for their own intercommunication purposes, or any national or state bank, or any licensed dealer or broker in stocks, bonds, or other securities; provided further that the provisions of this section relating to written contracts shall not apply to customary telephone service either individual, party line, or public (pay station) service, which operate through the general telephone exchange system or toll service.

365.05 Contracts reviewable by *state attorney* ~~commissioners~~.—

(1) It *is* ~~shall be~~ unlawful for any public utility to furnish to any person any private wire without first furnishing to the *state attorney of the judicial circuit where the place of installation or connection of the private wire is located,* ~~commissioners~~ one duplicate original ~~and two copies~~ of the written contract required by s. 365.04. The *state attorney* ~~commissioners~~ shall examine the *contract* ~~same forthwith~~ and conduct such investigation as *he* ~~they~~ may deem necessary. *The state attorney may request from the person contracting for a private wire any information which the state attorney deems necessary to conduct the investigation.* ~~, and,~~ If upon examination of the contract, or after investigation, or otherwise at any time, the *state attorney finds* ~~commissioners shall find~~ that the ~~said~~ private wire is intended for or has been used for or is being used for the transmission of information or advices in furtherance of gambling, the *state attorney* ~~commissioners~~ shall disapprove the ~~said~~ contract and give notice of such disapproval to the contracting parties. Thereafter it shall be unlawful for any public utility to furnish the ~~said~~ private wire provided for in the ~~said~~ contract; provided, that this section shall not apply to the furnishing of any private wire in case of public emergency, or where the furnishing of the ~~said~~ private wire is for a temporary purpose not to exceed 48 hours.

(2) The state attorney shall conduct the investigation referred to in subsection (1) within 15 days after the date he receives the contract and shall notify the public utility and the person contracting for service of any action taken or pending on the contract. If the public utility receives no notice within 15 days after the date the contract is received by the state attorney, the public utility may install and connect such private wire service and the connection shall not be a violation of the provisions of this part; provided, however, that such ***contract shall be subject to review by the state attorney.***

365.08 *Procedure for discontinuance of service* ~~Aggrieved parties entitled to hearing~~.—

~~(1) Any public utility or other person whose substantial interests are determined by the action of the commission in disapproving, canceling, or otherwise terminating such contract ior any private wire shall be entitled to a hearing before the commissioners upon written request; provided, however, that when the use which is prohibited by this chapter has to do with customary telephone service, either individual, party line, or public telephone (pay station) service, such telephone service shall be discontinued or removed subject to the following provisions of this section.~~

(1)~~(2)~~ Each ~~and every~~ telephone and telegraph company operating within the state under the jurisdiction of the Florida Public Service Commission, shall furnish service subject to the condition that it will not be used for an unlawful purpose.

~~(3) Whenever application is made in any such utility for the installation of any telephone or telegraph facility at any location within the state, said utility shall refuse to install the same when it has reasonable grounds to believe that said facility will be used in violation of the law.~~

~~(4) Whenever any new or additional service is furnished to any applicant, the records of the utility shall show, in the case of business telephones, the business classification designated by the applicant.~~

(2)~~(5)~~ Whenever any state or federal law enforcement officer acting within his apparent jurisdiction acquires proof that certain telephone or telegraph facilities, or any part thereof, are being used or have been used in violation of any federal law or the laws of the state, then such officer may make application to the circuit court in the county where the alleged violation took place for an order requiring the public utility to disconnect and remove such facilities and discontinue all telephone and telegraph service as hereinafter provided. The circuit court shall, within 48 hours after application and written notice to the subscriber, hold a hearing to determine whether such service should be discontinued and the facilities removed. The 48-hour period prescribed herein shall commence to run from the time the written notice is served upon such subscriber by delivering the same to the address at which the telephone service is furnished and the facilities are located.

365.09 Unlawful to use for purpose not in contract.—It *is* ~~shall be~~ unlawful for any person, who has been furnished a private wire by any public utility in accordance with the provisions of this *part* ~~chapter~~, to use such private wire for any purpose other than that specified in the contract provided for in s. 365.04.

365.13 Penalties.—Any person or public utility who *violates* ~~or which shall violate~~ any of the provisions of this *part* ~~chapter~~, *is* ~~shall be~~ guilty of a misdemeanor *of the first degree, punishable as provided in s. 775.082 or s. 775.083* ~~and, upon conviction thereof, shall be sentenced to pay the costs and prosecution and a fine of not less than $500 nor more than $5,000, or undergo imprisonment for a period not to exceed 12 months, or both, at the discretion of the court~~; provided, however, that no public utility shall be liable at law or in equity for any damages or penalties, either civil or criminal, for failure to provide or delay in providing service, or for any discontinuance or disconnection of service, resulting from its compliance with the provisions of this *part* ~~chapter~~ or of any ~~rule, regulation,~~ order or action of the *state attorney* ~~commissioners~~ by virtue of the authority vested in *him* ~~them~~ by this *part* ~~chapter~~.

365.14 Construction.—This *part* ~~chapter~~ shall be deemed an exercise of the police power of the state for the protection of the public welfare, health, peace, safety and morals of the people of the state, and all of the provisions of this *part* ~~chapter~~ shall be liberally construed for the accomplishment of this purpose.

Section 2. Sections 365.15, 365.16, and 365.165, Florida Statutes, are designated as part II of chapter 365, Florida Statutes, and amended to read:

PART II

TELEPHONE CALLS: EMERGENCY, OBSCENE

AUTOMATED SOLICITATIONS

365.15 Party lines, emergency calls.—

(1) Any person who shall willfully refuse to immediately relinquish a party line when informed that such line is needed for an emergency call, and in fact such line is needed for an emergency call, to a fire department or police department or for medical aid or ambulance service, or any person who shall secure the use of a party line by falsely stating that such line is needed for an emergency call, *is* ~~shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) "Party line" as used in this section means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

(b) "Emergency" as used in this section means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.

(3) Every telephone directory hereafter published and distributed to the members of the general public in this state or in any portion thereof which lists the calling numbers of telephones of any telephone exchange located in this state shall contain a notice which explains the offense provided for in this section, such notice to be printed in type which is not smaller than the smallest type appearing on the same page and to be preceded by the word "warning" printed in boldface type; provided, that *such notice is* ~~the provisions of this subdivision shall~~ not *required to be printed in* ~~apply to~~ those directories distributed solely for business advertising purposes, commonly known as classified directories, nor to any telephone directory heretofore distributed to the general public. Any person, firm or corporation providing telephone service which distributes or causes to be distributed in this state copies of a telephone directory which is subject to the provisions of this section and does not contain the notice herein provided for *is* ~~shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

365.16 Obscene or harassing telephone calls.—

(1) Whoever:

(a) Makes a telephone call to a location at which the person receiving the call has a reasonable expectation of privacy; during such call makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, vulgar, or indecent; and by such call or such language intends to offend, annoy, abuse, threaten, or harass any person at the called number; or

(b) Makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number; or

(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(d) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number,

is ~~shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Whoever knowingly permits any telephone under his control to be used for any purpose prohibited by this section *is* ~~shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) *Each* ~~Every~~ telephone directory hereafter published for distribution to the members of the general public shall contain a notice which explains this law, such notice to be printed in type which is no smaller than the smallest type on the same page and to be preceded by the word "warning." The provisions of this section shall not apply to directories solely for business advertising purposes, commonly known as classified directories.

(4) *Each* ~~All~~ telephone *company* ~~companies~~ in this state shall cooperate with the law enforcement agencies of this state in using *its* ~~their~~ facilities and personnel to detect and prevent violations of this *section* ~~statute~~.

(5) Nothing contained in this section shall apply to telephone calls made in good faith in the ordinary course of business or commerce.

365.165 Automated telephone solicitation.—

(1) No person shall use a telephone or knowingly allow a telephone to be used for the purpose of offering any goods or services for sale or conveying information regarding any goods or services when such use involves an automated system for the selection and dialing of telephone numbers and the playing of a recorded message when a connection is completed to the called number.

(2) Nothing herein shall prohibit the use of automated telephone systems with recorded messages when the calls are made or messages given solely in response to calls initiated by the person to which the automatic call or recorded message is directed.

(3) Any person who violates any provision of this section *is* ~~shall, upon conviction, be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The Attorney General or any telephone company servicing an area to which or from which automated calls are made may seek injunctive relief to enforce this section. In the event a civil action is filed pursuant to this subsection, the prevailing party shall be entitled to a reasonable attorney's fee.

Section 3. Section 365.171, Florida Statutes, is designated as part III of chapter 365, Florida Statutes, and amended to read:

PART III

FLORIDA EMERGENCY TELEPHONE ACT

365.171 Emergency telephone number "911."—

(1) SHORT TITLE.—This *part* ~~section~~ shall be known and cited as the "Florida Emergency Telephone Act ~~of 1974~~."

(2) LEGISLATIVE INTENT.—The legislature hereby finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid. There currently exist thousands of different emergency phone numbers throughout the state. Provision for a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public service efforts by making it easier to notify public safety personnel. Such a simplified means of procuring emergency services will result in the saving of life, a reduction in the destruction of property, and quicker apprehension of criminals. It is the intent of the legislature to establish and implement a cohesive statewide emergency telephone number "911" plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(3) DEFINITIONS.—As used in this *part* ~~section, unless the context clearly requires otherwise~~:

(a) "Department" means the Department of General Services.

(b) "Division" means the Division of Communications of the Department of General Services.

(c) "Local government" means any city, county, or political subdivision of the state and *its* ~~their~~ agencies.

(d) "Public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state, which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

(e) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(4) STATE PLAN.—The division shall develop a statewide emergency telephone number "911" system plan. The plan shall provide for:

(a) The establishment of the public agency emergency telephone communications requirements for each entity of local government in the state.

(b) A system to meet specific local government requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and civil defense services.

(c) Identification of the mutual aid agreements necessary to obtain an effective "911" system.

(d) A funding provision which shall identify the cost necessary to implement the "911" system.

(e) A firm implementation schedule, which shall include the installation of the "911" system in a local community within 24 months after the designated agency of the local government gives a firm order to the telephone utility for a "911" system.

The division shall be responsible for the implementation and coordination of such plan. The division shall *adopt* ~~promulgate~~ any necessary rules~~, regulations,~~ and schedules related to public agencies for implementing and coordinating such plan, pursuant to chapter 120. The public agency designated in the plan shall order such system within 6 months after publication date of the plan if the public agency is in receipt of funds appropriated by the Legislature for the implementation and maintenance of the "911" system. Any jurisdiction which has utilized local funding as of July 1, 1976, to begin the implementation of the state plan as set forth in this *part* ~~section~~, shall be eligible for at least a partial reimbursement of its direct cost when, and if, state funds are available for such reimbursement.

(5) SYSTEM DIRECTOR.—The director of the division is designated as the director of the statewide emergency telephone number "911" system and, for the purpose of carrying out the provisions of this *part* ~~section~~, is authorized to coordinate the activities of the system with state, county, local, and private agencies. The director is authorized to employ not less than five persons, three of whom will be at the professional level, one at the secretarial level, and one to fill a fiscal position, for the purpose of carrying out the provisions of this *part* ~~section~~. The director in implementing the system shall consult, cooperate, and coordinate with local law enforcement agencies.

(6) REGIONAL SYSTEMS.—Nothing in this *part* ~~section~~ shall be construed to prohibit or discourage the formation of multijurisdictional or regional systems; and any system established pursuant to this *part* ~~section~~ may include the jurisdiction, or any portion thereof, of more than one public agency.

(7) TELEPHONE INDUSTRY COORDINATION.—The division shall coordinate with the Public Service Commission which shall encourage the Florida telephone industry to activate facility modification plans for a timely "911" implementation.

(8) COIN TELEPHONES.—The Public Service Commission shall establish rules to be followed by the telephone utilities in Florida designed toward encouraging the provision of coin-free dialing of "911" calls wherever economically practicable and in the public interest.

(9) SYSTEM APPROVAL.~~—From July 1, 1974,~~ No emergency telephone number "911" system shall be established and no present system shall be expanded without prior approval of the Division of Communications.

(10) COMPLIANCE.—All public agencies shall assist the division in their efforts to carry out the intent of this *part* ~~section~~, and such agencies shall comply with the developed plan.

(11) EXISTING EMERGENCY TELEPHONE SERVICE.—Any emergency telephone number established by any local government or state agency prior to July 1, 1974, using a number other than "911" shall be changed to "911" on the same implementation schedule provided in subsection (4)(e).

(12) FEDERAL ASSISTANCE.—The director of the division is authorized to apply for and accept federal funding assistance in the development and implementation of a statewide emergency telephone number "911" system.

Section 4. (1) Notwithstanding the provisions of chapter 76-168, Laws of Florida, as amended, sections 365.01, 365.02, 365.03, 365.04, 365.05, 365.08, 365.09, 365.13, 365.14, 365.15, 365.16, 365.165, and 365.171, Florida Statutes, shall not stand repealed on the date specified in such act, but said sections, as amended by this act, are revived and readopted.

(2) Sections 365.031, 365.06, 365.07, 365.10, 365.11, 365.12, Florida Statutes, shall stand repealed under the provisions of the Regulatory Reform Act of 1976, as amended.

Section 5. This act shall take effect July 1, 1980, and if it becomes a law after that date, it shall operate retroactively to July 1, 1980.

Senator Hair moved the following amendments to Amendment 1 which were adopted:

Amendment 1A—On page 3, lines 21 and 22, strike " , or where the furnishing of the ~~said~~ wire is for a temporary purpose not to exceed 48 hours" and insert: ~~, or where the furnishing of the said wire is for a temporary purpose not to exceed 48 hours~~

Amendment 1B—On page 5, line 4, strike *"15"* and insert:*30*

Amendment 1 as amended was adopted.

The Committee on Judiciary-Civil offered the following amendment which was moved by Senator Hair and adopted:

Amendment 2—On page 1 in title, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to private wire services; amending and readopting ss. 365.01, 365.02, 365.03, 365.04, 365.05, 365.08, 365.09, 365.13, 365.14, 365.15, 365.16, 365.165, 365.171, Florida Statutes; providing definitions; prohibiting furnishing or using wire service for gambling; providing that such unlawful use of wire service is a public nuisance; providing that it is unlawful for any public utility to furnish private wire service except in pursuance of a written contract; providing exceptions; requiring state attorneys to review, investigate, and approve or disapprove such contracts; providing procedure for discontinuance of such service; prohibiting use of wire service for any purpose not stated in the contract; providing penalties; prohibiting certain uses of telephones, obscene calls, and automated solicitation; providing penalties; providing for a cohesive statewide emergency telephone number "911" plan; repealing s. 365.031, Florida Statutes, relating to attorney general's authority; repealing s. 365.06, Florida Statutes, relating to authority of the Department of Legal Affairs and state attorneys to investigate private wire service contracts; repealing s. 365.07, Florida Statutes, relating to procedure for canceling such contracts; repealing ss. 365.10-365.12, Florida Statutes, relating to procedures, orders, and evidence in private wire service proceedings; providing an effective date.

On motion by Senator Hair, by two-thirds vote HB 1517 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gorman	Maxwell	Stuart
Anderson	Grizzle	McClain	Trask
Beard	Hair	McKnight	Vogt
Carlucci	Henderson	Myers	Ware
Chamberlin	Hill	Neal	Williamson
Childers, D.	Holloway	Peterson	Winn
Fechtel	Jenne	Poole	
Frank	Johnston	Scott	
Gordon	MacKay	Steinberg	

Nays—None

By the Committee on Health and Rehabilitative Services and Senator Henderson—

CS for SB 119—A bill to be entitled An act relating to acupuncture clinics; creating chapter 389, Florida Statutes; providing definitions; providing for licensing, inspection, and regulation by the Department of Health and Rehabilitative Services; prescribing license fees; providing for department's powers and rulemaking authority; providing for renewal, denial, suspension and revocation of licenses; providing administrative penalties; providing advertising restrictions; providing for inspections; prohibiting certain acts and providing penalties; providing injunctive relief; providing an effective date.

—was read the first time by title and SB 119 was laid on the table.

On motion by Senator Henderson, by two-thirds vote CS for SB 119 was read the second time by title.

The Committee on Governmental Operations offered the following amendments which were moved by Senator Henderson and adopted:

Amendment 1—On page 1, line 24, before the word "body" insert: human

Amendment 2—On page 1, line 27, after the word "by" insert: rules of

Amendment 3—On page 3, line 1, after the word "fee" insert: , not to exceed $200,

Amendment 4—On page 1, lines 29-30, and on page 2, lines 1-2, strike all of said lines and insert: (2) "Acupuncture clinic" means any facility which is primarily used for the performance of acupuncture.

Amendment 5—On page 3, line 16, strike "the applicable license fee" and insert: a license fee set by the department, not to exceed $200

Amendment 6—On page 4, line 8, after the word "act" insert: and has paid an annual license renewal fee set by the department

Amendment 7—On page 7 after line 8, insert a new section 2 to read: Section 2. Chapter 389, Florida Statutes, as created by this act, is repealed effective October 1, 1986, and shall be reviewed prior to that date pursuant to the Regulatory Reform Act of 1976, as amended.

(Renumber subsequent section.)

Amendment 8—On page 1 in title, line 14, after the semicolon (;) insert: providing for future repeal of chapter 389, Florida Statutes;

On motion by Senator Henderson, by two-thirds vote CS for SB 119 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	Maxwell	Steinberg
Anderson	Gordon	McClain	Stuart
Beard	Gorman	McKnight	Thomas
Carlucci	Grizzle	Myers	Tobiassen
Chamberlin	Hair	Neal	Trask
Childers, D.	Henderson	Peterson	Vogt
Childers, W. D.	Hill	Scarborough	Williamson
Dunn	Jenne	Scott	Winn
Fechtel	MacKay	Skinner	

Nays—1

Johnston

By the Committee on Health and Rehabilitative Services and Senator Henderson—

CS for SB 168—A bill to be entitled An act relating to acupuncture; creating part II of chapter 486, Florida Statutes; providing intent and definitions; requiring persons to be certified by the Department of Professional Regulation in order to practice acupuncture; providing qualifications; providing for examinations; providing for renewal of certificates; providing for fees; requiring consent to perform acupuncture; providing for disciplinary action by the department and grounds therefor; prohibiting unlawful practice of acupuncture and providing a penalty; providing for adoption of rules; providing an effective date.

—was read the first time by title and SB 168 was laid on the table.

On motion by Senator Henderson, by two-thirds vote CS for SB 168 was read the second time by title.

The Committee on Governmental Operations offered the following amendments which were moved by Senator Henderson and adopted:

Amendment 1—On page 3, line 29, strike "Pre-acupuncture examination;"

Amendment 2—On page 6, line 2, strike "immoral or"

Amendment 3—On page 6, between lines 12 and 13, insert: (n) Violation of any provision of this act.

(o) Failing to keep written records justifying the course of treatment of the patient.

(p) Exercising influence on the patient in such a manner as to exploit the patient for financial gain of the certificate holder or of a third party.

Amendment 4—On page 6, strike all of lines 18 through and including line 21 and insert: (4) Each person certified to practice acupuncture in this state shall be deemed to have given his consent

Amendment 5—On page 7, between lines 22 and 23, insert: Section 2. Part II of chapter 486, Florida Statutes, as created by this act, is repealed effective October 1, 1986, and shall be reviewed prior to that date pursuant to the Regulatory Reform Act of 1976, as amended.

(Renumber subsequent section.)

Senator Henderson moved the following amendment which was adopted:

Amendment 6—On page 1, line 31, strike ", or the treatment of specific skin areas by" and on page 2, line 1, strike "heat, electricity, or other means,"

Senator Tobiassen moved the following amendment which failed:

Amendment 7—On page 1, between lines 18 and 19, insert:

Section 1. Short title—This act may be cited as the Electrology Practice Act.

Section 2. Definitions.—As used in this act:

(1) "Board" means the Board of Electrolysis.

(2) "Department" means the Department of Professional Regulation.

(3) "Association" means the Electrolysis Society of Florida, Inc.

(4) "Electrolysis" means the permanent removal of hair by the application of an electrical current to the hair papilla by a filament causing decomposition, coagulation, or dehydration of the hair papilla.

(5) "Electrologist" means a person who engages in the practice of electrolysis.

Section 3. Board of Electrolysis.—

(1) There is created in the department a Board of Electrolysis. The Board shall consist of four members, three of whom are electrologists selected from a list of at least six persons recommended by the association and one of whom is a lay person who is not and has never been an electrologist or a member or practitioner of any closely related profession or occupation. In recommending members, the association shall consider geographic balance and balance among the various areas of electrology.

(2) Each member shall be a resident of this state and shall have practiced electrolysis in this state for the 5 years preceding appointment. Except for the intial members, each member shall be a licensed electrologist.

(3) Initially, the Governor shall appoint one member for a term of 4 years, one member for a term of 3 years, one member for a term of 2 years, and one member for a term of 1 year. Thereafter, the Governor shall appoint each member for a term of 4 years. No member may serve more than two consecutive terms. No member shall have any financial interest in the manufacture or sale of electrolysis equipment or supplies. No member shall engage in the teaching of electrolysis.

(4) Vacancies in the membership of the board shall be filled in the same manner as original appointment. The association shall recommend at least two persons to fill each vacancy.

Section 4. License required.—After January 1, 1981, no person shall engage in the practice of electrolysis in this state unless he is licensed under this act. The board may impose a civil penalty, not to exceed $1,000, against any person who violates this section.

Section 5. Requirements for licensure; reciprocity.—

(1) Any person who desires to be licensed as an electrologist shall apply to the department on application forms furnished by the department and shall pay the examination fee set by the board by rule. Such application shall show to the satisfaction of the board that the applicant is:

(a) 18 years old or older;

(b) A graduate of secondary school or its equivalent;

(c) Of good moral character;

(d) A resident of the state; and

(e) A graduate of an approved program of at least 600 hours of instruction in electrology and related fields. Such program shall include instruction in psychology, bacteriology, anatomy, physiology, hygiene, dermatology, trichology, laboratory procedures, health services, medical terminology, professional ethics, business administration, principles of electricity, and theoretical and clinical electrology and shall also include supervised, practical experience therein.

(2) Any person who is licensed to practice electrolysis in another jurisdiction which has standards for licensure which the board considers equivalent to, or more stringent than, the requirements of this act, or any person who has actively engaged in the practice of electrolysis for 2 years and meets the age and residency requirements of subsection (1), shall, upon filing the application and paying the examination fee, be eligible to take the examination.

(3) Any person who meets the requirements of this section shall be licensed upon passing the examination and paying the license fee.

Section 6. Examinations.—

(1) The board, by rule, shall establish fees for examination and licensure. The examination fee shall not be refunded, but any person may be reexamined upon filing application therefor and paying the examination fee.

(2) Each eligible applicant for licensure shall be tested by the department in written, oral, clinical, and practical examinations to test his knowledge of the basic and clinical sciences relating to the theory and practice of electrology, including the applicant's professional skills and judgment in the use of electrology methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice. Examination grades shall be determined with reference to a perfect score of 100. A score of 75 or better, based on the average of all subjects in which tested, shall be the lowest passing grade.

(3) Applicants for licensure shall be examined at such time and place and under such supervision as the department may determine, but examinations shall be given at least twice each year. The department shall give reasonable public notice of such examination, in accordance with its rules, at least 60 days prior to administration thereof, and shall notify all applicants of the time and place of administration.

(4) An applicant may obtain his examination scores and review his papers in accordance with the rules of the board.

Section 7. Waiver.—A person shall be licensed without examination if he submits an application for waiver to the department by October 1, 1980 and pays the waiver fee set by the board, and if:

(1) He is a resident of this state, is of good moral character, and has been actively engaged in the practice of electrolysis in this state prior to July 1, 1980; or

(2) He has successfully completed or subsequently successfully completes an approved program of instruction in electrology in which he was enrolled prior to July 1, 1980.

Section 8. Issuance of license; authorized designations.—Upon certification by the board, the department shall issue a license to any person who qualifies for licensure under sections 5 and 6 or under section 7. Any person so licensed may designate himself as a "registered electrologist" and may use the abbreviation "R. E.".

Section 9. Suspension; revocation; denial; refusal to renew.—

(1) The board may deny or refuse to renew a license, suspend or revoke a license, or impose probationary conditions against a licensee, when the applicant or licensee has been guilty of any conduct specified in s. 455.227, Florida Statutes.

(2) Such denial, refusal to renew, suspension, or revocation of a licensee, or imposition of probationary conditions upon a

licensee, may be issued or ordered by the board in a decision made after investigation and hearing pursuant to s. 455.225, Florida Statutes. One year after the date of revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement, and shall hold a hearing to consider such reinstatement. If application for reinstatement is accepted, the applicant shall comply with conditions imposed by the board.

Section 10. Renewal.—

(1) Licenses issued under this act shall be subject to biennial renewal upon payment of a renewal fee and presentation of evidence of meeting continuing educational standards set by the commission, and shall expire unless renewed. The board may provide for the late renewal of a license upon payment of a late fee in accordance with its rules, but no such late renewal may be granted more than 90 days after the expiration date of the license.

(2) A licensee who has failed to renew his license for more than 90 days after expiration may have it reinstated by applying to the board for reinstatement and complying with conditions imposed by the board.

(3) A suspended license is subject to expiration and may be renewed as provided in this section. Such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the practice of electrolysis or in any other conduct or activity in violation of the order by which the license was suspended. If a license which was suspended on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any late fees that may be applicable.

Section 11. Fees.—The board shall adopt, by rule, a schedule of fees for application, examination, licensure, renewal, waiver, and reinstatement, and shall adopt, by rule, penalties and late fees. Such fees shall be calculated to pay the costs of administration of this act.

Section 12. Establishment required.—Electrolysis shall be practiced by a licensee only in a permanent establishment. Such establishment shall be equipped with such equipment and supplies necessary to provide an efficient practice and shall be subject to sanitary rules adopted by the commission.

Section 13. Misrepresentation; penalty.—

(1) It is unlawful, after January 1, 1981, for any person, other than the holder of a currently valid license, to engage in the practice of electrolysis, to hold himself out as an electrologist, or to use the designations "registered electrologist" or "R. E." in connection with his name or business.

(2) Any person who violates the provisions of subsection (1) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Section 14. This act does not apply to, nor prohibit the practice of electrolysis by:

(1) A physician licensed under chapter 458, Florida Statutes;

(2) A person demonstrating, on behalf of a manufacturer or distributor, electrolysis equipment or supplies, if such demontration is performed without charge; or

(3) A student at an approved school of electrolysis when electrolysis is performed in the course of his studies.

(Renumber subsequent sections.)

Senator Henderson offered the following amendments which were adopted:

Amendment 8—On page 7, after line 12, insert a new section (486.211):

486.211 Exemptions.—This chapter shall not apply to persons licensed under chapters 458, 459, 460, 461, 462 and 466, Florida Statutes. The regulatory boards established by these chapters may promulgate rules governing the practice of acupuncture by their respective licensees.

Amendment 9—On page 1, line 21, insert after "486.208," : 486.211.

Amendment 10—On page 1, line 12, insert after "therefor;" : providing exemptions;

The Committee on Governmental Operations offered the following amendment which was moved by Senator Henderson and adopted:

Amendment 11—On page 1 in title, line 14, after the semicolon (;) insert: providing for future repeal of part II of chapter 486, Florida Statutes;

On motion by Senator Henderson, by two-thirds vote CS for SB 168 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	Johnston	Skinner
Anderson	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Grizzle	Myers	Thomas
Chamberlin	Hair	Neal	Tobiassen
Childers, D.	Henderson	Peterson	Trask
Childers, W. D.	Hill	Poole	Ware
Dunn	Holloway	Scarborough	Williamson
Fechtel	Jenne	Scott	Winn

Nays—None

Senator Ware presiding

The Senate resumed consideration of—

HB 694—A bill to be entitled An act relating to liquefied petroleum gas; adding a subsection to s. 527.01, Florida Statutes, providing a definition; adding subsections to s. 527.02, Florida Statutes, requiring certain dealers in liquefied petroleum gas, installation, and gas appliances, and equipment to pass an examination to qualify for licensure by the Department of Insurance; exempting current licensees; adding new subsections (4) and (5) to s. 527.06, Florida Statutes, providing department jurisdiction of bulk plant locations with certain container or aggregate capacity; creating s. 527.061, Florida Statutes, authorizing the department to conduct certain inspections; creating s. 527.062, Florida Statutes, authorizing the department to investigate certain accidents involving liquefied petroleum gas; providing that records and reports are open for public inspection unless withheld from public inspection by court order; authorizing the department to assist local governments; authorizing the department to publish certain safety information and to adopt rules for safe storage and transportation of liquefied petroleum gas and certain equipment; providing for conditional repeal; providing an effective date.

Senator Jenne moved the following amendments which were adopted:

Amendment 7—On page 1, line 3 in title, strike "a subsection to" and after 527.01 insert: (10)

Amendment 8—On page 1, line 5 in title, strike "subsections to" and after 527.02 insert: (3), (4)

Amendment 9—On page 1, line 12 in title, after "statutes," insert: and adding new subsections (4) and (5) to said section,

Amendment 10—On page 1, line 14, after the word "capacity," insert: , and requiring the department to adopt rules for safe storage and transportation of liquefied petroleum gas and certain equipment

Amendment 11—On page 1, lines 25-28 in title, strike "and to adopt rules for safe storage and transportation of liquefied petroleum gas and certain equipment;"

On motion by Senator Jenne, by two-thirds vote HB 694 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Anderson	Gorman	Maxwell	Steinberg
Barron	Grizzle	McClain	Stuart
Beard	Hair	McKnight	Thomas
Carlucci	Henderson	Neal	Tobiassen
Chamberlin	Hill	Peterson	Trask
Childers, D.	Holloway	Poole	Vogt
Childers, W. D.	Jenne	Scarborough	Winn
Fechtel	Johnston	Scott	
Frank	MacKay	Skinner	

Nays—None

SB 814 was laid on the table.

HB 1677—A bill to be entitled An act relating to insurance; amending s. 440.02(18), Florida Statutes, relating to acceleration or aggravation of a preexisting disease or anomaly by an accident, providing for apportionment with respect to permanent impairment; amending s. 440.10(1), Florida Statutes, relating to liability for compensation, deleting references to subcontractor exemptions and to certificates of exemption; amending s. 440.12(2), Florida Statutes, conforming an effective date; amending s. 440.13(1) and (3)(a) and (d), Florida Statutes; deleting the requirement that certain reports of medical treatment be filed with the Division of Workers' Compensation of the Department of Labor and Employment Security; increasing from 5 days to 15 days the period allowed for filing certain medical reports; providing for a three-member panel to determine the medical and surgical fee schedule; including pharamacists in the definition of "health care provider" for purposes of review requirements; amending s. 440.15(3)(b) and (4)(a), Florida Statutes; providing for termination of wage-loss benefits when the injured worker reaches age 65 and becomes eligible for certain benefits; changing from "monthly" to "weekly" the basis of comparison for determination of wage loss due to temporary partial disability; amending s. 440.185(1), (2), and (4), Florida Statutes; deleting the requirement that an employee give notice of injury directly to the division; providing rulemaking authority to the division to prescribe a reporting system for certain types of injuries; providing for the monitoring of undisputed claims by the division and for prompt referral of unresolved claims to a deputy commissioner; amending s. 440.19(1) and (2)(d), Florida Statutes; providing that an advisory opinion may be considered by the deputy commissioner; adding another circumstance under which a request for hearing may be filed; requiring claims to contain specific information relative to disability claimed and benefits sought; amending s. 440.20(6), (8), and (9), Florida Statutes; requiring a notice to controvert when benefits are stopped after compensability was initially accepted; providing 30 days in which to pay compensation pursuant to an award; providing that carriers and servicing agents, as well as employers, shall provide certain notice to the division and shall be subject to certain penalties; amending s. 440.25(1), (2), and (3)(a) and (d), Florida Statutes, and adding paragraphs (g) and (h) to subsection (4) of said section; deleting division rule-making authority concerning claims; adding the filing of a notice to controvert as an act permitting the filing of a claim; deleting the requirement that notice sent by mail must be by certified mail; limiting dismissal to interested parties; removing obsolete references to the Industrial Relations Commission; providing for an insolvency petition and for posting of a bond on appeal; amending s. 440.271, Florida Statutes, relating to appeal of an order of a deputy commissioner, providing that appeals shall be in accordance with Supreme Court rules of procedure; providing that the division shall be made a party to any such proceeding; amending ss. 440.29(2) and (3), 440.32, 440.33, and 440.442, Florida Statutes; authorizing the Chief Commissioner to contract for the reporting of hearings and requiring him to provide for certain records and transcripts; removing obsolete references to Industrial Relations Commission; exempting the Chief Commissioner and the deputy commissioners from part of the Code of Judicial Conduct; amending s. 440.34, Florida Statutes; deleting obsolete references to the Industrial Relations Commission; providing that, in awarding an attorney's fee, the deputy commissioner may consider only those benefits the attorney is responsible for securing; authorizing the award of attorney's fees at the appellate level; amending s. 440.44(3), (5), and (6), Florida Statutes; authorizing the Chief Commissioner to make certain expenditures, and to conduct hearings in the state; requiring the Chief Commissioner to maintain an office; providing for a seal for the Chief Commissioner; amending s. 440.45(3), Florida Statutes, authorizing the Chief Commissioner to appoint necessary personnel; amending s. 440.47, Florida Statutes, providing for reimbursement of travel expenses for the Chief Commissioner and employees of the department; amending s. 440.51(11), Florida Statutes; requiring the division to furnish experience to the Department of Insurance under accident year rather than policy year; amending s. 627.091(6), Florida Statutes, clarifying the purposes of the committee meetings of certain recognized rating organizations; amending s. 627.215(2), (6), (7), (8) and (9), Florida Statutes, removing, for purposes of determining whether excessive profit has been realized, consideration of certain investment income generated by loss reserves; providing for conditional repeal; providing for applicability; providing that excessive profits must be refunded unless the refund will render the insurer group insolvent; deleting the authority of the department to excuse insurers from reporting; specifying how excessive profits are to be refunded; amending s. 629.401, Florida Statutes, authorizing the creation of one or more insurance exchanges; modifying time periods regarding transmitting the proposed constitution and bylaws of the exchange to the Insurance Commissioner and Treasurer and to the Legislature; increasing the size and composition of the initial board of governors of any exchange, giving the Governor three appointments and the Speaker of the House of Representatives and the President of the Senate an additional appointment each; providing for application of certain laws; providing for regulation of the exchange by the Department of Insurance; providing for examinations and investigations; providing duties and obligations of underwriting members; providing for hearings; providing for admissibility of examination reports as evidence; providing for confidentiality; providing for rembursement of expenses to department; provding powers of examiners; providing for contempt and perjury penalties; providing certain immunity; requiring certain paid-in capital and surplus; providing requirements with regard to risk limitation, premium and loss reserves, profit distribution, dividends and borrowing; providing department powers to restrict or suspend certain member's or associate brokers' right to transact business; specifying prohibited conduct; providing for involuntary withdrawal, suspension, reprimand, censure, and fines; providing applicability of fees and fines of other jurisdictions; providing requirements for eligibility for export; providing for noncomplying policies; providing time limitations for judgments or decrees; providing conditions for certain tender offers, exchange offers, and purchases; providing penalties; providing for conditional repeal of said section; providing whereas clauses; amending s. 627.066, Florida Statutes; providing definitions; providing excessive profits shall be refunded unless the refund will render the insurer insolvent; deleting the authority of the Department of Insurance to excuse insurers from reporting; specifying how, when, and to whom excessive profits are to be refunded; providing that refunds and certain data may be rounded to the nearest dollar; including prior refunds in the calculations of excessive profits; providing for retroactive application; providing for severability and legislative intent related thereto; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator MacKay and failed:

Amendment 1—On page 11, line 22, following the period insert: *Provided, however, that before any increase or decrease to the Medical Fee Schedule existing prior to January 1, 1980, can become effective, the Utilization Review System and Peer Review Committee must be established pursuant to s. 440.13(3)(d) and be fully operational.*

Amendment 2—On page 71, lines 24-31, and on page 72, lines 1-19 strike all of section 27 and insert new Section 27 as follows:

Section 27. It is the desire and intent of the Legislature that the provisions of section 26 and 27 of this act shall apply to excessive profits realized during the years commencing with 1981. Prior to July 1, 1982, the data required by section 26 of this act shall be submitted to the department for the years 1979, 1980, and 1981. Excessive profits shall be calculated in accordance with provisions of section 26 of this act. However, only the excessive profits realized by the insurer group in 1981 shall be refunded to policyholders and such refunds shall be made in accordance with section 26 of this act. Prior to July 1, 1983, the data required by section 26 of this act shall be

submitted to the department for the years 1980, 1981, and 1982. Excessive profits shall be calculated in accordance with section 26 of this act; however, refunds shall only be made for excessive profits realized in the years 1981 and 1982. Thereafter, excessive profits shall be calculated and refunded on the basis of 3 years as set forth in section 26 of this act.

The Committee on Commerce offered the following amendments which were moved by Senator MacKay and adopted:

Amendment 3—On page 39, line 20, after *"exchanges"* insert: *, with one or more offices each,*

Amendment 4—On page 41, lines 8-11, strike all of said lines and insert: of *fourteen* ~~seven~~ members, three appointed by the Insurance Commissioner and Treasurer, *three* ~~two~~ by the Speaker of the House of Representatives, *three* ~~and two~~ by the President of the Senate, *one by the minority leader of the House of Representatives, one by the minority leader of the Senate, and three by the Governor of Florida,* to serve until

The Committee on Commerce offered the following amendments which were moved by Senator MacKay and failed:

Amendment 5—On page 69, lines 11-14, hyphen through all of said lines from "The" to the (.).

Amendment 6—On page 1 in title, line 22, after the semicolon insert: prohibiting any change in the medical fee schedule until the peer review system becomes fully operational;

The Committee on Commerce offered the following amendment which was moved by Senator MacKay and adopted:

Amendment 7—On page 5 in title, line 7, after the semicolon insert: providing for one appointment each by the minority leaders of the Senate and House of Representatives;

On motion by Senator MacKay, by two-thirds vote HB 1677 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Anderson	Gorman	McClain	Stuart
Barron	Grizzle	McKnight	Tobiassen
Beard	Hair	Neal	Trask
Carlucci	Hill	Peterson	Vogt
Chamberlin	Holloway	Poole	Williamson
Childers, D.	Jenne	Scarborough	Winn
Childers, W. D.	Johnston	Scott	
Fechtel	MacKay	Skinner	
Frank	Maxwell	Steinberg	

Nays—None

Vote after roll call:

Yea—Myers

By the Committee on Economic, Community and Consumer Affairs and Senators Stuart and Neal—

CS for SB 667—A bill to be entitled An act relating to housing; creating part VI of chapter 420, Florida Statutes, to establish a Florida Housing Finance Agency; providing legislative findings, definitions, membership, powers and duties; providing special powers relating to mortgages and loans to qualified lending institutions for authorized purposes; providing for grants and advances from a fund established for such purpose; providing for the authorization and issuance of bonds; providing special conditions and procedures; providing for trust funds; providing tax exemptions; providing an effective date.

—was read the first time by title and SB 667 was laid on the table.

On motion by Senator Stuart, by two-thirds vote CS for SB 667 was read the second time by title.

Senator Stuart moved the following amendment which was adopted:

Amendment 1—On page 8, line 13, after the word "thereof" insert: , provided that in no event shall the full faith and credit of the state be pledged to secure such revenue bonds

On motion by Senator Stuart, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 830 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs and Representative McPherson and others—

CS for HB 830—A bill to be entitled An act relating to housing; creating part VI of chapter 420, Florida Statutes, to establish a Florida Housing Finance Agency; providing legislative findings, definitions, membership, powers and duties; providing special powers relating to mortgages and loans to qualified lending institutions for authorized purposes; providing for grants and advances from a fund established for such purpose; providing for the authorization and issuance of bonds; providing special conditions and procedures; providing for trust funds; providing tax exemptions; providing an effective date.

—was read the first time by title. On motion by Senator Stuart, the rules were waived and the bill was placed on the calendar.

SPECIAL ORDER, continued

Pending further consideration of CS for SB 667 as amended, on motion by Senator Stuart, CS for HB 830, a companion measure, was substituted for CS for SB 667. On motions by Senator Stuart by two-thirds vote CS for HB 830 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Anderson	Frank	MacKay	Skinner
Beard	Gorman	Maxwell	Stuart
Carlucci	Grizzle	McClain	Tobiassen
Chamberlin	Hair	Neal	Trask
Childers, D.	Hill	Peterson	Vogt
Childers, W. D.	Holloway	Poole	Williamson
Dunn	Jenne	Scarborough	Winn
Fechtel	Johnston	Scott	

Nays—None

Vote after roll call:

Yea—Myers

CS for SB 667 was laid on the table.

SJR 670—A joint resolution proposing the creation of Section 16 of Article VII of the State Constitution, relating to bonds for housing and related facilities.

—was read the second time by title.

Senator Stuart moved the following amendment which was adopted:

Amendment 1—On page 1, line 27, strike the period and insert: provided that in no event shall the full faith and credit of the state be pledged to secure such revenue bonds.

On motion by Senator Stuart, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional three-

fifths vote of the membership of the House CS for HJR 829 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Appropriations and Representative McPherson and others—

CS for HJR 829—A joint resolution proposing the creation of Section 16 of Article VII and Section 18 of Article XII of the State Constitution relating to bonds for housing and related facilities.

—was read the first time by title. On motion by Senator Stuart, the rules were waived and the bill was placed on the calendar.

SPECIAL ORDER, continued

Pending further consideration of SJR 670 as amended, on motion by Senator Stuart, CS for HJR 829, a companion measure, was substituted for SJR 670. On motions by Senator Stuart by two-thirds vote CS for HJR 829 was read the second time by title, and by two-thirds vote read the third time in full as follows:

A joint resolution proposing the creation of Section 16 of Article VII and Section 18 of Article XII of the State Constitution relating to bonds for housing and related facilities.

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

That the creation of Section 16 of Article VII and Section 18 of Article XII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1980:

ARTICLE VII

FINANCE AND TAXATION

SECTION 16. Bonds for housing and related facilities.—

(a) When authorized by law, revenue bonds may be issued without an election to finance or refinance housing and related facilities in Florida, herein referred to as "facilities."

(b) The bonds shall be secured by a pledge of and shall be payable primarily from all or any part of revenues to be derived from the financing, operation or sale of such facilities, mortgage or loan payments, and any other revenues or assets that may be legally available for such purposes derived from sources other than ad valorem taxation, including revenues from other facilities, or any combination thereof, herein collectively referred to as "pledged revenues," provided that in no event shall the full faith and credit of the state be pledged to secure such revenue bonds.

(c) No bonds shall be issued unless a state fiscal agency, created by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed the pledged revenues available for payment of such debt service requirements, as defined by law.

ARTICLE XII

SCHEDULE

SECTION 18. Bonds for housing and related facilities.—Section 16 of Article VII, providing for bonds for housing and related facilities, shall take effect upon approval by the electors.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendment proposed herein shall appear on the ballot as follows:

Proposing the creation of Section 16 of Article VII and Section 18 of Article XII of the State Constitution to authorize the issuance of revenue bonds to finance or refinance housing and related facilities in Florida, secured primarily by pledged revenues at least equal to the annual bond payments.

CS for HJR 829 passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—29

Beard	Grizzle	Peterson	Trask
Carlucci	Hair	Scarborough	Vogt
Chamberlin	Hill	Scott	Ware
Childers, D.	Holloway	Skinner	Williamson
Childers, W. D.	Jenne	Steinberg	Winn
Dunn	MacKay	Stuart	
Frank	McClain	Thomas	
Gorman	Neal	Tobiassen	

Nays—2

Fechtel	Johnston

Votes after roll call:

Nay to Yea—Fechtel, Johnston

SB 670 was laid on the table.

On motion by Senator Scott, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Scott—

SB 164—A bill to be entitled An act relating to condominiums; amending s. 718.103(13), Florida Statutes; excluding certain persons from the definition of "developer"; amending s. 718.401, Florida Statutes; exempting the conversion of certain residential cooperatives to condominiums from provisions regulating the creation of condominiums from leaseholds; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 12, after the colon ":" insert: Section 1. Paragraph (b) of subsection (9) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(9)

(b) All hazard policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceiling of the individual units initially installed ~~or replacements thereof~~, in accordance with the original plans and specifications. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy.

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

718.112 Bylaws.—

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

(k) The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in s. 718.504(20). In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. This subsection shall not apply to budgets in which the level of assessments has been guaranteed pursu-

ant to s. 718.116(8) prior to October 1, 1979, provided that the absence of reserves is disclosed to purchasers, or to budgets in which the members of an association have, by a ~~two-thirds~~ vote *of the majority of the members present* at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection.

Section 3. Subsection (1) of section 718.202, Florida Statutes, is amended to read:

718.202 Sales or reservation deposits prior to closing.—

(1) If a developer contracts to sell a condominium parcel and the construction, furnishing, and landscaping of the property submitted to condominium ownership has not been substantially completed in accordance with the plans and specifications and representations made by the developer in the disclosures required by this chapter, the developer shall pay into an escrow account established with a bank or trust company having trust powers, an attorney who is a member of The Florida Bar, a real estate broker registered under chapter 475, *any financial lending institution having a net worth in excess of 5 million dollars* or a title insurance company authorized to insure title to real property in the State of Florida, all payments up to 10 percent of the sale price received by the developer from the buyer towards the sale price. The escrow agent shall give the purchaser a receipt for the deposit, upon request. The escrowed funds may be deposited in separate accounts or in common escrow or trust accounts or commingled with other escrow or trust accounts handled by or received by the escrow agent. The escrow agent may invest the escrow funds in securities of the United States or any agency thereof or in savings or time deposits in institutions insured by an agency of the United States. Funds shall be released from escrow as follows:

(a) If a buyer properly terminates the contract pursuant to its terms or pursuant to this chapter, the funds shall be paid to the buyer together with any interest earned.

(b) If the buyer defaults in the performance of his obligations under the contract of purchase and sale, the funds shall be paid to the developer together with any interest earned.

(c) If the contract does not provide for the payment of any interest earned on the escrowed funds, interest shall be paid to the developer at the closing of the transaction.

(d) If the funds of a buyer have not been previously disbursed in accordance with the provisions of this subsection, they may be disbursed to the developer by the escrow agent at the closing of the transaction, unless prior to the disbursement the escrow agent receives from the buyer written notice of a dispute between the buyer and developer.

Section 4. Paragraph (a) of subsection (4) of section 718.401, Florida Statutes, is amended to read:

718.401 Leaseholds.—A condominium may be created on lands held by a developer under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold, if, on the date the first unit is conveyed by the developer to a bona fide purchaser, the lease has an unexpired term of at least 50 years. If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(4)(a) In any action by the lessor to enforce a lien for rent payable or in any action by the association or a unit owner with respect to the obligations of the lessee or the lessor under the lease, the unit owner or the association may raise any issue or interpose any defenses, legal or equitable, that he or it may have with respect to the lessor's obligations under the lease. If the unit owner or the association initiates any action or interposes any defense other than payment of rent under the lease, the unit owner or the association shall, upon service of process upon the lessor, pay into the registry of the court any allegedly accrued rent and the rent which accrues during the pendency of the proceeding, when due. If the unit owner or the association fails to pay the rent into the registry of the court, it shall constitute an absolute waiver of the unit owner's or association's defenses other than payment, and the lessor shall be entitled to default. The unit owner or the association shall notify the lessor of any deposits. When the unit owner or the association has deposited the required funds into the registry of the court, the lessor may apply to the court for disbursement for all or part of the funds shown to be necessary for the payment of taxes, mortgage payments, maintenance and operating expenses, and other necessary expenses incident to maintaining and equipping the leased facilities, *or necessary for the payment of other expenses arising out of personal hardship resulting from the loss of rental income from the leased facilities.* The court, after an evidentiary hearing, may award all or part of the funds on deposit to the lessor for such purpose. The court shall require the lessor to post bond or other security, as a condition to the release of funds from the registry, when the value of the leased land and improvements, apart from the lease itself, is inadequate to fully secure the sum of existing encumbrances on the leased property and the amounts released from the court registry.

Section 5. Paragraph (a) of subsection (4) of section 719.401, Florida Statutes, is amended to read:

719.401 Leaseholds.—A cooperative may be created on lands held by a developer under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold, if, on the date the first unit is conveyed by the developer to a bona fide purchaser, the lease has an unexpired term of at least 50 years. If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(4)(a) In any action by the lessor to enforce a lien for rent payable or in any action by the association or a unit owner with respect to the obligations of the lessee or the lessor under the lease, the unit owner or the association may raise any issue or interpose any defenses, legal or equitable, that he or it may have with respect to the lessor's obligations under the lease. If the unit owner or the association initiates any action or interposes any defense other than payment of rent under the lease, the unit owner or the association shall, upon service of process upon the lessor, pay into the registry of the court any allegedly accrued rent and the rent which accrues during the pendency of the proceeding, when due. If the unit owner or the association fails to pay the rent into the registry of the court, it shall constitute an absolute waiver of the unit owner's or association's defenses other than payment, and the lessor shall be entitled to default. The unit owner or the association shall notify the lessor of any deposits. When the unit owner or the association has deposited the required funds into the registry of the court, the lessor may apply to the court for disbursement for all or part of the funds shown to be necessary for the payment of taxes, mortgage payments, maintenance and operating expenses, and other necessary expenses incident to maintaining and equipping the leased facilities, *or necessary for the payment of other expenses arising out of personal hardship resulting from the loss of rental income from the leased facilities.* The court, after an evidentiary hearing, may award all or part of the funds on deposit to the lessor for such purpose. The court shall require the lessor to post bond or other security, as a condition to the release of funds from the registry, when the value of the leased land and improvements, apart from the lease itself, is inadequate to fully secure the sum of existing encumbrances on the leased property and the amounts released from the court registry.

(Renumber subsequent sections.)

Amendment 2—On page 1, line 2 in the title, after the semicolon ";" insert: amending s. 718.111(9)(b), Florida Statutes, providing that certain insurance coverages with respect to condominiums need not apply to replacements of original material contained in the condominium; amending s. 718.112(2)(k), Florida Statutes, providing that members of a condominium association may by majority vote provide no reserves or statutorily inadequate reserves in the condominium annual budget; amending s. 718.202(1), Florida Statutes, relating to condominium sales or reservation deposits; amending ss. 718.401(4)(a) and 719.401(4)(a), Florida Statutes, providing additional purposes for which the court may authorize disbursement to the lessor of leasehold rents deposited into the registry of the court during the course of litigation;

On motions by Senator Scott, the Senate concurred in the House amendments.

SB 164 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Anderson	Grizzle	McKnight	Tobiassen
Beard	Hair	Neal	Trask
Carlucci	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Ware
Childers, D.	Holloway	Scott	Williamson
Childers, W. D.	Jenne	Skinner	Winn
Fechtel	Johnston	Steinberg	
Frank	MacKay	Stuart	
Gorman	McClain	Thomas	

Nays—None

Vote after roll call:

Yea—Myers

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Beard—

SB 618—A bill to be entitled An act relating to elections; amending s. 101.21, Florida Statutes; providing for the number of official ballots to be printed and provided for counties; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 31, insert:

Section . Paragraphs (a) and (c) of subsection (3) of section 98.051, Florida Statutes, are amended to read:

98.051 Registration books for permanent registration system; when open.—

(3)(a) The registration books shall close for the first and second primary elections at 5 p.m. on the 30th day before the first primary election and shall remain closed until after the second primary election, during which time no registration, ~~address change,~~ *or* party change, ~~or name change~~ shall be accepted for such elections. For any other election, the books shall close at 5 p.m. on the 30th day before such election and shall remain closed until after such election, during which time no registration, ~~address change,~~ *or* party change, ~~or name change~~ shall be accepted for such election. However, when the books are closed for an election, registration and *party* changes ~~in registration~~ shall be accepted for all subsequent elections. For purposes of this subsection, however, a first and second primary shall be considered one election.

(c) When a district, municipal, or special election is called at a time when the books are open, the supervisor shall close the books to further registration, ~~address changes,~~ *or* party changes, ~~and name changes~~ for such district, municipal, or special election on the 30th day before such election, or immediately, in the event the date of the election is less than 30 days away, but the books shall remain open for all subsequent elections.

Section . Subsection (1) of section 98.081, Florida Statutes, is amended to read:

98.081 Removal of names from registration books; procedure.—

(1) During each odd-numbered year the supervisor shall mail, to each elector who did not vote in any election in the county during the past 2 years, a form to be filled in, signed, and returned by mail within 30 days after the notice is postmarked. The form returned shall advise the supervisor whether the elector's status has changed from that of the registration record. Names of electors failing to return the forms within this period shall have their names withdrawn temporarily from registration books. *In addition, electors may be temporarily removed from the registration books when any first class mail sent by the supervisor to an elector is returned as undeliverable. Such name shall not be removed until a diligent effort has been made by the supervisor to locate such elector. This shall constitute such notice for purposes of this section.* The list of the electors temporarily withdrawn shall be posted at the courthouse. When the list is completed, the supervisor shall provide a copy thereof, upon request, to the chairman of the county executive committee of any political party, and the supervisor may charge the actual cost of duplicating the list. A name shall be restored to the registration records when the elector, in writing, makes known to the supervisor that his status has not changed. The supervisor shall then reinstate the name on the registration books without the elector reregistering. Notice of these requirements shall be printed on the voter registration identification card. This method prescribed for the removal of names is cumulative to other provisions of law relating to the removal of names from registration books. This is not a reregistration but a method to be used for keeping the permanent registration list up to date. However, the name of any elector temporarily withdrawn from the registration books shall be removed from such books if the elector fails to respond to the notice within 3 years from the date the last such notice was mailed to him, and such person shall be required to reregister to have his name restored to the registration books.

Section . Subsection (7) is added to section 98.161, Florida Statutes, to read:

98.161 Supervisor of elections; election, tenure of office, compensation, custody of books, successor, seal, *voter programs and materials.*—

(7) Each supervisor is authorized to provide voter educational programs and materials of a non-partisan nature in his or her county as may be deemed appropriate by the supervisor.

Section . Subsection (1) of section 98.211, Florida Statutes, is amended to read:

98.211 County registers open to inspection; copies.—

(1) The registration books are public records. Every citizen is allowed to examine the registration books while they are in the custody of the supervisor, but is not allowed to make copies or extracts therefrom. The supervisor shall furnish at cost lists of the registered electors of the county that include only the name, party affiliation, address, and precinct number of each elector, *or, if requested, the supervisor may provide a list that contains only those electors who have voted in any election or elections which occurred in excess of 60 days prior to the request provided if said list is furnished, said list shall also be made available to all authorized in this subsection. Lists of electors shall be furnished only to:* ~~and shall furnish such lists only to:~~

(a) The courts for the purpose of jury selection;

(b) Municipalities;

(c) Other governmental agencies;

(d) Candidates, to further their candidacy;

(e) Registered political committees, registered committees of continuous existence, and political parties or officials thereof, for political purposes only; and

(f) Incumbent officeholders to report to their constitutents. Such lists shall be used solely for political purposes and not 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 activities, voter registration, law enforcement, or jury selection.

Renumber Subsequent Sections

Amendment 2—On page 1, line 5 in the title, after semicolon insert: amending s. 98.051(3)(a) and (c), Florida Statutes; relating to changes in the status of an elector when the registration books are closed; amending s. 98.081(1), Florida Statutes; relating to the removal of names of electors from registration books; adding a subsection to s. 98.161, Florida Statutes; providing for voter education programs and materials; amending s. 98.211(1), Florida Statutes, authorizing the supervisor to provide certain lists;

Amendment 3—On page 1, line 31, insert:

Section . Section 101.72, Florida Statutes, is amended to read:

101.72 Booths.—*In any county in which voting booths or compartments are used, the board of county commissioners shall provide at least one voting booth or compartment for each 150 registered electors in the county. The supervisor of elections shall determine the actual number of booths or compartments to be used in each precinct at each election. In determining the number of booths or compartments to be used in each precinct, the supervisor shall take into consideration the traditional voting patterns of such precinct and shall furnish the number of booths or compartments necessary to handle efficiently the number of anticipated voters in the precinct.* ~~The supervisor of elections of each county, or, in case of a municipal election, the mayor or other chief executive officer, where voting machines are not used shall provide at each polling place a room or covered enclosure. In such room or covered enclosure booths or compartments shall be provided, one booth or compartment for each 125, or fraction of 125 over 70, qualified electors registered for that election.~~ Each booth or compartment shall be furnished with a shelf or table for the convenience of electors in preparing their ballots and shall be so arranged that it will be impossible for one elector in one compartment to see an elector in another in the act of marking his ballot. Each voting table or shelf shall be kept supplied with conveniences for marking the ballots.

(Renumber subsequent sections.)

Amendment 4—On page 1, line 5, after semicolon insert: amending s. 101.72, Florida Statutes, relating to the number of electors per voting booth or compartment;

Amendment 5—On page 1, line 31, insert:

Section . Subsection (8) of section 97.021, Florida Statutes, is amended to read:

97.021 Definitions.—The following words and phrases when used in this code shall be construed as follows:

(8) "Absent elector" means any registered and qualified voter who:

(a) Is unable without another's assistance to attend the polls.

(b) Will not be in the county of his residence during the hours the polls are open for voting on the day of an election.

(c) ~~(b)~~ Is an inspector, a poll worker, a deputy voting 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 is registered ~~to vote~~.

(d) ~~(c)~~ On account of the tenets of his religion, cannot attend the polls on the day of a general, special, or primary election.

(e) ~~(d)~~ Has changed his *permanent* residency to another county in Florida within the time period during which the registration books are closed for the election for which the ballot is requested*; however, this shall pertain only to national and statewide offices and statewide issues.*

~~(e) Will not be in the county of his residence during the hours the polls are open for voting on the day of an election, except that any person confined in prison shall not be entitled to vote absentee.~~

(f) Has changed his *permanent* residency to another state and is ineligible under the laws of that state to vote in the general election; however, this shall pertain only to presidential ballots.

(g) Is incarcerated but not convicted of a felony.

Section . Section 97.072, Florida Statutes, is amended to read:

97.072 Replacement of registration identification card.—

(1) Each elector *may receive* ~~has the right to~~ a replacement of his registration identification card without charge when *the* same becomes defaced, upon his surrendering the card to the supervisor. Any elector who loses his card is entitled to receive a duplicate thereof from the supervisor of the county in which he was registered upon application *in writing, stating that his card has been lost, stolen, or destroyed.* ~~He shall apply for a new registration identification card, stating under oath administered by the supervisor that his card was lost and was not sold, bartered, or willfully destroyed or lost.~~ The supervisor, *upon verification of the application* ~~if he feels the facts justify it~~, shall issue a duplicate card.

(2) In the case of a change in party affiliation, the elector shall make a written request for such change and surrender his registration identification card, or indicate in writing if it has been lost, stolen, or destroyed, to the supervisor. Upon verification, the supervisor shall cancel the elector's prior registration and issue the person a new card, provided that such card shall not be issued while the registration books are closed pursuant to s. 98.051. All cancellations shall be retained on file by the supervisor.

Section . Subsection (1) of section 97.091, Florida Statutes, and paragraphs (a) and (d) of subsection (2) of said section are amended to read:

97.091 Electors must be registered in precinct; provisions for residence or name change.—

(1) No person shall be permitted to vote in any election precinct or district other than the one in which he has his permanent place of residence and in which he is registered.~~;~~ ~~provided~~ However, ~~that~~ persons temporarily residing outside of the county shall be registered in the precinct in which the county courthouse is located when they have no permanent address in the county and it is their intention to remain a resident of Florida and of the county in which they are registered to vote. *Such persons registered in the precinct in which the county courthouse is located who are residing outside of the county with no permanent address in the county shall not be registered electors of the municipality and shall therefore not be permitted to vote in any municipal election.*

(2)(a) An elector who moves from the precinct within the county in which registered may be permitted to vote in the precinct to which he has moved his residence ~~in any election prior to and including the next general election~~, provided such elector furnishes at the polls proof of his new residence address and executes an affidavit under oath in substantially the following form:

AFFIDAVIT

Change of Residence of Registered

Voter

I, . . . (Name of voter) . . . , being first duly sworn under oath, certify that my former residence was . . . (Address) . . . 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) . . . in the Municipality of . . . . , in . . . . County, Florida, and am therefore eligible to vote in the . . . . precinct of . . . . County, Florida; and I further certify that I am otherwise legally registered and entitled to vote.

. . . (Signature of voter whose residence has changed) . . .

Sworn to and subscribed to before me this . . . . day of . . . . , 19 . . . . .

. . . (Signature and title to person administering oaths) . . .

(d) In accordance with the provisions of s. 98.051, ~~after the general election has passed subsequent to the change of residence or name, the~~ *an* elector whose residence has changed *shall* ~~may~~ notify the supervisor in writing and obtain a voter identification card reflecting the new residence address.~~;~~ *When the name of an elector has changed by marriage or other legal process* ~~and, in the case of change of name~~, such elector shall notify the supervisor in *writing* ~~person~~ *of such change and obtain a voter identification card reflecting the name change* ~~to be entitled to vote in any future elections~~.

Section . Section 97.1031, Florida Statutes, is amended to read:

97.1031 Notice of change of residence or name.—When an elector moves from the address named on his voter registration records, it is the duty of such elector to notify the office of the supervisor of elections in writing of such change *and obtain a voter identification card reflecting the new residence address.* When the name of an elector is changed by marriage or other legal process, it is the duty of such elector to notify the office of the supervisor of elections in *writing* ~~person~~ of such change *and obtain a voter identification card reflecting the name change.* The supervisor of elections shall make the necessary changes in the elector's records *as soon as practical* upon receipt of such notice of a change of residence or name.

Section . Section 97.111, Florida Statutes, is hereby repealed.

Renumber subsequent sections.

Amendment 6—On page 1, line 5 in the title, after semicolon insert: amending s. 97.021(8), Florida Statutes; modifying the definition of "absent elector"; amending s. 97.072, Florida Statutes, providing for the replacement of voter registration identification cards; amending ss. 97.091(1) and (2)(a) and (d), and 97.1031, Florida Statutes, relating to name and residence changes of electors; repealing s. 97.111, Florida Statutes; relating to change of party affiliation;

Amendment 7—On page 1, line 31, insert: Section . Subsection (6) of section 99.012, Florida Statutes, is amended to read:

99.012 Restrictions on individuals qualifying for public office.—

(6) No individual may qualify as a candidate for public office until he has filed a statement of financial interest pursuant to s. 112.3145 *and no person may qualify as a candidate for elected constitutional office until he has filed full and public disclosure of financial interests as required by s. 8, Art. II of the State Constitution.*

(Renumber subsequent sections.)

Amendment 8—On page 1, line 5 in the title, after semicolon insert: amending s. 99.012(6), Florida Statutes; requiring financial disclosure under the State Constitution as a qualification for election to constitutional office;

Amendment 9—On page 1, between lines 30 and 31, insert new Section 2, renumber:

Section 2. Subsection (6) of section 101.141, Florida Statutes, is amended to read:

101.141 Specifications for primary 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 primary election ballot shall conform to the following specifications:

(6) 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. The Department of State shall, not less than 60 days prior to the first primary election, mail to each supervisor of elections the *format* ~~form~~ of the ballot to be used *in that county.* ~~; and before the ballots are printed shall approve the ballots, including the color, to insure that they comply with the form required by law.~~

Section . Subsection (8) of section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for 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:

(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* ~~form~~ of the ballot to be used *in that county.* ~~; and before the ballots are printed shall approve the ballots to insure that they comply with form required by law.~~

Section . Subsection (6) of section 101.27, Florida Statutes, is amended to read:

101.27 Voting machine ballots.—

(6) Should the above directions for the complete preparation of the ballot be insufficient, the Department of State shall determine and prescribe any additional matter or form in which the ballot may be printed. ~~; and prior to the final printing of the ballot, the supervisor of elections shall submit such ballot to the Department of State for its review and approval to insure that such ballot complies with the form required by law. No ballot shall be used in any election which has not first been approved by the Department of State.~~

Amendment 10—On page 1, line 5 in the title insert after semicolon: amending ss. 101.141 (6) and 101.151(8), Florida Statutes; providing that the Department of State is to mail to each supervisor of elections the format of the ballot to be used in the county for primary and general elections, respectively; amending s. 101.27(6), Florida Statutes, relating to the Department of State approving ballots;

Amendment 11—On page 1, line 31, insert: Section . Subsection (1) of section 98.031, Florida Statutes, is amended, and subsection (5) is added to said section to read:

98.031 Registration and election districts, precincts and polling places; boundaries.—

(1) Subject to the provisions of s. 98.091, each county election precinct, election district, and polling place in this state as defined and fixed is recognized and continued. Except as otherwise provided in paragraph (a) of subsection (3), the board of county commissioners in each county, upon recommendation and approval of the supervisor, shall alter or create new districts or precincts. Each precinct as nearly as practicable shall be composed of contiguous and compact areas having clearly observable boundaries and shall be numbered. ~~and~~ *The supervisor shall designate* a polling place at a suitable location *within each precinct* ~~designated~~. The district or precinct shall not be changed thereafter except with the consent of four members of the board of county commissioners and the supervisor. The board of county commissioners and the supervisor may have precinct boundaries conform to municipal boundaries in accordance with the provisions of s. 98.091, but, in any event, the registration books shall be maintained in such a manner that there may be determined therefrom the total number of electors in each municipality.

(5) Within 10 days after there is any change in the division, number, or boundaries of the election precincts, or the location of the polling places, the supervisor of elections shall make in writing an accurate description of any new or altered election precincts, setting forth the boundary lines thereof, so as to designate accurately the limits of each precinct. The supervisor of elections shall at the same time name, clearly define, and describe in writing the polling place which the supervisor has established in each new or altered election precinct or in any precinct in which the supervisor may have changed the polling place. Such changes shall be recorded in the clerk of the circuit court's office for such county. Upon the recording of the changes, the supervisor of elections shall publish the change once in a newspaper of general circulation in the county and shall post a plainly written or printed copy at the courthouse in a conspicuous place.

Section . Subsections (2) and (3)of section 101.71, Florida Statutes, are amended to read:

101.71 Polling place.—

(2) Notwithstanding the provisions of subsection (1) ~~and of s. 98.031~~, whenever the supervisor of elections of any county shall determine that the accommodations for holding any election at a polling place designated for any precinct in the county are *unavailable or* inadequate for the expeditious and efficient housing and handling of voting and voting paraphernalia, including voting machines where used, said supervisor may provide, not less than *30* ~~60~~ days prior to the holding of *an* ~~such~~ election, that the voting place for such precinct shall be moved

~~for the purpose of such election~~ 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 shall result 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, he shall, not more than 30 days or less than *7* ~~20~~ days prior to the holding of *an* ~~any such~~ 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* ~~not less than two times~~ in a newspaper of general circulation in said county ~~and may notify the voters by mail or use such other advertising media as necessary to properly publicize said change~~. *A notice of the change of the polling place involved shall be mailed to each registered elector or to each household in which there is a registered elector at least 14 days prior to an election.*

(3) In cases of emergency and when time does not permit compliance with subsection (2), the supervisor of elections shall designate a new polling place which shall be accessible to the public on election day ~~within the boundaries of the same precinct~~ and shall cause a notice to be posted at the old polling place advising the electors of the location of the new polling place.

Section . Section 101.73, Florida Statutes, as amended by chapter 79-400, Laws of Florida, is hereby repealed.

and renumber subsequent sections

Amendment 12—On page 1, line 5 in the title insert: amending s. 98.031(1), Florida Statutes, and adding subsection (5) thereto, authorizing the supervisor of elections to select polling place locations; amending s. 101.71(2) and (3), Florida Statutes, conforming to the act provisions relating to polling places and the procedure used to notify the electors of the change of polling places; repealing s. 101.73, Florida Statutes, relating to the description of election districts and precincts;

On motions by Senator Hair, the Senate concurred in House Amendments 1, 2, 11 and 12, and refused to concur in House Amendments 3, 4, 7, 8, 9 and 10 and the House was requested to recede.

Senator Hair moved the following amendment to House Amendment 5 which was adopted:

Amendment 1—On page 1, lines 1-21, and on page 2, lines 1-12, strike all of said lines, and insert: Section . Subsections (5) and (6) of section 106.141, Florida Statutes, are amended to read:

106.141 Disposition by candidates of surplus funds.—

(5) Any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, either

(a) Return prorata to each contributor the funds which have not been spent, or obligated to be spent, with respect to a campaign which has been conducted, ~~or~~

(b) Donate the funds which have not been spent, or obligated to be spent, to a charity organization or organizations which meet the qualifications of s. 501(3)(c) of the Internal Revenue Code, with respect to a campaign which has been conducted, or

(c)~~(b)~~ Give the funds which have not been spent, or obligated to be spent, with respect to a campaign which has been conducted,

1. In the case of a candidate for state office, to the state, to be deposited in the General Revenue Fund, or,

2. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(6) A candidate elected to office may dispose of all of the funds in such account in the manner provided in this section or may retain on deposit in such account any amount of the funds on deposit in such account up to:

(a) $6,000, for a candidate for statewide office.

(b) $3,000, for a candidate for legislative or multi-county office.

(c) $1,500, for a candidate for countywide office or for a candidate in any election conducted on less than a countywide basis.

(d) $6,000, for a candidate for retention as a justice of the Supreme Court.

(e) $3,000, for a candidate for retention as a judge of a District Court of Appeal.

(f) $1,500, for a candidate for county court judge or circuit judge.

Any funds so retained by a candidate shall be used only for legitimate expenses in connection with his public office. *The funds may be deposited in a savings account, however, all deposits, withdrawals, and interest earned thereon, shall be reported at the appropriate reporting period.* Any candidate elected to office who retains funds pursuant to this subsection and who has funds remaining in such account after a subsequent election at which such candidate is reelected to office or elected to another office shall, pursuant to subsection (4), dispose of all funds on deposit in the account established to finance the subsequent campaign which funds have not been spent or obligated to be spent with respect to such subsequent campaign, except that such candidate may transfer from the campaign account established to finance his campaign in the subsequent election to the account in which the previously retained funds are deposited in an amount equal to the difference between the amount retained and the amount of previously retained funds to be used for legitimate office expenses. Upon leaving public office, any person who has funds retained pursuant to this subsection remaining on deposit shall give such funds *to a charitable organization or organizations which meet the requirements of s. 501(3)(c) of the Internal Revenue Code or,* in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

Senator Hair moved the following amendment to House amendment 6 which was adopted:

Amendment 1—On page 1 in title, lines 2 and 3, strike the words "amending s. 97.021(8), Florida Statutes; modifying the definition of "absent elector";" and insert: amending s. 106.141(5), (6), Florida Statutes; specifying method of disposition by candidates of surplus funds; authorizing deposit of certain funds in savings account; authorizing persons who have retained certain funds to donate such funds to a charitable organization or organizations upon leaving office;

On motions by Senator Hair, the Senate concurred in House Amendments 5 and 6 as amended by the Senate amendments and the House was requested to concur.

SB 618 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Anderson	Gorman	McClain	Stuart
Beard	Grizzle	McKnight	Thomas
Carlucci	Hair	Neal	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Hill	Poole	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Dunn	Jenne	Scott	Williamson
Fechtel	Johnston	Skinner	Winn
Frank	MacKay	Steinberg	

Nays—None

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment—

By the Committee on Ways and Means and Senator Hill—

CS for CS for SB 83—A bill to be entitled An act relating to collective bargaining by public employees; amending s. 447.603,

Florida Statutes; specifying qualifications for commissioners appointed pursuant to local option collective bargaining provisions and requiring new appointments; providing for the monitoring of, and continuing jurisdiction over, local provisions by the Public Employees Relations Commission; specifying the applicability of chapter 120, Florida Statutes, to local commissions; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 1-4, strike everything after the enacting clause and insert:

Section 1. Section 447.603, Florida Statutes, is amended to read:

447.603 Local option.—

(1) Any district school board or political subdivision, other than the state or a state public authority, may elect to adopt, by ordinance, resolution, or charter amendment, its own *local option* ~~provisions and procedures~~ in lieu of the *requirements* ~~requirement~~ of this part, provided such provisions and procedures *thereby adopted* effectively secure to public employees substantially equivalent rights and procedures as set forth in this part. *However, notwithstanding any provision of s. 447.205 to the contrary, members of local commissions established pursuant to this section shall be appointed so that the composition of the local commission is as follows: one appointee who is a person who, on account of previous vocation, employment, or affiliation, is or has been, classified as representative of employers; one appointee who is a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as representative of employees or employee organizations; and all other appointees, including alternates, shall be persons who on account of previous vocation, employment, or affiliation, are not or have not been classified as representative of employers or of employees or employee organizations. The chairman and all members of any such local commission shall be appointed for 4-year staggered terms. Neither the chairman nor any member shall be employed by, or hold any commission with, any governmental unit in the state or any employee organization while serving in such office.*

(2) ~~Prior to such provisions and procedures becoming law,~~ The public employer shall apply to the commission for review and approval as to whether *the* local provisions or procedures, or both, are substantially equivalent to the provisions and procedures set forth in this part. *No ordinance, resolution, charter amendment, rule or regulation incorporating such provisions and procedures shall take effect until approved by the commission. Upon approval of the local option and the rules relating thereto, the local commission shall perform the duties set forth under its local option and the commission may transfer any pending cases and shall transfer any cases or other matters filed after the approval of the local option that are within the local commission's jurisdiction to the local commission for disposition.* All public employee agreements now in existence shall remain in effect until their expiration.

(3)(a) In order to secure continuously substantially equivalent rights and procedures, the commission may require that any amendments to this part be incorporated into the local option. The commission shall notify the local legislative body or the local commission of any such required amendment by certified mail, return receipt requested. The local legislative body or local commission shall have 60 days from the date of receipt of such notification from the commission within which to submit said required amendments. If the local legislative body or the local commission fails to submit the said required amendments within the 60-day period, the commission may suspend the operation of the local commission until the required amendment is submitted. After 50 days of any such suspension, the commission may transfer to itself any cases or other matters pending before the local commission.

(b) No amendment or revision of any ordinance, resolution, charter amendment, rule or regulation relating to a local option shall become effective without prior approval by the commission. The commission shall act on such amendment or revision within 45 days of receipt of a request.

(4) The provisions of chapter 120 shall apply to local commissions to the same extent that they apply to the commission except that for purposes of s. 120.545 the "committee" shall be the local legislative body. Notice to the commission shall be provided by any party seeking judicial review of any order of a local commission.

(5) ~~However, on and after July 1, 1977,~~ No district school board or political subdivision which has not filed an application for approval of local provisions or procedures by the commission on or before June 1, 1977, shall be permitted to adopt the local option provided in this section.

Section 2. This act shall take effect upon becoming a law, except that local commissions shall have until no later than October 1, 1980, to comply with the commission composition requirements set forth in s. 447.603(1), at which time, and henceforward, the existing composition of each local commission shall reflect said composition requirements.

On motion by Senator Hill, the Senate concurred in the House amendment.

CS for CS for SB 83 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Anderson	Gordon	McClain	Thomas
Barron	Gorman	McKnight	Tobiassen
Beard	Grizzle	Myers	Trask
Carlucci	Hair	Neal	Vogt
Chamberlin	Henderson	Peterson	Ware
Childers, D.	Hill	Poole	Williamson
Childers, W. D.	Holloway	Scarborough	Winn
Dunn	Jenne	Skinner	
Fechtel	Johnston	Steinberg	
Frank	MacKay	Stuart	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 1 and 2, further amended and passed as further amended—

By Senator Poole—

SB 1221—A bill to be entitled An act relating to controlled substances; amending ss. 893.03 and 893.135(1)(b), Florida Statutes; revising standards and schedules under which controlled substances are regulated; providing penalties; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 3—On the last page insert: (preceding the effective date insert a new section 4. and renumber the remaining section) Section 4. Subsections (2) and (3) of section 768.40, Florida Statutes, are amended to read:

768.40 Medical review committee, immunity from liability.—

(2) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed medical review committee *or any health care provider furnishing any information, including information concerning the prescribing of substances listed in s. 893.03(2), to such committee* for any act or proceeding undertaken or performed within the scope of the functions of any such committee if the committee member *or health care provider* acts without malice or fraud. *The* ~~This~~ immunity *provided to members of a duly appointed medical review committee* shall apply only to actions by providers of health services, and in no way shall this section render any medical review committee immune from any action in tort or contract brought by a patient or his successors or assigns. The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(3) *Except as provided in subsection (2),* this section shall not be construed to confer immunity from liability on any professional society or hospital or upon any health professional

while performing services other than as a member of a medical review committee. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a hospital, professional society, or an individual health professional, such cause of action shall exist as if the preceding provisions had not been enacted.

Amendment 4—On page 1, in the title, strike "providing an effective date." and insert: amending s. 768.40(2) and (3), Florida Statutes, providing for limitation of liability for health care providers who provide information to medical review committees; providing an effective date.

On motions by Senator Scarborough, the Senate concurred in the House amendments.

SB 1221 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Anderson	Gordon	MacKay	Skinner
Beard	Gorman	McClain	Steinberg
Carlucci	Grizzle	McKnight	Stuart
Chamberlin	Hair	Myers	Thomas
Childers, D.	Henderson	Neal	Tobiassen
Childers, W. D.	Hill	Peterson	Trask
Dunn	Holloway	Poole	Vogt
Fechtel	Jenne	Scarborough	Ware
Frank	Johnston	Scott	Winn

Nays—None

Vote after roll call:

Yea to Nay—Steinberg

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment—

By Senator Poole—

SB 689—A bill to be entitled An act relating to alcoholism; amending s. 316.193(5), Florida Statutes; removing the prohibition against the authorized agency for alcoholism treatment of persons convicted of certain offenses involving vehicles being the same agency which conducts alcohol evaluation and education; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 22, strike ~~. . . however, in no case shall the authorized agency for alcoholism treatment be the same agency which conducts the alcohol evaluation and education.~~ and insert: . . . whenever, the authorized agency for alcoholism treatment is the same agency which conducts the alcohol evaluation and education, this agency shall submit a quarterly report which shall be reviewed by the Traffic Court Review Committee to assure that excessive referrals to treatment have not been made. A programmatic and statistical report shall be submitted annually to the Traffic Court Review Committee by each agency authorized to provide services under this act.

On motion by Senator Poole, the Senate concurred in the House amendment.

SB 689 as amended passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Anderson	Gorman	McKnight	Steinberg
Beard	Grizzle	Myers	Stuart
Chamberlin	Hair	Neal	Thomas
Childers, W. D.	Henderson	Peterson	Tobiassen
Dunn	Hill	Poole	Trask
Fechtel	Holloway	Scarborough	Vogt
Frank	Jenne	Scott	Ware
Gordon	McClain	Skinner	Winn

Nays—None

The bill was ordered engrossed and then enrolled.

The President presiding

SPECIAL ORDER, resumed

Consideration of HB 1431 was deferred.

Senator Scarborough presiding

HB 1524—A bill to be entitled An act relating to contractual services and the Division of Purchasing of the Department of General Services; amending s. 287.012, Florida Statutes; redefining "agency" and providing a definition of "contractual services"; amending s. 287.032, Florida Statutes; providing that the division shall provide overall direction of contractual service procurement policies and rules; amending s. 287.042, Florida Statutes; providing that competitive procurement methods shall be used when practicable; providing exceptions; providing that the division shall establish definitions and classes of contractual services and procedures for acquiring them; providing for the preparation of statistical data concerning contractual service contracts; providing for programs to disseminate contractual service information; amending s. 287.057, Florida Statutes; providing that when the price of a contractual service is less than $2,500, agencies may employ rules promulgated by the agency; providing that when no bids are received for contractual services, the agency may negotiate; adding paragraph (a) of subsection (2), and subsection (3) to section 287.062, Florida Statutes; providing that contracts shall bear an interest rate not to exceed computed rate; providing that when no bids are received for commodity purchases, the division may negotiate; creating ss. 287.114 and 287.115, Florida Statutes; providing for duties of the Auditor General; requiring the Comptroller to issue quarterly reports; providing that contracts that were in existence prior to the effective date of the act shall not be affected; providing no certification is needed for rest areas or department marine vessels; creating sections 288.03(25) and 288.34(5), Florida Statutes; providing the Division of Economic Development and the Division of Tourism of the Department of Commerce shall negotiate with qualified service offerors; creating sections 20.19(18), 229.833, and 945.025(4), Florida Statutes; providing that the Department of Health and Rehabilitative Services, the Department of Education and the Department of Corrections are not required to give first consideration to lowest cost when procuring health services; providing an effective date.

—was read the second time by title.

Senator Dunn moved the following amendment which was adopted:

Amendment 1—On page 5, line 31, insert: *(c) Contracts for legal services.*

On motion by Senator Dunn, by two-thirds vote HB 1524 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Anderson	Fechtel	McClain	Steinberg
Barron	Frank	McKnight	Stuart
Beard	Hair	Neal	Thomas
Carlucci	Holloway	Peterson	Tobiassen
Chamberlin	Jenne	Poole	Trask
Childers, W. D.	Johnston	Scarborough	Williamson
Dunn	MacKay	Skinner	Winn

Nays—None

Vote after roll call:

Yea—Myers

SB 322—A bill to be entitled An act relating to retail theft; amending s. 812.015(3), (6), Florida Statutes; exempting from liability for false arrest, false imprisonment, or unlawful detention a peace officer, merchant, or merchant's employee who detains a person under certain circumstances for the purposes of attempting to recover unlawfully taken merchandise or for prosecution; providing that the activation of certain devices which operate to detect the removal of merchandise constitutes probable cause for purposes of such detention; prohibiting an individual from resisting the reasonable effort of a peace offi-

cer, merchant, or merchant's employee to recover merchandise under certain circumstances; providing a penalty; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Criminal offered the following amendments which were moved by Senator Carlucci and adopted:

Amendment 1—On page 2, line 6, strike the word: "constitutes" and insert: *may in light of the facts and circumstances constitute*

Amendment 2—On pages 2 and 3, strike on page 2, lines 18 through and including line 31, and on page 3, lines 1 through and including line 5

Amendment 3—On page 1, lines 22 and 23, strike all of said lines and insert: Section 1. Subsection (3) of section 812.015, Florida Statutes, is amended to read:

The President presiding

Senator Carlucci moved the following amendment which failed:

Amendment 4—On page 2, line 15, after "custody" insert: for prosecution,

Senator Williamson moved the following amendment which was adopted:

Amendment 5—On page 2, strike underlined language on lines 2 through 8— and the word "~~Such~~" on line 8 and insert: Such

The Committee on Judiciary-Criminal offered the following amendments which were moved by Senator Carlucci and adopted:

Amendment 6—On page 1, in title, line 12, strike the word: "constitutes" and insert: may constitute

Amendment 7—On page 1, in title, lines 14, 15, 16, 17 and 18 strike lines 14 through and including line 17 and the word: "penalty;" on line 18

Amendment 8—On page 1 in title, line 3, strike after "812.-015(3),": "(6),"

On motion by Senator Carlucci, by two-thirds vote SB 322 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—27

Mr. President	Fechtel	Johnston	Skinner
Anderson	Frank	McClain	Thomas
Barron	Gorman	McKnight	Trask
Carlucci	Hair	Neal	Vogt
Childers, D.	Henderson	Poole	Williamson
Childers, W. D.	Hill	Scarborough	Winn
Dunn	Jenne	Scott	

Nays—2

Beard	Steinberg

Votes after roll call:

Yea—Myers, Peterson

On motion by Senator Holloway, CS for SB 1325 was placed on the special order calendar in lieu of SB 401.

CS for SB 1325, by the Committee on Ways and Means and Senator Hill, was read the first time by title and SB 1325 was laid on the table.

On motions by Senator Holloway by two-thirds vote CS for CS for HB 12 was withdrawn from the Committees on Transportation and Ways and Means.

On motions by Senator Holloway—

CS for CS for HB 12—A bill to be entitled An act relating to speed measurement devices; creating s. 316.1906, Florida Statutes, providing definitions; excluding the admission into evidence of certain automatic speed measuring devices with respect to speed violations, except under certain circumstances; adding subsection (10) to s. 943.14, Florida Statutes, requiring the Police Standards and Training Commission to develop and promulgate training standards for law enforcement officers operating speed measuring devices; creating s. 316.1907, Florida Statutes, creating a commission to establish minimum design criteria for radar units and to report its recommendations and findings; providing an effective date.

—a companion measure, was substituted for CS for SB 1325 and by two-thirds vote read the second time by title. On motion by Senator Holloway, by two-thirds vote CS for CS for HB 12 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Grizzle	Maxwell	Stuart
Anderson	Hair	McClain	Thomas
Beard	Henderson	McKnight	Tobiassen
Carlucci	Hill	Neal	Trask
Childers, D.	Holloway	Peterson	Vogt
Fechtel	Jenne	Scarborough	Ware
Frank	Johnston	Skinner	Williamson
Gorman	MacKay	Steinberg	Winn

Nays—None

Vote after roll call:

Yea—Myers

SB 1325 was laid on the table.

On motion by Senator Jenne, by unanimous consent—

CS for HB 27—A bill to be entitled An act relating to residential construction; providing definitions; requiring building contractors or developers of one- or two-family residential dwelling units to notify prospective buyers of their right to have certain deposits placed in escrow; requiring the building contractor or developer to deposit certain funds in interest-bearing escrow accounts; providing that the building contractor or developer shall be entitled to the interest in such accounts; providing for surety bonds; providing that the building contractor or developer may borrow funds for construction purposes; providing for accountability for escrow deposits; providing for the release of funds in escrow accounts; providing for priority; prohibiting certain claims; providing a penalty; providing for attorney's fees and court costs with respect to civil litigation; providing for maximum statewide standards; providing an exemption; providing an effective date.

—was read the second time by title.

Senator Jenne moved the following amendment which was adopted:

Amendment 1—On page 2, lines 16 and 20, before the period (.) insert: , except for a person who sells or constructs less than 10 units per year statewide

On motion by Senator Jenne, by two-thirds vote CS for HB 27 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Mr. President	Grizzle	McKnight	Tobiassen
Anderson	Hair	Neal	Trask
Beard	Henderson	Poole	Vogt
Chamberlin	Hill	Scarborough	Williamson
Childers, D.	Jenne	Skinner	Winn
Fechtel	Johnston	Steinberg	
Frank	MacKay	Stuart	
Gorman	McClain	Thomas	

Nays—None

Votes after roll call:

Yea—Myers, Peterson

CS for SB 1131, by the Committee on Judiciary-Criminal and Senator Dunn was read the first time by title and SB 1131 was laid on the table.

On motion by Senator Thomas—

HB 1826—A bill to be entitled An act relating to criminal justice information and records; amending and redesignating s. 943.07, Florida Statutes, as s. 943.045, Florida Statutes; providing definitions; amending s. 943.05, Florida Statutes; extending the duties of the Criminal Justice Information System Division; creating ss. 943.051-943.058, Florida Statutes; providing for the collection and storage of criminal justice information, dissemination of criminal history information, and disposition reporting; approving the charging of certain fees; allowing the exchange of federal criminal history records; providing for the keeping of dissemination records and audits of certain agencies; providing for personal access, review, and challenge of criminal history records; allowing access to records for research, and providing for expunction and sealing of records; amending s. 943.06(1), Florida Statutes; providing for the membership of the Criminal Justice Information Systems Council; extending the duties of the Criminal Justice Information Systems Council; repealing ss. 893.14 and 901.33, Florida Statutes, relating to expunctions of certain criminal history records; providing severability; providing an effective date.

— a companion measure was substituted therefor and read the second time by title. On motion by Senator Thomas, by two-thirds vote HB 1826 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	MacKay	Stuart
Anderson	Gorman	McClain	Thomas
Beard	Grizzle	McKnight	Tobiassen
Carlucci	Hair	Neal	Trask
Chamberlin	Henderson	Peterson	Vogt
Childers, D.	Hill	Poole	Williamson
Childers, W. D.	Holloway	Scarborough	Winn
Dunn	Jenne	Skinner	
Fechtel	Johnston	Steinberg	

Nays—None

Vote after roll call:

Yea—Myers

CS for SB 1131 was laid on the table.

Consideration of SB 810 was deferred.

SB 723—A bill to be entitled An act relating to insurance; amending s. 627.667, Florida Statutes; providing that extension of benefits for group, blanket, and franchise disability policies be applicable to certificates evidencing such insurance delivered or issued for delivery to a resident of this state under policies effectuated or delivered outside the state; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator Jenne and adopted:

Amendment 1—On page 2, lines 22-26, strike all of said lines and insert: *(5) The benefits provided by this section shall also apply to holders of group certificates which are delivered or issued for delivery to residents of this state under group policies, issued or amended on and after October 1, 1980, and effectuated or delivered outside of this state, unless a succeeding carrier under a group policy has agreed to assume liability for such benefits.*

Amendment 2—On page 1, line 9, after the semicolon insert: providing an exception;

On motion by Senator Jenne, by two-thirds vote SB 723 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Mr. President	Frank	McClain	Thomas
Anderson	Gorman	McKnight	Tobiassen
Beard	Grizzle	Neal	Trask
Carlucci	Hair	Peterson	Vogt
Chamberlin	Henderson	Poole	Williamson
Childers, D.	Holloway	Scarborough	Winn
Childers, W. D.	Jenne	Skinner	
Fechtel	Johnston	Stuart	

Nays—None

Vote after roll call:

Yea—Myers

SB 976—A bill to be entitled An act relating to energy; creating s. 553.875, Florida Statutes, providing minimum standards for water heaters sold or installed for residential use after October 1, 1980; providing an effective date.

—was read the second time by title.

Senator Scarborough moved that consideration of SB 976 be deferred. The motion failed.

Senator Thomas moved the following amendment:

Amendment 1—On page 1, lines 14 and 16, strike "125° F" and insert: 135° F

Senator Neal moved the following substitute amendment which failed:

Amendment 2—On page 1, lines 14 and 16, strike "125" and insert: 140

Amendment 1 failed.

Senator Vogt moved the following amendment which was adopted:

Amendment 3—On page 1, line 16, strike the period and insert: ; provided that this standard shall not prevail over FHA standards when FHA standards require a different minimum temperature.

On motion by Senator Tobiassen, by two-thirds vote SB 976 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Anderson	Frank	Johnston	Thomas
Barron	Gorman	MacKay	Tobiassen
Carlucci	Grizzle	McClain	Trask
Chamberlin	Hair	Poole	Vogt
Childers, D.	Henderson	Scarborough	Williamson
Childers, W. D.	Hill	Scott	Winn
Dunn	Holloway	Skinner	
Fechtel	Jenne	Steinberg	

Nays—3

Mr. President	Beard	Neal

Votes after roll call:

Yea—Myers, Peterson

On motion by Senator W. D. Childers, the following bills were set as a special order for 4:30 p.m. this day: SB 333, SB 343, CS for SB 346, CS for SB 348, CS for SB 349, HB 1773, CS for HB 1733, HB 1127, HB 1751, SB 1049, HB 1638, and CS for HB 595

On motion by Senator Jenne, by two-thirds vote SB 1377 was placed on the local bill calendar.

On motions by Senator Trask, the rules were waived and by two-thirds vote HCR 1138 was withdrawn from the Committee on Rules and Calendar and placed on the local bill calendar.

On motion by Senator Gorman, by two-thirds vote HB 1352 was withdrawn from the Committee on Commerce and placed on the local bill calendar.

HB 1431—A bill to be entitled An act relating to automobile liability insurance; amending s. 626.9541(15)(c), Florida Statutes, and adding paragraph (i), deleting certain conditions under which certain policyholders are entitled to reimbursement of certain surcharges; restricting the imposition of surcharges or refusal to renew with respect to automobile comprehensive and uninsured motorist coverage; amending paragraph (f); prohibiting an insurer from refusing to issue a policy of motor vehicle insurance because the insured is a handicapped or physically disabled person; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote HB 1431 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gorman	MacKay	Skinner
Anderson	Grizzle	McClain	Steinberg
Beard	Hair	McKnight	Thomas
Carlucci	Henderson	Neal	Tobiassen
Childers, D.	Hill	Poole	Trask
Fechtel	Jenne	Scarborough	Vogt
Frank	Johnston	Scott	Winn

Nays—None

Votes after roll call:

Yea—Myers, Peterson

LOCAL BILL CALENDAR

HB 1626—A bill to be entitled An act relating to Lee County; amending s. 2, s. 3, and s. 13 of Chapter 27676, Laws of Florida, 1951, as amended, providing for the election of members of the board of the Fort Myers Beach Fire Control District; providing for method and time of such elections; expanding the board to five members; providing for assumption of office by members of the board; providing for vacancies; providing for continuation in office for a certain period of time by members of the board in office on the effective date of the act; requiring a referendum on whether to dissolve the district; providing for an effective date.

—was read the second time by title. On motion by Senator Johnston, by two-thirds vote HB 1626 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

SB 1365—A bill to be entitled An act relating to the School Board of Broward County; providing that the members thereof be paid a specified sum for travel and other expenses within the county; providing for the increase of such amounts in certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote SB 1365 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

HB 1514—A bill to be entitled An act relating to Gasparilla Island, including Boca Grande Isles and Gasparilla golf course island, Three Sisters Island, Hoagen's Key, and Loomis Island, located in Charlotte County and Lee County; making legisaltive findings of fact that said islands are fragile barrier islands of particular natural beauty containing abundant plant, marine, animal and bird life; providing for the creation of the Gasparilla Island Conservation District; establishing the district boundaries as the above named islands, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds; restricting the density of dwelling units to not more than 5 per acre; restricting the commercial, industrial or multi-family use of land to those lands zoned for such uses prior to the effective date of this act; providing height limitations on all buildings and structures erected within the district; prohibiting exterior advertising signs; providing an exception for certain on-site signs; providing that this act shall not repeal applicable local government comprehensive land use plans, state and local zoning, air and water pollution and conservation and sign regulations; providing an exemption; providing that this act shall prevail where it is more restrictive than such regulations; providing that any real property owner in the district may enforce the provisions of this act by legal proceedings; providing that this act shall be recorded in the public records of Lee and Charlotte Counties; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Henderson, by two-thirds vote HB 1514 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

On motions by Senator Thomas, by two-thirds vote—

HB 1783—A bill to be entitled An act relating to Wakulla County; providing for the school board of Wakulla County to undertake capital improvement projects; authorizing said board to issue not exceeding $1,000,000 principal amount of revenue bonds for the payment of the costs thereof; providing for the payment of such bonds from race track funds and jai alai fronton funds accruing annually to Wakulla County and allocated to the board pursuant to law; providing for the rights of the holders of outstanding obligations payable from such funds; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote HB 1783 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Childers, D.	Gorman	Johnston
Anderson	Childers, W. D.	Hair	MacKay
Barron	Dunn	Henderson	McClain
Beard	Fechtel	Hill	McKnight
Carlucci	Frank	Holloway	Myers
Chamberlin	Gordon	Jenne	Neal

Peterson	Scott	Stuart	Trask
Poole	Skinner	Thomas	Vogt
Scarborough	Steinberg	Tobiassen	Williamson

Nays—None

On motions by Senator Neal, by two-thirds vote—

HB 1819—A bill to be entitled An act relating to the Manatee County Civic Center Authority and Manatee County; amending subsection (1) of Section 6 of Chapter 78-556, Laws of Florida, providing for the issuance of bonds as authorized by the Board of County Commissioners of Manatee County, Florida, and providing that bonds secured by the full faith and credit of Manatee County shall be issued only after approval by a majority of the votes cast in an election; amending subsection (3) of Section 6, Chapter 78-556, Laws of Florida; providing for the issuance or revenue bonds; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers. D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

On motions by Senator Neal, by two-thirds vote—

HB 1820—A bill to be entitled An act relating to Manatee County; amending Section 1 of Chapter 70-795, Laws of Florida, providing an exception for the taking of thread herring and Spanish sardines with a purse seine of specified size; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

By Senator Trask—

HCR 1138—A concurrent resolution recognizing the historic significance of the East Elfers Cemetery.

—was read the first time in full. On motion by Senator Trask by two-thirds vote HCR 1138 was read the second time by title, adopted, and certified to the House. The vote on adoption was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

CS for HB 432—A bill to be entitled An act relating to Clay County; providing for the issuance of a club alcoholic beverage license to the Park Avenue Racquet Club in Clay County; providing an effective date.

—was read the second time by title. On motion by Senator Fechtel, by two-thirds vote CS for HB 432 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fechtel	Johnston	Skinner
Anderson	Frank	MacKay	Steinberg
Barron	Gordon	McClain	Stuart
Beard	Gorman	McKnight	Thomas
Carlucci	Hair	Myers	Tobiassen
Chamberlin	Henderson	Neal	Vogt
Childers, D.	Hill	Poole	Williamson
Childers, W. D.	Holloway	Scarborough	
Dunn	Jenne	Scott	

Nays—2

Peterson	Trask

SB 1377—A bill to be entitled An act relating to Broward County; adding s. 34, chapter 65-1541, Laws of Florida, as amended; creating a redevelopment trust fund for the Downtown Development Authority of the City of Fort Lauderdale; requiring the county, municipality, and certain other taxing authorities to appropriate tax increment revenues to the trust fund; providing procedures, purposes, limitations, and uses of such fund; providing for the duration and termination of such fund; creating a board of trustees to manage and control such trust fund; providing terms and conditions under which funds can be pledged to pay for any bond, loan, advance, or indebtedness or any interest thereon; providing for the form of revenue bonds; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote SB 1377 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

On motions by Senator Gorman, by two-thirds vote—

HB 1352—A bill to be entitled An act relating to Orange County; authorizing municipal and county governments to enact certain ordinances with respect to licensees under the Beverage Law; providing for a referendum.

—was read the second time by title and by two-thirds vote read the third time by title, passed and was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fechtel	Johnston	Scott
Anderson	Frank	MacKay	Skinner
Barron	Gordon	McClain	Steinberg
Beard	Gorman	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Williamson

Nays—None

SPECIAL ORDER, continued

SB 1204—A bill to be entitled An act relating to collective bargaining by public employees; amending s. 447.403(3), (4), Florida Statutes; providing a time period within which a special master appointed by the Public Employees Relations Commission for the resolution of impasses shall transmit his decision to the commission and to both parties; requiring the legislative body of the governmental entity involved in a dispute to take action to resolve all disputed impasse issues; requiring the parties in such a dispute to bargain collectively following such action providing that such action shall take effect if an agreement is not ratified except for disputed impasse issues involving certain contractual provisions; providing an effective date.

—was read the second time by title.

Ways and Means Subcommittee E offered the following amendments which were moved by Senator Chamberlin and failed.

Amendment 1—On page 2, line 6, insert: (before the period) , *by registered mail, return receipt requested*

Amendment 2—On page 2, lines 11-12, strike all of said lines and insert: days after the date of *party received* ~~commission mailed~~ the special master's recommended decision ~~to the parties, rejects~~

Amendment 3—On page 3, lines 15-27, strike all after "shall" on line 15 and insert: reduce to writing an agreement which includes those issues agreed to by the parties and those disputed impasse issues resolved by the legislative body action taken pursuant to paragraph (d) and shall proceed in accordance with the provisions of s. 447.309; however, if such agreement is not ratified by all parties pursuant to the provisions of s. 447.309, the legislative body action taken pursuant to the provisions of paragraph (d) shall take effect, except with respect to those disputed impasse issues which establish the language of contractual provisions which could have no effect in the absence of a ratified agreement (including, but not limited to, preambles, duration clauses and recognition clauses), and the parties shall proceed in accordance with the provisions of s. 447.309(4).

Senator Chamberlin moved the following amendments which were adopted:

Amendment 4—On page 1, line 21, strike everything after the enacting clause and insert: Section 1. Subsections (3) and (4) of section 447.503, Florida Statutes, are amended to read:

447.503 Resolution of impasses.—

(3) The special master shall hold hearings in order to define the areas of dispute, to determine facts relating to the dispute, and to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special master in accordance with rules promulgated by the commission. The special master shall be enpowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on his own behalf. Within 15 calendar days after the close of the final hearing, the special master shall transmit his recommended decision to the commission *and* ~~which shall, within 5 working days after receipt thereof, transmit the recommended decision~~ to the representatives of both parties, *by registered mail return, receipt requested.* Such recommended decision shall be discussed by the parties *and each special master recommendation* shall be deemed approved by both parties unless *specifically rejected by* either party, by written notice filed with the commission within 20 calendar days after the date the *party received* ~~commission mailed~~ the special master's recommended decision ~~to the parties, rejects the recommended decision~~. The written notice shall include a statement of the cause for *each* rejection and shall be served upon the other party.

(4) In the event that either the public employer or the employee organization does not accept, in whole or in part, the recommended decision of the special master;

(a) The chief executive officer of the governmental entity involved shall, within 10 days after rejection of *a recommendation* ~~the recommended decision~~ of the special master, submit to the legislative body of the governmental entity involved a copy of the findings of fact and recommended decision of the special master, together with the chief executive officer's recommendations for settling the *disputed impasse issues* ~~disputed~~; (The chief executive officer shall also transmit his recommendations to the employee organization; if the dispute involves employees for whom the Board of Regents is the public employer, the Governor may also submit recommendations for settling the *disputed impasse issues* ~~dispute~~ to the legislative body.)

(b) The employee organization shall submit its recommendations for settling the *disputed impasse issues* ~~dispute~~ to such legislative body and to the chief executive officer;

(c) The legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the *rejected recommendations* ~~recommended~~ decision of the special master; ~~and~~

(d) Thereafter, the legislative body shall take action as it deems to be in the public interest, including the interest of the public employees involved, *to resolve all disputed impasse issues; and.*

(e) Following the resolution of the disputed impasse issues by the legislative body, the parties shall reduce to writing an agreement which includes those issues agreed to by the parties and those disputed impasse issues resolved by the legislative body action taken pursuant to paragraph (d). The agreement shall be signed by the chief executive officer and the bargaining agent and shall be submitted to the public employer and to the public employees who are members of the bargaining unit for ratification. If such agreement is not ratified by all parties, pursuant to the provisions of s. 447.309, the legislative body action taken pursuant to the provisions of paragraph (d) shall take effect as of the date of such legislative body action for the remainder of the first fiscal year which was the subject of negotiations; however, the legislative body action shall not take effect with respect to those disputed impasse issues which establish the language of contractual provisions which could have no effect in the absence of a ratified agreement, including, but not limited to, preambles, recognition clauses, and duration clauses.

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

Amendment 5—On page 1, lines 1-18, strike all of said lines and insert: A bill to be entitled An act relating to collective bargaining by public employees; amending s. 447.403(3) and (4), Florida Statutes, providing clarification of procedures for impasse resolution and providing for implementation of legislatively resolved impasse issues; providing an effective date.

Pending further consideration of SB 1204 as amended, on motion by Senator Chamberlin, by two-thirds vote HB 1655 was withdrawn from Ways and Means Subcommittee E and the Committee on Ways and Means.

On motion by Senator Chamberlin by two-thirds vote—

HB 1655—A bill to be entitled An act relating to collective bargaining by public employees; amending s. 447.403(3) and (4), Florida Statutes, providing clarification of procedures for impasse resolution and providing for implementation of legislatively resolved impasse issues; providing an effective date.

—a companion measure, was substituted for SB 1204 and read the second time by title. On motion by Senator Chamberlin, by two-thirds vote HB 1655 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Barron	Frank	McKnight	Tobiassen
Beard	Gorman	Neal	Trask
Carlucci	Hair	Peterson	Vogt
Chamberlin	Hill	Poole	Williamson
Childers, D.	Jenne	Scott	Winn
Childers, W. D.	Johnston	Steinberg	
Dunn	MacKay	Stuart	
Fechtel	McClain	Thomas	

Nays—None

Vote after roll call:

Yea—Myers

SB 1204 was laid on the table.

SB 1126—A bill to be entitled An act relating to registration of boats; amending s. 371.051(2) and (5), Florida Statutes, and adding subsection (11) to said section; providing requirements for vessel registration and hull identification; prohibiting fraudulent registration decals and unauthorized transfer of decals; providing penalties; specifying the time within which license fees are to be remitted to the department; amending s. 371.65(1), Florida Statutes; clarifying applicability of certain prescribed fees; amending s. 371.68(2), Florida Statutes; providing for resolution of conflicts in imposition of penalties; amending s. 371.75, Florida Statutes; providing for vessel registration and hull identification; prohibiting purchase, possession, or transfer of illegal title, registration, or other indicia of ownership and providing a penalty; amending s. 371.77, Florida Statutes; requiring all vessels to display a hull identification number or hull serial number; prohibiting the alteration or destruction of such number; prohibiting the possession or transfer of vessels with altered hull numbers; establishing probable cause for inspection; providing a penalty; amending s. 371.791, Florida Statutes; prohibiting issuance or obtaining of fraudulent certificates of origin by manufacturers and providing a penalty; amending s. 371.81(6), Florida Statutes; increasing the fee for recording notice of a lien and removing the fee for recording a satisfaction of a lien; amending s. 371.82, Florida Statutes; providing for resolution of conflicts in imposition of penalties; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Criminal offered the following amendment which was moved by Senator Hair and adopted:

Amendment 1—On page 7, line 5, strike the word: "not"

Pending further consideration of SB 1126 as amended, on motions by Senator Hair, the rules were waived by two-thirds vote and CS for HB 791 was withdrawn from the Committees on Natural Resources and Conservation and Judiciary-Criminal. On motion by Senator Hair—

CS for HB 791—A bill to be entitled An act relating to registration of boats; amending s. 371.051(2) and (5), Florida Statutes, and adding a subsection; providing requirements for boat registration and hull identification and prohibiting fraudulent registration decals and the unauthorized transfer of decals; providing a penalty; amending s. 371.65(1), Florida Statutes; clarifying the applicability of certain prescribed fees; amending s. 371.68(2), Florida Statutes; providing for resolution of conflicts in imposition of penalties; amending s. 371.75, Florida Statutes; providing for boat registration and hull identification; prohibiting purchase, possession, or transfer of illegal title, and providing a penalty; amending s. 371.77, Florida Statutes; requiring all vessels to display a hull identification number or hull serial number; prohibiting the destruction of such number; prohibiting the possession or transfer of vessels with altered hull numbers; establishing probable cause for inspection and providing a penalty; amending s. 371.791, Florida Statutes; prohibiting issuance of fraudulent certificates of origin by manufacturers and providing a penalty; amending s. 371.81(6), Florida Statutes; modifying the fees for recording a lien or the satisfaction of a lien; amending s. 371.82, Florida Statutes; providing for resolution of conflicts in imposition of penalties; providing an effective date.

—a companion measure, was substituted for SB 1126 and read the second time by title. On motion by Senator Hair, by two-thirds vote CS for HB 791 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Chamberlin	Frank	Johnston
Anderson	Childers, D.	Gorman	McClain
Barron	Childers, W. D.	Hair	McKnight
Beard	Dunn	Henderson	Neal
Carlucci	Fechtel	Holloway	Peterson
Poole	Steinberg	Trask	Williamson
Scarborough	Stuart	Vogt	

Nays—None

Votes after roll call:

Yea—Myers, Winn

SB 1126 was laid on the table.

CS for HB 63—A bill to be entitled An act relating to elections; amending s. 98.031(1), Florida Statutes, and adding subsection (5) thereto, authorizing the supervisor of elections to select polling place locations; amending s. 101.71(2) and (3), Florida Statutes, conforming to the act provisions relating to polling places and the procedure used to notify the electors of the change of polling places; repealing s. 101.73, Florida Statutes, relating to the description of election districts and precincts; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote CS for HB 63 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Anderson	Frank	McClain	Thomas
Beard	Gorman	McKnight	Tobiassen
Carlucci	Hair	Neal	Trask
Chamberlin	Henderson	Peterson	Vogt
Childers, D.	Holloway	Scarborough	Williamson
Dunn	Johnston	Steinberg	
Fechtel	MacKay	Stuart	

Nays—None

Votes after roll call:

Yea—Myers, Winn

SB 1121 was taken up and on motion by Senator Hill, by unanimous consent—HB 1757—A bill to be entitled An act relating to real estate; creating s. 475.1825, Florida Statutes; providing that certain registrations which have expired shall be considered inactive; providing for conditional repeal; amending s. 475.01(3) and (6), Florida Statutes, redefining "broker" and "real property" as used in provisions regulating real estate brokers, salesmen and schools; creating s. 475.17(3), Florida Statutes, providing qualifications for practice; providing for conditional repeal; providing an effective date.

—a companion measure, was substituted for SB 1121 and read the second time by title. On motion by Senator Hill, by two-thirds vote HB 1757 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Gorman	McKnight	Tobiassen
Carlucci	Grizzle	Neal	Trask
Chamberlin	Henderson	Peterson	Vogt
Childers, D.	Hill	Poole	Williamson
Childers, W. D.	Holloway	Scott	Winn
Dunn	Jenne	Steinberg	
Fechtel	Johnston	Stuart	
Frank	McClain	Thomas	

Nays—None

Votes after roll call:

Yea—Hair, Myers

SB 1121 was laid on the table.

SJR 824—A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution relating to motor vehicle fuel taxes.

—was read the second time by title.

The Committee on Transportation offered the following amendment which was moved by Senator Holloway and adopted:

Amendment 1—On page 4, lines 30-31, strike all of line 30 through and including line 31 and insert: 16, of the Constitution of 1885, as amended, is hereby continued

On motion by Senator Holloway, by two-thirds vote SJR 824 as amended was read the third time in full as follows:

A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution relating to motor vehicle fuel taxes.

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

That the amendment to Section 9 of Article XII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1980:

SECTION 9. Bonds.—

(a) ADDITIONAL SECURITIES.

(1) Article IX, Section 17, of the Constitution of 1885, as amended, as it existed immediately before this Constitution, as revised in 1968, became effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except revenue bonds, revenue certificates or other evidences of indebtedness hereafter issued thereunder may be issued by the agency of the state so authorized by law.

(2) That portion of Article XII, Section 9, Subsection (a) of this Constitution, as amended, which by reference adopted Article XII, Section 19 of the Constitution of 1885, as amended, as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this revision as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment all of the proceeds of the revenues derived from the gross receipts taxes, as therein defined, collected in each year shall be applied as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or certificates issued before the effective date of this amendment or any refundings thereof which are secured by such gross receipts taxes. No bonds or other obligations may be issued pursuant to the provisions of Article XII, Section 19, of the Constitution of 1885, as amended, but this provision shall not be construed to prevent the refunding of any such outstanding bonds or obligations pursuant to the provisions of this subsection (a)(2).

Subject to the requirements of the first paragraph of this subsection (a)(2), beginning July 1, 1975, and for fifty years thereafter, all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied as of the time of adoption of this subsection (a)(2) in chapter 203, Florida Statutes, (hereinafter called "gross receipts taxes"), shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2 of Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, provided in this subsection (a) (2). The state board shall be a body corporate and shall have all the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning, junior colleges, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law. All such bonds shall mature not later than July 1, 2025. All other details of such bonds shall be as provided by law or by the proceedings authorizing such bonds; provided, however, that no bonds, except refunding bonds, shall be issued, and no proceeds shall be expended for the cost of any capital project, unless such project has been authorized by the legislature.

Bonds issued pursuant to this subsection (a)(2) shall be primarily payable from such revenues derived from gross receipts taxes, and shall be additionally secured by the full faith and credit of the state. No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

a. For the payment of the principal of and interest on any bonds maturing in such fiscal year;

b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;

c. For direct payment of the cost or any part of the cost of any capital project for the state system theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued ~~for a period of forty consecutive years~~. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower ~~net~~ average *net* interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for

any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16 of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads *and for road maintenance as authorized by law.* When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five *state fiscal* years of operation of new projects to be financed, *and of any other legally available pledged revenues collected in the preceding state fiscal year.* Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, ~~and~~ *the pledged* portions of the "second gas tax" allocated to that county, *and any other pledged revenue, and shall mature not later than forty years from the date of issuance.*

(d) SCHOOL BONDS.

(1) Article XII, Section 9, Subsection (d) of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended) as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminus with the school district of each county as provided in Article IX, Section 4, Subsection (a) of this constitution, in each year computed as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9, Subsection (d) of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded at a lower net average interest cost rate by the issuance of refunding bonds maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (13) of this subsection (d).

(3) Subject to the requirements of paragraph (1) of this subsection (d) beginning July 1, 1973 and for thirty-five years thereafter, the first proceeds of the revenues derived from the licensing of motor vehicles to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and junior college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and junior college districts in the ratio of the number of instruction units in each school district or junior college district in each year computed as provided herein. The amount of the first revenues derived from the state motor vehicle license taxes to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars ($600) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1967-68, plus an amount equal in the aggregate to the product of eight hundred dollars ($800) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1972-73 and for each school fiscal year thereafter which is in excess of the total number of such instruction units in all the school districts of Florida for the school fiscal year 1967-68, such excess units being designated "growth units." The amount of the first revenues derived from the state motor vehicle license taxes to be so set aside in each year and distributed as provided herein shall additionally be an amount equal in the aggregate to the product of four hundred dollars ($400) multiplied by the total number of instruction units in all junior college districts of Florida. The number of instruction units in each school district or junior college district in each year for the purposes of this amendment shall be the greater of (1) the number of instruction units in each school district for the school fiscal year 1967-68 or junior college district for the school fiscal year 1968-69 computed in the manner heretofore provided by general law, or (2) the number of instruction units in such school district, including growth units, or junior college district for the school fiscal year computed in the manner heretofore or hereafter provided by general law and approved by the state board of education (hereinafter called the state board), or (3) the number of instruction units in each school district, including growth units, or junior college district on behalf of which the state board has issued bonds or motor vehicle tax anticipation certificates under this amendment which will produce sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or motor vehicle tax anticipation certificates issued under this amendment which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2 of Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control and supervision of the proceeds of the first part of the revenues derived from the licensing of motor vehicles provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any junior college district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes to issue bonds or motor vehicle tax anticipation certificates, and also to issue such bonds or motor vehicle tax anticipation certificates to pay, fund or refund any bonds or motor vehicle tax anticipation certificates theretofore issued by said state board. All such bonds or motor vehicle tax anticipation certificates shall bear interest at not exceeding five per centum per annum, or such higher interest rate as may be authorized by statute heretofore or hereafter passed by a three-fifths (3/5) vote of each house of the legislature. All such

bonds shall mature serially in annual installments commencing not more than three (3) years from the date of issuance thereof and ending not later than thirty (30) years from the date of issuance, or July 1, 2007, A.D., whichever is earlier. All such motor vehicle tax anticipation certificates shall mature prior to July 1, 2007, A.D. The state board shall have power to determine all other details of said bonds or motor vehicle tax anticipation certificates and to sell at public sale after public advertisement, or exchange said bonds or motor vehicle tax anticipation certificates, upon such terms and conditions as the state board shall provide.

(6) The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or motor vehicle tax anticipation certificates, including refunding bonds or refunding motor vehicle tax anticipation certificates, all or any part from the anticipated revenues to be derived from the licensing of motor vehicles provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or motor vehicle tax anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

(7) No such bonds or motor vehicle tax anticipation certificates shall ever be issued by the state board until after the adoption of a resolution requesting the issuance thereof by the school board of the school district or board of trustees of the junior college district on behalf of which the obligations are to be issued. The state board of education shall limit the amount of such bonds or motor vehicle tax anticipation certificates which can be issued on behalf of any school district or junior college district to ninety percent (90%) of the amount which it determines can be serviced by the revenue accruing to the school district or junior college district under the provisions of this amendment, and such determination shall be conclusive. All such bonds or motor vehicle tax anticipation certificates shall be issued in the name of the state board of education but shall be issued for and on behalf of the school board of the school district or board of trustees of the junior college district requesting the issuance thereof, and no election or approval of qualified electors shall be required for the issuance thereof.

(8) The state board shall in each year use the funds distributable pursuant to this amendment to the credit of each school district or junior college district only in the following manner and in order of priority:

a. To comply with the requirements of paragraph (1) of this subsection (d).

b. To pay all amounts of principal and interest maturing in such year on any bonds or motor vehicle tax anticipation certificates issued under the authority hereof, including refunding bonds or motor vehicle tax anticipation certificates, issued on behalf of the school board of such school district or board of trustees of such junior college district; subject, however, to any covenants or agreements made by the state board concerning the rights between holders of different issues of such bonds or motor vehicle tax anticipation certificates, as herein authorized.

c. To establish and maintain a sinking fund or funds to meet future requirements for debt service or reserves therefor, on bonds or motor vehicle tax anticipation certificates issued on behalf of the school board of such school district or board of trustees of such junior college district under the authority hereof, whenever the state board shall deem it necessary or advisable, and in such amounts and under such terms and conditions as the state board shall in its discretion determine.

d. To distribute annually to the several school boards of the school districts or the boards of trustees of the junior college districts for use in payment of debt service on bonds heretofore or hereafter issued by any such school boards of the school districts or boards of trustees of the junior college districts where the proceeds of the bonds were used, or are to be used, in the acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects in such school districts or junior college districts and which capital outlay projects have been approved by the school board of the school district or board of trustees of the junior college district, pursuant to the most recent survey or surveys conducted under regulations prescribed by the state board to determine the capital outlay needs of the school district or junior college district. The state board shall have power at the time of issuance of any bonds by any school board of any school district or board of trustees of any junior college district to covenant and agree with such school board or board of trustees as to the rank and priority of payments to be made for different issues of bonds under this subparagraph d., and may further agree that any amounts to be distributed under this subparagraph d. may be pledged for the debt service on bonds issued by any school board of any school district or board of trustees of any junior college district and for the rank and priority of such pledge. Any such covenants or agreements of the state board may be enforced by any holders of such bonds in any court of competent jurisdiction.

e. To distribute annually to the several school boards of the school districts or boards of trustees of the junior college districts for the payment of the cost of acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes in such school district or junior college district as shall be requested by resolution of the school board of the school district or board of trustees of the junior college district.

f. When all major capital outlay needs of a school district or junior college district have been met as determined by the state board, on the basis of a survey made pursuant to regulations of the state board and approved by the state board, all such funds remaining shall be distributed annually and used for such school purposes in such school district or junior college district as the school board of the school district or board of trustees of the junior college district shall determine, or as may be provided by general law.

(9) Capital outlay projects of a school district or junior college district shall be eligible to participate in the funds accruing under this amendment and derived from the proceeds of bonds and motor vehicle tax anticipation certificates and from the motor vehicle license taxes, only in the order of priority of needs, as shown by a survey or surveys conducted in the school district or junior college district under regulations prescribed by the state board, to determine the capital outlay needs of the school district or junior college district and approved by the state board; provided that the priority of such projects may be changed from time to time upon the request of the school board of the school district or board of trustees of the junior college district and with the approval of the state board; and provided further, that this paragraph (9) shall not in any manner affect any covenant, agreement or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle tax anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district, or board of trustees of any junior college district.

(10) The state board may invest any sinking fund or funds created pursuant to this amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, issued by the state board on behalf of the school board of any school district or board of trustees of any junior college district.

(11) The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license taxes during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license taxes from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle tax anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle tax anticipation certificates.

(12) The state board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this amendment as it shall deem necessary, and

the expenses of the state board in administering the provisions of this amendment shall be prorated among the various school districts and junior college districts and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each school district or junior college district on the same basis as such motor vehicle license taxes are distributable to the various school districts or junior college districts under the provisions of this amendment. Interest or profit on sinking fund investments shall accrue to the school districts or junior college districts in proportion to their respective equities in the sinking fund or funds.

(13) Bonds issued by the state board pursuant to this subsection (d) shall be payable primarily from said motor vehicle license taxes as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of 1885, as amended prior to 1968, and bonds issued pursuant to Article XII, Section 9, subsection (d) of the Constitution as revised in 1968, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state only at a lower net average interest cost rate.

(e) DEBT LIMITATION. Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

(f) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (a) differs from that contained herein, then such other language as to subsection (a) shall prevail over the language of subsection (a) as contained herein.

(g) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (d) differs from that contained herein, then such other language shall prevail over the language of subsection (d) as contained herein.

(h) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (c) differs from that contained herein, then such other language as to subsection (c) shall prevail over the language of subsection (c) as contained herein. This amendment shall take effect as of July 1, 1975.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendment proposed herein shall appear on the ballot as follows:

Proposing an amendment to Section 9 of Article XII of the State Constitution replacing the 40-year limitation on the use of the "second gas tax" to finance bonds for roads with a 40-year limitation upon the bonds secured and payable by revenues from the tax. Proposing to authorize counties to utilize such revenues for road maintenance as authorized by law rather than just for the acquisition or construction of roads. Proposing to allow the use of revenues other than those from the tax and pledged tolls to pay bonds secured by the tax. Proposing to include within the formula used to determine the debt service requirements on such bonds legally available pledged revenues other than those from the tax and from tolls.

—and as amended passed by the required constitutional three-fifths vote of the membership and was ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Fechtel	McClain	Stuart
Barron	Frank	McKnight	Thomas
Beard	Gorman	Neal	Tobiassen
Carlucci	Grizzle	Peterson	Trask
Chamberlin	Henderson	Poole	Vogt
Childers, D.	Hill	Scarborough	Ware
Childers, W. D.	Holloway	Scott	Williamson
Dunn	Jenne	Steinberg	Winn

Nays—None

Votes after roll call:

Yea—Hair, Myers

On motion by Senator Jenne, the Senate reconsidered the vote by which—

SB 1365—A bill to be entitled An act relating to the School Board of Broward County; providing that the members thereof be paid a specified sum for travel and other expenses within the county; providing for the increase of such amounts in certain circumstances; providing an effective date.

—passed this day.

Senator Jenne moved the following amendments which were adopted by two-thirds vote:

Amendment 1—On page 1, line 12, strike the words "$150 per month" and insert: up to $150 per month vouchered expenses

Amendment 2—On page 1, line 14, strike the words, "$200 per month" and insert: up to $200 per month vouchered expenses

SB 1365 as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Mr. President	Dunn	McKnight	Tobiassen
Anderson	Fechtel	Neal	Trask
Barron	Gorman	Peterson	Vogt
Beard	Grizzle	Poole	Ware
Carlucci	Henderson	Scarborough	Williamson
Chamberlin	Holloway	Scott	Winn
Childers, D.	Jenne	Steinberg	
Childers, W. D.	Johnston	Stuart	

Nays—None

Votes after roll call:

Yea—Hair, Myers

On motion by Senator Steinberg, by two-thirds vote SB 609 was placed at the end of the special order calendar.

On motion by Senator MacKay, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments, by the required Constitutional three-fifths vote of the membership of the House—

By Senator Lewis—

SJR 948—A joint resolution proposing an amendment to Section 16, Article III of the State Constitution, relating to apportionment by the Legislature.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 6—On page 1, line 15, before "SECTION 16" insert:

SECTION 15. Terms and qualifications of legislators.—

(b) REPRESENTATIVES. Members of the house of representatives shall be elected for terms of *four* ~~two~~ years ~~in each even-numbered year~~. *Those from odd-numbered districts shall be elected in the years the numbers of which are multiples of four, and those from even-numbered districts shall be elected in even-numbered years the numbers of which are not multiples of four.*

Amendment 8—On page 2, line 3, strike "thirty" and insert: fifteen

Amendment 9—On page 1, lines 20-24, strike all of said lines and insert: state and of the United States into ~~not less than thirty nor more than~~ forty *single-member,* consecutively numbered senatorial districts of *compact,* ~~either~~ contiguous~~, overlapping or identical~~ territory, and into ~~not less than eighty nor more than~~ one hundred twenty *single-member,*

Amendment 10—On page 1, line 26, after "territory." insert: *Each senatorial district shall be subdivided into representative districts.*

Amendment 12—On page 3, line 27, after the period insert: Providing that senatorial districts be subdivided into representative districts.

Amendment 13—On page 3, line 27, after the period insert: Providing for forty senate districts and one hundred twenty house districts.

Amendment 14—On page 1, line 15, of House Amendment 6 after "legislators.—" insert:

(a) SENATORS. Senators shall be elected for terms of four years, those from odd-numbered districts in the years the numbers of which are multiples of four and those from even-numbered districts in even-numbered years the numbers of which are not multiples of four; except, at the election next following a reapportionment, some senators shall be elected for terms of two years when necessary to maintain staggered terms.

and after "*multiples of four.*" insert:

(c) QUALIFICATIONS. Each legislator shall be at least twenty-one years of age, an elector and resident of the district from which elected and shall have resided in the state for a period of two years prior to election.

(d) ASSUMING OFFICE; VACANCIES. Members of the legislature shall take office upon election. Vacancies in legislative office shall be filled only by election as provided by law.

and on page 1, line 9 of Senate Bill strike "Section 16" and insert Sections 15 and 16

Amendment 15—On page 3, line 31, insert: Providing for four-year terms for members of the House of Representatives.

Amendment 16—On page 3, line 24, strike all of said line and insert: ARTICLE III, SECTIONS 15 and 16

Amendment 17—On page 1, line 3 in the title, strike all of said line and insert: Sections 15 and 16, Article III of the State

On motions by Senator MacKay, the Senate concurred in House amendments 10 and 12 and refused to concur in House Amendments 6, 8, 9, 13, 14, 15, 16 and 17 to SJR 948 and the House was again requested to recede.

SJR 948 as amended was read in full as follows:

A joint resolution proposing an amendment to Section 16, Article III of the State Constitution, relating to apportionment by the Legislature.

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

That the following amendment to Section 16 of Article III of the State Constitution is hereby agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1980:

ARTICLE III

LEGISLATURE

SECTION 16. Legislative apportionment.—

(a) SENATORIAL AND REPRESENTATIVE DISTRICTS. The legislature at its regular session in the second year following each decennial census, by joint resolution, shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty *single-member,* consecutively numbered senatorial districts of *compact,* ~~either~~ contiguous~~, overlapping or identical~~ territory, and into not less than eighty nor more than one hundred twenty *single-members,* consecutively numbered representative districts of *compact,* ~~either~~ contiguous~~, overlapping or identical~~ territory. *Each senatorial district shall be as nearly equal in population as practicable, and each representative district shall be as nearly equal in population as practicable. To the extent practicable, each district shall be drawn to coincide with the boundaries of political subdivisions of the state.* Should that session adjourn without adopting such joint resolution, the governor by proclamation shall reconvene the legislature within thirty days in special apportionment session which shall not exceed thirty consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a joint resolution of apportionment.

(b) FAILURE OF LEGISLATURE TO APPORTION; JUDICIAL REAPPORTIONMENT. In the event a special apportionment session of the legislature finally adjourns without adopting a joint resolution of apportionment, the attorney general shall, within five days, petition the supreme court of the state to make such apportionment. No later than the sixtieth day after the filing of such petition, the supreme court shall file with the secretary of state an order making such apportionment.

(c) JUDICIAL REVIEW OF APPORTIONMENT. Within fifteen days after the passage of the joint resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The supreme court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.

(d) EFFECT OF JUDGMENT IN APPORTIONMENT; EXTRAORDINARY APPORTIONMENT SESSION. A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state. Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgement of the supreme court.

(e) EXTRAORDINARY APPORTIONMENT SESSION; REVIEW OF APPORTIONMENT. Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted reporting that fact to the court. Consideration of the validity of a joint resolution of apportionment shall be had as provided for in cases of such joint resolution adopted at a regular or special apportionment session.

(f) JUDICIAL REAPPORTIONMENT. Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the secretary of state an order making such apportionment.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE III, SECTION 16

Proposing an amendment to the State Constitution to require single-member legislative districts of compact, contiguous territory. *Providing that senatorial districts be subdivided into representative districts.* Requiring the districts of each house of the Legislature to be as nearly equal in population as practicable and, to the extent practicable to be drawn to coincide with the boundaries of political subdivisions.

—and passed by the required constitutional three-fifths vote of the membership. The action of the Senate was certified to the House. The vote on passage was:

Yeas—27

Anderson	Frank	McKnight	Thomas
Barron	Grizzle	Neal	Tobiassen
Beard	Hill	Peterson	Trask
Carlucci	Jenne	Poole	Ware
Childers, W. D.	MacKay	Scott	Williamson
Dunn	Maxwell	Steinberg	Winn
Fechtel	McClain	Stuart	

Nays—4

Chamberlin	Childers, D.	Gorman	Myers

Votes after roll call:

Yea—Hair
Yea to Nay—Jenne

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 3, 4 and 5 has amended Senate Amendment 2, concurred in same as amended and passed CS for HB 859 as amended and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Transportation and Finance and Taxation and Representatives Mitchell and Warner—

CS for HB 859—A bill to be entitled An act relating to taxation; creating chapter 207, Florida Statutes, the Florida Special Fuel Use Tax Act of 1980; providing definitions; imposing a tax on special fuel consumed by a motor carrier's operations within the state for the privilege of operating commercial motor vehicles upon the public highways; requiring registration of such motor carriers; providing for emergency or trip-lease permits; providing fees; providing for inspection by Department of Agriculture and Consumer Services and Department of Highway Safety and Motor Vehicles; providing for calculation and payment of the tax; providing certain exemptions from said tax and the tax imposed under chapter 206; providing for filing of reports and retention and inspection of records; providing penalties; providing powers and duties of Department of Revenue and Public Service Commission; providing for hearings; providing procedures upon refusal to pay the tax; providing for suits for collection of unpaid taxes and for issuance of warrants; specifying that unpaid taxes are a lien on the taxpayer's property; providing requirements with respect to sale of property; providing for foreclosure of liens; providing procedures on discontinuance or transfer of business; providing that violators may be enjoined from operating a motor vehicle in this state; providing arrest powers for the department and its agents; providing for accessibility of records; providing for exchange of information; providing for allocation of tax and fee revenues; providing for expenses; repealing s. 206.87(4)(e), Florida Statutes, relating to an exemption from the tax on special fuels for certain fuel used on the highways of another state; directing the Department of Highway Safety and Motor Vehicles, in cooperation with the Department of Revenue and the Public Service Commission, to conduct a study relating to the state's entrance into the International Registration Plan developed by the American Association of Motor Vehicle Administrators; requiring a report; authorizing implementation of participation in the plan if the report is favorable; providing an effective date.

House Amendment 1 to Senate Amendment 2—Strike lines 1-6 and insert: purpose of refunds, funds for the purpose of conducting the study as set forth in section 3 of this act, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in s. 206.41, s. 206.45, s. 206.60 and s. 206.605.

On motion by Senator W. D. Childers, the Senate concurred in the House amendment to Senate Amendment 2.

CS for HB 859 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	Maxwell	Steinberg
Anderson	Gorman	McClain	Stuart
Barron	Grizzle	McKnight	Thomas
Beard	Henderson	Myers	Tobiassen
Chamberlin	Hill	Neal	Trask
Childers, D.	Holloway	Peterson	Vogt
Childers, W. D.	Jenne	Poole	Ware
Dunn	Johnston	Scarborough	Williamson
Fechtel	MacKay	Scott	Winn

Nays—None

Vote after roll call:

Yea—Hair

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By the Committee on Commerce—

SB 333—A bill to be entitled An act relating to securities transactions; reviving and readopting chapter 517, Florida Statutes, as amended, notwithstanding the Regulatory Reform Act of 1976, as amended; providing a retroactive effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 10-17, strike all of said lines and insert:

Section 1. Subsection (12) and paragraph (b) of subsection (19) of section 517.061, Florida Statutes, are amended, and subsection (20) is added to said section to read:

517.061 Exempt transactions.—The registration provisions of s. 517.07 do not apply to any of the following transactions:

(12)(a) The offer or sale, by or on behalf of an issuer, of its own securities, *that is part of an offering made in accordance with all of the following conditions* ~~provided that~~:

1. There are no more than 35 purchasers of the securities of the issuer in this state *in an offering made* ~~within the immediately preceding 12 month period~~ in reliance upon this subsection.;

2. *Neither the issuer nor any person acting on its behalf shall offer or sell securities pursuant to this subsection by means of any form of general solicitation or general advertising in this state.* ~~The issuer, or anyone acting in the issuer's behalf, makes no public solicitation or advertisement in the State of Florida concerning the offer of such securities;~~

3. Prior to the sale, each purchaser, or his representative, is provided with, or given reasonable access to, full and fair disclosure of all material information.~~;~~

4. No person defined as a dealer in this chapter shall be paid a commission or compensation for the sale of the issuer's securities unless such person is registered as a dealer under this chapter.~~;~~ ~~and~~

5. Where sales are made to five or more persons, any sale made pursuant to this subsection shall be voidable by the purchaser either within 3 days after the first tender of consideration is made by the purchaser to the issuer, an agent of the issuer, or an escrow agent or within 3 days after the availability of that privilege is communicated to the purchaser, whichever occurs later.

(b) Any purchaser who makes a bona fide investment of $100,000 or more may be excluded from the computation of the 35 purchasers, provided that any such purchaser, or his representative, receives or has access to the information required to be disclosed by subparagraph (a)3.

(c) 1. For purposes of determining which offers and sales of securities constitute part of the same offering under this

subsection (and are therefore deemed to be integrated with one another):

a. Sales of securities occurring more than 6 months prior to an offer or sale of securities made pursuant to this subsection shall not be considered part of the same offering;

b. Sales of securities and offers made in connection therewith occurring at any time after 6 months from an offer or sale made pursuant to this subsection shall not be considered part of the same offering; and

c. Offers or sales occurring more than 12 months prior to an offer or sale made pursuant to this subsection, provided there are no more than 35 purchasers of the securities of the issuer in this state within such 12-month period, shall not be considered part of the same offering.

2. Offers or sales which do not satisfy the conditions of any of the provisions of subparagraph 1. may or may not be part of the same offering, depending on the particular facts and circumstances in each case. The department may, but is not required to, adopt a rule or rules indicating what factors should be considered in determining whether offers and sales not qualifying for the provisions of subparagraph 1. are part of the same offering for purposes of this subsection.

(d) Offers or sales of securities made pursuant to and in compliance with any other subsection of this section or any subsection of s. 517.051 shall not be considered part of an offering pursuant to this subsection, regardless of when such offers and sales are made.

(19)(a) The offer or sale of securities pursuant to a registration statement filed under the Securities Act of 1933, provided that prior to the sale the registration statement has become effective and the department has received:

1. A notice of intention to sell which has been executed by the issuer, any other person on whose behalf the offering is made, a dealer registered under this chapter, or any duly authorized agent of any such person, and which sets forth the name and address of the applicant, the name and address of the issuer, and the title of the securities to be offered in this state;

2. Copies of such documents filed with the Securities and Exchange Commission as the department may by rule require; and

3. The irrevocable written consent as required by s. 517.101.

(b) The person filing a notice of intention shall at the time of filing pay the department a nonreturnable fee of 0.1 percent of the aggregate sales price of the securities offered or to be offered in this state, but not less than $20 or more than $750. The fee required by this paragraph shall be paid to the department for each 36-consecutive-month period in which the securities are offered and sold. The 36-consecutive-month period shall *be prescribed by rule of the department. An amendment to the notice of intention which increases the maximum aggregate offering price of securities offered in this state shall require an additionl fee computed at the rate of 0.1 percent of the increased amount, but in no event shall total fees exceed $750 per application* ~~commence upon receipt by the department of the notice of intention to sell.~~

(20) From time to time, the department may, but is not required to, adopt rules defining other transactions exempted from the registration provisions of s. 517.07, but only after a finding by the department that the application of the provisions of s. 517.07 to a particular transaction is not necessary in the public interest and for the protection of investors because of the small dollar amount of securities involved or the limited character of the offering. No rule so adopted may have the effect of narrowing or limiting any exemption provided for by statute in the other subsections of this section.

Section 2. Subsection (6) of section 517.081, Florida Statutes, is amended to read:

517.081 Registration procedure.—

(6) An issuer filing an application under this section shall, at the time of filing, pay the department a nonreturnable fee computed at the rate of 0.1 percent of the maximum aggregate offering price of the securities to be offered in this state but not less than $50 or more than $1,000. *An amendment to the application which increases the maximum aggregate offering price offered in this state shall require an additional fee computed at the rate of 0.1 percent of the increased amount, but in no event shall total fees exceed $1,000 per application.*

Section 3. Subsection (4) of section 517.12, Florida Statutes, is amended to read:

517.12 Registration of dealers, associated persons, and investment advisers.—

(4) No investment adviser shall engage in business from offices in this state, or render investment advice to persons thereof, by mail or otherwise, unless the investment adviser has been registered with the department pursuant to this section. *A dealer or associated person who is registered pursuant to this section may render investment advice upon notification to the department.*

Section 4. Paragraph (w) of subsection (2) of section 3 of chapter 76-168, Laws of Florida, and paragraph (w) of subsection (3) of said section as created by chapter 77-457, Laws of Florida, are hereby repealed.

Section 5. Chapter 517, Florida Statutes, shall stand repealed on July 1, 1986, and shall be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended.

Section 6. This act shall take effect June 30, 1980, except that if this act becomes a law after such date, this act shall operate retroactively to such date.

Amendment 2—On page 1, lines 1-6 in title, strike all of said lines and insert:

A bill to be entitled

An act relating to securities transactions; amending s. 517.061 (12) and (19)(b), Florida Statutes, and adding a subsection (20), relating to transactions which are exempt from registration; modifying provisions relating to offer or sale of an issuer's own securities; revising requirements with respect to specified time period; providing a fee for an amendment to the notice which increases the offering price; providing for exemptions by rule under certain conditions; amending s. 517.081(6), Florida Statutes; providing a fee for an amendment to a registration application which increases the offering price; amending s. 517.12(4), Florida Statutes; providing that a registered dealer or associated person may render investment advice; repealing section 3(2)(w) of chapter 76-168, Laws of Florida, and section 3(3)(w) of said chapter as created by chapter 77-457, Laws of Florida, to delete the automatic repeal of chapter 517, Florida Statutes, the "Florida Securities Act"; providing for repeal and legislative review; providing an effective date.

On motions by Senator W. D. Childers, the Senate concurred in the House Amendments.

SB 333 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Barron	Grizzle	McKnight	Stuart
Beard	Henderson	Myers	Thomas
Chamberlin	Hill	Neal	Tobiassen
Childers, D.	Holloway	Peterson	Trask
Childers, W. D.	Jenne	Poole	Vogt
Dunn	Johnston	Scarborough	Ware
Fechtel	MacKay	Scott	Williamson
Frank	Maxwell	Skinner	Winn
Gorman	McClain	Steinberg	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By the Committee on Commerce—

SB 343—A bill to be entitled An act relating to industrial savings banks; amending and renumbering certain sections of chapter 656, Florida Statutes; providing that, except as renumbered, amended, and readopted by the act, such chapter shall stand repealed pursuant to the Regulatory Reform Act of 1976, as amended; providing definitions; prescribing places for transacting business; authorizing branches under certain conditions; providing for merger within the same county; deleting provisions for operating drive-in facilities; providing for payment of dividends and reimbursement of impaired surplus; prescribing amount of cash reserves; prescribing special powers; prohibiting certain powers; providing for examinations and reports; authorizing borrowing; authorizing bank deposits to be held in two or more names; providing procedure for discharge of banks' liability on such deposits; authorizing payment of items notwithstanding death or incompetency of the drawer under certain circumstances; authorizing recognition of attorneys' power to operate a depositor's account; providing for the applicability of certain sections of the Banking Code to such banks; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 2-13, strike everything after the enacting clause and insert:

CHAPTER 662

INDUSTRIAL SAVINGS BANKS

Section 1. Section 656.011, Florida Statutes, is renumbered as section 662.101, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 656.011, F.S., for present text.)

662.101 Definitions.—As used in this chapter:

(1) "Industrial savings bank" means an industrial savings bank or Morris Plan bank or similar plan bank, meeting all the requirements of this chapter and operating hereunder, provided that the corporate name shall be so qualified and limited that such bank will be distinguished from commercial banks under Florida laws.

(2) The definitions of bank, capital accounts, court, department, item, law, and officer as provided in s. 663.104(3), (5), (8), (9), (13), (14), and (17), respectively, shall apply to this chapter.

Section 2. Section 662.102, Florida Statutes, is created to read:

662.102 Additional requirements for authority to organize; capital structure.—In addition to the findings required by s. 663.216(1), (2), (4), (5) and (6), as adopted by s. 662.139, for the department to approve an application for authority to organize an industrial savings bank, the proposed capital structure of an industrial savings bank shall be in such amount as the department shall deem adequate, but in no case shall the paid-in capital be less than $400,000. In addition to the capital required, every industrial savings bank hereafter organized shall establish a paid-in surplus equal in amount to not less than 20 percent of its paid-in capital and a fund to be designated as undivided profits equal to not less than 5 percent of its paid-in capital.

Section 3. Section 662.103, Florida Statutes, is created to read:

662.103 Effect on existing industrial savings banks.—The charters of industrial savings banks existing at the time of the adoption of this chapter shall continue in full force and effect, but all industrial savings banks shall hereafter be operated in accordance with this chapter.

Section 4. Section 656.101, Florida Statutes, is renumbered as section 662.104, Florida Statutes, and is amended to read:

662.104 ~~656.101~~ Dividends and surplus.—The directors of any *industrial savings* bank, after charging off bad debts, depreciation and other worthless assets if any, may quarter-annually, semiannually or annually, declare a dividend of so much of the net profits of the *industrial savings* bank as they shall judge expedient, but each *industrial savings* bank shall, before the declaration of a dividend on its common stock carry 10 percent of its net profits for such preceding period as is covered by the dividend to its surplus fund, until the same shall at least equal the amount of its common and preferred stock. Whenever the surplus becomes impaired or reduced below the aggregate amount of common and preferred stock, it shall be reimbursed in the manner provided for its accumulation.

Section 5. Section 656.16, Florida Statutes, is renumbered as section 662.107, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 656.16, F.S., for present text.)

662.107 Liquidity reserves.—

(1) Every industrial savings bank shall maintain a liquidity reserve equal to at least 15 percent of its total deposit liability, less those deposits of public funds for which security has been pledged as provided by law. Said liquidity reserve shall be maintained as cash on hand, as cash on demand deposit with banks or industrial savings banks, including the total amount of any reserves deposited at a Federal Reserve bank, as cash items in the process of collection, as federal funds sold on a daily basis, or as investments in securities which are direct obligations of the United States or which are fully guaranteed as to principal and interest by the United States. Eligible securities must be owned by the industrial savings bank free of pledge or encumbrance, and their value will represent their liquidity reserve value. For purposes of this section the value of eligible securities shall be the par value of securities having a maturity of 1 year or less and the market value of securities having a maturity in excess of 1 year. The value of eligible securities which are owned by the industrial savings bank free of pledge or encumbrance, and that portion of the value of eligible securities which is in excess of the deposit to which pledged, may be utilized in meeting reserve requirements. The total deposit liability for a given banking day for the purpose of computing the required liquidity reserve for that day shall be the total deposit liability at the close of the preceding banking day.

(2) Whenever the lawful reserve of any such industrial savings bank as defined in subsection (1) shall be below the amount of 15 percent of its deposits, such industrial savings bank shall not further diminish its liquidity by making any new loans or discounts otherwise than by discounting or purchasing of bills of exchange payable at sight, or by paying any dividends of its profits until the required proportion between its deposits and its liquidity reserve has been restored. The department may notify any industrial savings bank whose liquidity reserves shall be below the amount required to be maintained to make good such reserve, and if such industrial savings bank shall fail in 30 days thereafter so to make good its liquidity reserve, the department may appoint a liquidator to wind up business as provided in part IX of chapter 663.

Section 6. Section 656.17, Florida Statutes, is renumbered as section 662.111, Florida Statutes, and is amended to read:

(Substantial rewording of section. See s. 656.17, F.S., for present text.)

662.111 Special powers.—Industrial savings banks in addition to the general and usual powers incidental to ordinary corporations for profit in this state, which are not specifically restricted in this law, shall have the following special powers, to wit:

(1) LOANS; INTEREST AND CHARGES.—On any loan or other extension of credit an industrial savings bank may charge interest calculated by any method on the principal amount at a rate not exceeding the equivalent of 18 percent per annum simple interest determined and computed as provided in s. 687.03(3) except that, notwithstanding the foregoing and the laws of Florida governing interest and usury, the following additional charges may be made:

(a) A minimum interest or discount charge in any amount not exceeding $10 on any single payment loan or $15 on any installment loan; and

(b) An amount not to exceed the lesser of $50 or 2 percent of the principal amount of the loan, to reimburse the bank for its costs (other than costs actually paid to third parties) for investigating the character and credit of the person applying for the loan, the security submitted, and the costs of booking the transactions.

(2) LOANS; INTEREST AND CHARGES.—The privileges conferred by subsection (1) shall not extend to any industrial savings bank which charges a penalty or delinquency charge in excess of 5 percent of the amount of any payment or payments in default, or which refuses to rebate unearned interest or discount when the borrower repays the loan in full before the due date of the final installment. On any loan in which the interest is precomputed, the amount of such rebate shall be determined by the Sum of the Digits method or the actuarial method.

(3) EXCESS CHARGES.—Any charges in excess of the combined total of all charges authorized and permitted by subsection (1) shall constitute a violation of chapter 687 governing interest and usury and the penalties of chapter 687 shall apply.

(4) COLLECTION OF CHARGES.—The right to require payment of the charges permitted in subsection (1) at the time the loan is made.

(5) ACCEPT DEPOSITS AND ISSUE INVESTMENT CERTIFICATES, CONTRACTS, ETC.—The right to accept deposits and issue as evidence therefor investment certificates, contract, or agreements, under any descriptive name which may bear such interest, if any, as their terms may provide and which may require the payment to the industrial savings bank of such amounts from time to time as their terms may provide, and permit the withdrawal or cancellation of amounts paid upon the same in whole or in part from time to time and the credit of amounts thereon upon such condition as may be set forth therein.

(6) PLANS ON WHICH LOANS MAY BE MADE.—The right to lend money on any combination of any of the foregoing plans or the elements thereof, including the right to lend money upon the collateral deposits of and the compliance of the borrowers with the terms of any deposit, investment certificate, contract or agreement issued under subsection (5).

(7) REAL ESTATE MORTGAGES.—Industrial savings banks may carry in their assets first mortgages on real property and certain second mortgages on real estate as hereinafter provided. Secondary liens may be taken and carried to secure further any debt previously contracted in good faith and owing to the industrial savings bank or as additional security to loans made under provisions of Title I of the Federal Housing Administration Act. Secondary liens made under the provisions of the Servicemen's Readjustment Act of 1944, as amended, when fully guaranteed under the provisions of and meeting the requirements of said act, will not be considered secondary liens subject to the prohibitions of this subsection, but as acceptable assets for the industrial savings bank. Secondary liens may also be taken at any time to further secure a loan if the loan is otherwise adequately secured, and second mortgages on real estate may be taken and carried as any asset if the principal amount secured by the first and second mortgages, in the aggregate, does not exceed 75 percent of the appraised value of the encumbered real estate.

Section 7. Section 656.18, Florida Statutes, is renumbered as section 662.116, Florida Statutes, and is amended to read:

662.116 ~~656.18~~ Prohibited powers.—No industrial savings bank may~~, however,~~ do any of the following, to wit:

(1) CARRY COMMERCIAL OR DEMAND ACCOUNTS.—Carry commercial or demand banking accounts*; however, negotiable order of withdrawal accounts are permitted if applicable federal law does not prohibit such accounts.*

(2) UNSECURED LOANS, EXCESSIVE AMOUNTS.—

(a) Unsecured loans exceeding 10 percent of the *capital accounts* ~~aggregate unimpaired capital and surplus~~ shall not be made to any person; however, when approved by the board of directors, or an authorized committee therefrom, said 10 percent limitation may be increased to 25 percent of the *capital accounts* ~~aggregate unimpaired capital and surplus~~ when such loans are amply and entirely secured.

(b) No *industrial savings* bank shall lend directly or indirectly an amount exceeding 10 percent of the *capital accounts* ~~aggregate unimpaired capital and surplus~~ of said *industrial savings* bank to any director or officer of said *industrial savings* bank, individually or to any copartnership or incorporated company in which a director or officer may be directly or indirectly interested. No such loans shall be made unless the same shall be first approved by the board of directors of such *industrial savings* bank.

(c) No loan or discount shall be made by an industrial savings bank on the security of the shares of its own capital stock.

(3) ACCEPT TRUSTS, ETC.—Accept trusts or act as guardian, administrator, or judicial trustee in any form.

(4) DEPOSIT FUNDS IN OTHER BANKS.—Deposit any of its funds in any banking corporation, unless such corporation has been designated by vote of a majority of directors or of the executive committee present at a meeting duly called, at which a quorum was in attendance.

~~(5) REAL ESTATE MORTGAGES.—Banks may carry in their assets first mortgages on real property and certain second mortgage on real estate as hereinafter provided. Secondary liens may be taken and carried to secure further any debt previously contracted in good faith and owing to the bank or as additional security to loans made under provisions of Title I of the Federal Housing Administration Act. Secondary liens made under the provisions of the Servicemen's Readjustment Act of 1944, as amended, when fully guaranteed under the provisions of and meeting the requirements of said act, will not be considered secondary liens subject to the prohibitions of this subsection, but as acceptable assets for the bank. Secondary liens may also be taken at any time to further secure a loan if the loan is otherwise adequately secured, and second mortgages on real estate may be taken and carried as an asset if the principal amount secured by the first and second mortgages, in the aggregate, does not exceed 75 percent of the appraised value of the encumbered real estate.~~

Section 8. Section 656.27, Florida Statutes, is renumbered as section 662.125, Florida Statutes, and is amended to read:

662.125 ~~656.27~~ Borrowing.—*An industrial savings* ~~A~~ bank may borrow money and issue evidences of indebtedness for a loan for temporary purposes in the usual course of its business.

Section 9. Section 656.33, Florida Statutes, is renumbered as section 662.129, Florida Statutes, and is amended to read:

662.129 ~~656.33~~ Deposits in two or more names.—*Industrial savings* bank deposits, or any part thereof, or any interest therein made in the names of two or more persons, payable to either, or payable to either or the survivor, may be paid to either of said persons whether the other be living or not; and the receipt or acquittance of the person so paid shall be a valid and sufficient release and discharge to the *industrial savings* bank for any payment so made.

Section 10. Section 656.36, Florida Statutes, is renumbered as section 662.132, Florida Statutes, and is amended to read:

662.132 ~~656.36~~ Death or incompetency of depositor.—*An industrial savings* ~~Any~~ bank may pay any item made, drawn or accepted by a person who has funds on deposit to meet the same, notwithstanding the death or incompetency of the drawer, if presentation *of the item* is made within 30 days after receipt of notice of the death or adjudication of incompetency of said depositor. *An industrial savings*~~, and at any time if the~~ bank *which* has not received ~~the~~ written notice of the death or adjudication of incompetency of *a* ~~said~~ depositor *may pay such item at any time.* No *industrial savings* bank shall be liable for damages, or penalty, *because of* ~~by reason of~~ any payment made pursuant to this section.

Section 11. Section 656.37, Florida Statutes, is renumbered as section 662.136, Florida Statutes, and is amended to read:

662.136 ~~656.37~~ Powers of attorney.—

(1) *An industrial savings* ~~A~~ bank may ~~continue to~~ recognize the authority of an attorney authorized in writing to operate, in whole or in part, the account of a depositor, until it receives written notice of the revocation of his authority.

(2) Written notice of the death or adjudication of incompetency of such depositor shall constitute written notice of revocation of the authority of his attorney; provided, however, *an industrial savings* bank may, until 30 days after receipt of such notice, pay any item made, drawn, accepted or endorsed by such attorney prior to such death or incompetency *if*, ~~provided that~~ such item is otherwise properly payable.

Section 12. Section 662.139, Florida Statutes, is created to read:

662.139 Applicability of certain sections of chapter 663.—The following sections shall be applicable to industrial savings banks operating under this chapter:

(1) 663.203, relating to creation of banking or trust corporation;

(2) 663.206, relating to notice of intent to organize;

(3) 663.208, relating to stock subscriptions; expenses of organization;

(4) 663.210, relating to application for authority to organize a bank or trust company;

(5) 663.213, relating to investigation by department;

(6) 663.216(1), (2), (4), (5) and (6), relating to decision by department;

(7) 663.219, relating to coordination with federal agencies; submission of articles of incorporation;

(8) 663.222, relating to commencement of corporate existence;

(9) 663.226, relating to organizational procedures;

(10) 663.230, relating to certificate of authority to transact business;

(11) 663.234, relating to place of transacting business; bank branches; school savings; facilities;

(12) 663.304, relating to control; definitions and related provisions;

(13) 663.307, relating to acquisition of control in existing bank or trust company;

(14) 663.310, relating to certain ownership and control prohibited;

(15) 663.403, relating to application of General Corporation Act;

(16) 663.410, relating to articles of incorporation; amendments;

(17) 663.416, relating to directors, number, qualifications, officers;

(18) 663.419, relating to shares of stock;

(19) 663.422, relating to stock options;

(20) 663.424, relating to changes in capital;

(21) 663.428, relating to deposit insurance; membership in Federal Reserve System;

(22) 663.430, relating to stockholders; examination of records;

(23) 663.444, relating to definitions for merger, consolidation, and conversion;

(24) 663.448, relating to merger; with resulting state or national bank;

(25) 663.451, relating to plan of merger and merger agreement;

(26) 663.455, relating to approval by department; valuation of assets; emergency action;

(27) 663.459, relating to approval by stockholders; rights of dissenters; preemptive rights;

(28) 663.463, relating to certificate of merger and effective date; effect on charters and powers;

(29) 663.477, relating to nonconforming assets of business;

(30) 663.510, relating to bank loans; credit cards;

(31) 663.516, relating to statutory bad debts; ineligible assets;

(32) 663.522, relating to deposit of minors;

(33) 663.534, relating to convenience accounts;

(34) 663.537, relating to deposits in trust;

(35) 663.542, relating to security of deposits; insurance of accounts;

(36) 663.545, relating to depositories of public moneys and pledge of assets;

(37) 663.549, relating to adverse claim to bank or trust company deposit or fiduciary account;

(38) 663.569, relating to remote financial service units;

(39) 663.579, relating to investment powers and limitations;

(40) 663.585, relating to sale of assets in ordinary course;

(41) 663.591, relating to legal holidays; banking days; business and transactions;

(42) 663.593, relating to closing during emergencies and other special days;

(43) 663.596, relating to records of banks and trust companies and copies thereof; retention and destruction;

(44) 663.603, relating to safe-deposit business; definitions;

(45) 663.606, relating to authority to engage in safe-deposit business;

(46) 663.609, relating to access by fiduciaries;

(47) 663.611, relating to effect of lessee's death or incompetence;

(48) 663.614, relating to search procedure on death of lessee;

(49) 663.617, relating to lease to minor;

(50) 663.620, relating to security and protection procedures;

(51) 663.623, relating to delivery of safe-deposit box contents or property held in safekeeping to personal representative;

(52) 663.626, relating to access to safe-deposit boxes leased in two or more names;

(53) 663.629, relating to adverse claims to contents of safe-deposit box;

(54) 663.632, relating to special remedies for nonpayment of rent;

(55) 663.813, relating to examination fees and assessments;

(56) 663.829, relating to transactions of directors;

(57) 663.833, relating to prohibited acts and practices;

(58) 663.903, relating to taking possession of insolvent state banks or trust companies;

(59) 663.907, relating to appointment of receiver or liquidator;

(60) 663.910, relating to manner and time within which taking possession shall be confirmed;

(61) 663.913, relating to receiver; powers and duties;

(62) 663.916, relating to liquidator; powers and duties;

(63) 663.919, relating to transfers, etc., void after act of insolvency;

(64) 663.922, relating to notice to present claims;

(65) 663.926, relating to claims, unclaimed dividends and undistributed funds;

(66) 663.930, relating to disposition of unclaimed dividend checks;

(67) 663.934, relating to expenses and compensation of liquidators or receivers; disposition of remainder of proceeds after payment of all claims;

(68) 663.938, relating to purchase of property by department to protect liquidator's trust;

(69) 663.941, relating to receivers or liquidators under supervision of department;

(70) 663.945, relating to penalty for embezzlement of funds by receiver or liquidator; removal;

(71) 663.949, relating to preservation of records of insolvent banks;

(72) 663.953, relating to destruction of records of insolvent bank or trust company by liquidator; and

(73) 663.957, relating to prima facie evidence.

Section 13. Paragraph (q) of subsection (2) of section 3 of chapter 76-168, Laws of Florida, and paragraph (q) of subsection (3) of said section as created by chapter 77-457, Laws of Florida, are hereby repealed.

Section 14. Chapter 656, Florida Statutes, shall stand repealed under the provisions of the Regulatory Reform Act of 1976, as amended, and as amended by this act, except for those sections of such chapter that are renumbered, amended and readopted herein.

Section 15. Chapter 662, Florida Statutes, as created by this act, shall stand repealed on July 1, 1985, and shall be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended.

Section 16. This act shall take effect July 1, 1980, provided that section 13 shall take effect June 30, 1980, except that if this act becomes a law after such date, said section shall operate retroactively to such date.

Amendment 2—On page 1, lines 1-27, strike all of said lines and insert:

A bill to be entitled An act relating to industrial savings banks; amending and renumbering certain sections of chapter 656, Florida Statutes; providing that, except as renumbered, amended, and readopted by the act, such chapter shall stand repealed pursuant to the Regulatory Reform Act of 1976, as amended; providing definitions; providing additional requirements for authority to organize; providing for effect on existing industrial savings banks; providing for payment of dividends and reimbursement of impaired surplus; prescribing amount of liquidity reserves; prescribing special powers; prohibiting certain powers; authorizing borrowing; authorizing industrial savings bank deposits to be held in two or more names; providing procedure for discharge of industrial savings banks' liability on such deposits; authorizing payment of items notwithstanding death or incompetency of the drawer under certain circumstances; authorizing recognition of attorneys' power to operate a depositor's account; providing for the applicability of certain sections of the Banking Code to such industrial savings banks; repealing s. 3(2)(q) of chapter 76-168, Laws of Florida, and s. 3(3)(q) of said chapter as created by chapter 77-457, Laws of Florida; providing for repeal and legislative review; providing an effective date.

On motions by Senator W. D. Childers, the Senate concurred in the House Amendments.

SB 343 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Childers, W. D.	Gorman	Johnston
Barron	Dunn	Grizzle	MacKay
Beard	Fechtel	Henderson	Maxwell
Chamberlin	Frank	Holloway	McClain
Childers, D.	Gordon	Jenne	Neal
Peterson	Stuart	Trask	Williamson
Poole	Thomas	Vogt	Winn
Scarborough	Tobiassen	Ware	

Nays—None

Votes after roll call:

Yea—Hair, Myers, Scott and Steinberg

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Commerce—

SB 346—A bill to be entitled An act relating to retail installment sales amending the Motor Vehicle Sales Finance Act; amending s. 520.02(1), Florida Statutes; adding mobile home to the definition of motor vehicle; amending s. 520.03(3), Florida Statutes; providing for only one license fee for a licensee for each county; amending s. 520.04(1), Florida Statutes; providing grounds for denial, suspension, or revocation of license; adding s. 520.07(8), Florida Statutes; authorizing the department to order refunds of excessive charges; amending s. 520.10, Florida Statutes; extending the time period for deferred unpaid installments; amending the Retail Installment Sales Act; amending s. 520.32(1), Florida Statutes; providing for application for a retail sellers license to be submitted as prescribed by the department; amending s. 520.34(5), (11), Florida Statutes; providing a limitation on the amount to be charged by the holder of a retail installment contract when the due date is extended upon request by the buyer; conforming language; amending ss. 520.06(4), 520.332, 520.56(4), and 520.62, Florida Statutes; authorizing the department to disseminate information to the public; amending the Home Improvement Sales and Finance Act; amending s. 520.65(6), Florida Statutes; removing the license fee requirement for home improvement contractors for each county and requiring a fee for each office; amending s. 520.68(2), Florida Statutes; exempting landscape architects from certain license requirements; deleting exemption for other specialty contractors; amending s. 520.73(2), Florida Statutes; clarifying the reference to finance charges when stated in a home improvement contract; adding s. 520.78(4), Florida Statutes; providing that the buyer in a retail installment transaction may be charged fees and costs actually to be paid for certain permits, for title search and insurance, and services of an attorney; amending s. 520.86(2), Florida Statutes; increasing the charge that may be made on installments which are extended or deferred; repealing s. 520.79(2), Florida Statutes, relating to unauthorized charges; repealing s. 520.65(5), Florida Statutes, relating to certain additional license fees for home improvement contractors; repealing s. 520.89, Florida Statutes, relating to promotional signs; reviving and readopting chapter 520, Florida Statutes, as amended, notwithstanding the provisions of the Regulatory Reform Act of 1976, as amended; providing a retroactive effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 28, after the colon ":" strike everything after the enacting clause and insert:

Section 1. Subsection (1) of section 520.02, Florida Statutes, is amended to read:

520.02 Definitions.—In this act unless the context or subject matter otherwise requires:

(1) "Motor vehicle" means any device or vehicle, including automobiles, motorcycles, motor trucks, trailers, *mobile homes*, and all other vehicles operated over the public highways and streets of this state and propelled by power other than muscular power, but does not include traction engines, road rollers, implements of husbandry and other agricultural equipment and such vehicles as run only upon a track.

Section 2. Subsection (3) of section 520.03, Florida Statutes, is amended to read:

520.03 Licensing of sales finance companies required.—

(3) The license fee for each calendar year or part thereof shall be the sum of $50 for the principal place of business of each sales finance company, and the sum of $25 for the principal place of business of each retail installment seller of motor vehicles. A separate license fee of like amount shall be paid for each branch of the sales finance company and for each branch of a retail installment seller of motor vehicles maintained in this state; however, *if a retail installment seller of motor vehicles has* ~~no additional license fee shall be required when~~ more than one *location* ~~branch is located~~ in the same county, *only one license fee shall be paid for that county.* Fees collected under this section shall be deposited in the State Treasury in the Regulatory Trust Fund under the Division of Finance of the department.

Section 3. Subsection (1) of section 520.04, Florida Statutes, is amended to read:

520.04 Denial, suspension or revocation of licenses.—

(1) A license may be denied, suspended or revoked by the department on the following grounds:

(a) Material misstatement in application for license;

(b) ~~Willful~~ Failure to comply with any provision of this act relating to retail installment contracts *or any rule of the department*;

(c) Defrauding any retail buyer to the buyer's damage;

(d) Fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under this act.

Section 4. Subsection (4) of section 520.06, Florida Statutes, is amended to read:

520.06 Powers of department.—

(4) The department may *adopt* ~~issue and promulgate~~ such rules ~~and regulations~~ as it may deem necessary in the administration of this *part* ~~act~~ and not inconsistent with the provisions of this *part* ~~act~~.

Section 5. Paragraph (b) of subsection (1) and subsection (6) of section 520.07, Florida Statutes, are amended and subsection (8) is added to said section to read:

520.07 Requirements and prohibitions as to retail installment contracts.—

(1)

(b) The printed portion of the contract, other than instructions for completion, shall be in at least 6-point type. The contract shall contain:

1. A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and

2. The following notice *in substantially this form*:

"Notice to the Buyer

a. Do not sign this contract before you read it or if it contains any blank spaces.

b. You are entitled to an exact copy of the contract you sign. *Keep it to protect your legal rights.*"

(6) No retail installment contract shall be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgment, conforming to the requirements of paragraph (1)(c), of delivery of a copy of a contract shall be *presumptive* ~~conclusive~~ proof of such delivery, that the contract when signed, did not contain any blank spaces except as herein provided, and of compliance with this section in any action or proceeding by or against the holder of the contract.

(8) The department may order a seller to refund any amounts assessed and charged on a retail installment contract which exceeds the maximum charges provided by this act or rules of the department.

Section 6. Section 520.10, Florida Statutes, is amended to read:

520.10 Refinancing retail installments contract.—The holder of a contract, upon request by the buyer, may extend the scheduled due date of all or any part of any installment or installments, or deferred payment or payments, or renew or restate the unpaid balance of such contract, the amount of the installments and the time schedule therefor and may collect for such extension, deferment, renewal or restatement a refinance charge computed as follows: In the event the unpaid balance of the contract is extended, deferred, renewed or restated, the holder may compute the refinance charge on such amount by adding to the unpaid balance the cost for insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges after deducting any refund which may be due the buyer at the time of the renewal or restatement by prepayment pursuant to s. 520.09, at the rate of the finance charge specified in s. 520.08(1) and by reclassifying the motor vehicle by its then year model, for the term of the refinancing agreement, but otherwise subject to the provisions of this act governing computation of the original finance charge. The provisions of this act relating to minimum finance charges under s. 520.08(2) and acquisition costs under the refund schedule in s. 520.09 shall not apply in calculating refinance charges on the contract extended, deferred, renewed or restated. If all unpaid installments are deferred ~~for not more than 2 months,~~ the holder may, at his election, charge and collect for such deferment an amount equal to the difference between the refund required for prepayment in full under s. 520.09 as of the scheduled due date of the first deferred installment, and the refund required for prepayment in full as of 1 month prior to said date, times the number of months in which no scheduled payment is made.

Section 7. Subsection (1) of section 520.32, Florida Statutes, is amended to read:

520.32 Retail installment; license and fee.—

(1) *No person shall engage in or transact* ~~For the privilege of conducting, engaging in, and carrying on~~ the business of retail seller engaging in retail installment transactions as defined in this act *without a license. The application for the license shall be in writing and in the form prescribed by the department.*, There is hereby levied and assessed upon every such retail seller, for each store located and operated within this state for the conduct of such business, an annual license fee in the sum of $10.

Section 8. Section 520.332, Florida Statutes, is amended to read:

520.332 Power of department; rules ~~and regulations~~.—The department may *adopt* ~~issue and promulgate~~ such rules ~~and regulations~~ as it may deem necessary in the administration of this *part* ~~act~~ and not inconsistent with the provisions of this *part* ~~act~~.

Section 9. Paragraph (b) of subsection (1) and subsections (5) and (11) of section 520.34, Florida Statutes, are amended to read:

520.34 Retail installment contracts.—

(1)

(b) The printed portion of the contract, other than instructions for completion, shall be in at least 6-point type. The contract shall contain the following notice *in substantially this form*:

"Notice to the Buyer

a. Do not sign this contract before you read it or if it contains any blank spaces.

b. You are entitled to an exact copy of the contract you sign. *Keep it to protect your legal rights.*"

(5)*(a)* Notwithstanding the provisions of any other law, the seller under a retail installment contract may charge, receive, and collect a finance charge which shall not exceed the fol-

lowing rates: On the amount financed, $12 per $100 per year. The finance charge under this subsection shall be computed on the amount financed of each transaction, as determined under paragraph (2)(f), on contracts payable in successive monthly payments substantially equal in amount, for the period from the date of the contract to and including the date when the final installment thereunder is payable. When a retail installment contract is payable other than in successive monthly payments substantially equal in amount, the finance charge may be at the effective rates provided in this subsection, having due regard for the schedule of payments. The finance charge may be computed on the basis of a full month for any fractional month period in excess of 10 days. Notwithstanding the other provisions of this subsection, a minimum finance charge not in excess of the following amounts may be charged on any retail installment contract: $12 on any retail installment contract involving an initial amount financed of $50 or more; $7.50 on a retail installment contract involving an initial amount financed of more than $25 and less than $50; and $5 on a retail installment contract involving an initial amount financed of $25 or less.

(b) The holder of a retail installment contract, upon request by the buyer, may extend the scheduled due date of all or any part of any installment. In the event the unpaid time balance of the contract is extended, the holder may, at his election, charge and collect for each 30 days' extension an amount not to exceed one-twelfth of the maximum allowable rate per annum of the unpaid balance at the time of extension.

(11) ~~In a retail installment transaction involving the modernization, rehabilitation, repair, alteration, improvement, or construction of real property:~~

~~(a) The buyer may be charged for and there may be collected from him, the reasonable fees and costs actually to be paid for construction authorizations and similar permits issued by public agencies and for title search, title insurance, and services of an attorney relating to any real property mortgage, lien or other encumbrance taken, granted, or reserved pursuant to the contract.~~

~~(b)~~ The seller shall not request or accept a certificate of completion signed by the buyer prior to the actual delivery of the goods and completion of the work to be performed under the contract.

Section 10. Section 520.41, Florida Statutes, is amended to read:

520.41 Prior contracts not affected.—The provisions of this act shall not make unlawful contracts or accounts in effect prior to *July 1, 1980* ~~January 1, 1960~~.

Section 11. Section 520.42, Florida Statutes, is amended to read:

520.42 Construction.—Nothing in this act shall be construed to affect any transaction covered by *chapter* ~~chapters~~ 516 ~~and 519~~ and part I of this chapter, or any transaction by any banking institution, ~~or~~ state or federal savings and loan association *or credit union.*

Section 12. Subsection (4) of section 520.56, Florida Statutes, is amended to read:

520.56 Powers of department.—

(4) The department may *adopt* ~~issue and promulgate~~ such rules ~~and regulations~~ as it may deem necessary in the administration of this *part* ~~act~~ and not inconsistent with the provisions of this *part* ~~act~~.

Section 13. Subsection (20) of section 520.61, Florida Statutes, is amended to read:

520.61 Definitions.—As used in this act:

(20) "Banking institution" means any bank, bank and trust company, *trust company, industrial savings bank,* ~~trust company savings bank, private bank,~~ or any national banking association organized and doing business under the provisions of any state or of the United States.

Section 14. Section 520.62, Florida Statutes, is amended to read:

520.62 Administration.—This *part* ~~act~~ shall be administered by the Department of Banking and Finance which shall appoint a staff and issue *rules* ~~regulations~~ as necessary for administration of this *part* ~~act~~.

Section 15. Subsection (6) of section 520.65, Florida Statutes, is amended to read:

520.65 Licenses, fees.—

(6) An additional license fee of $15 shall be paid by each home improvement *contractor or* finance agency for *each* ~~every~~ additional office it maintains.

Section 16. Subsections (2) and (5) of section 520.68, Florida Statutes, are amended to read:

520.68 Persons not required to be licensed.—No contractor's or salesman's license shall be required under this act of any person when acting in any capacity or type of transaction set forth in this section:

(2) A plumber, electrician, architect, engineer, residential designer, or *landscape architect* ~~any other specialty contractor~~ who is required by state or local law to attain standards of competency or experience as a prerequisite to engaging in such craft or profession and who is acting exclusively within the scope of the craft or profession for which he is currently licensed pursuant to such other law. The installation of central heating and air-conditioning systems by such a person shall be deemed within the scope of such person's craft or profession.

(5) Any person licensed under *chapter* ~~chapters~~ 527 ~~and 478~~.

Section 17. Subsections (2) and (4) of section 520.73, Florida Statutes, are amended to read:

520.73 Contract form.—

(2) The home improvement contract shall be in the form approved by the department and shall contain:

(a) The name, address, and license number of the home improvement contractor;

(b) The names and license numbers of the salesmen who solicited or negotiated the home improvement contract;

(c) The approximate dates when the work will begin and be completed;

(d) A description of the work to be done and the materials to be used;

(e) The agreed consideration for the home improvement;

(f) The amount, if any, for credit life insurance or for health or accident insurance;

(g) The amount, if any, for hazard insurance;

(h) The *amount of the finance charge excluding interest on debt consolidation, with a description of each amount included* ~~time price differential charges on all amounts save those provided for debt consolidation~~;

(i) The official fees, survey, or permit charges actually incurred;

(j) The amount of down payment, if any;

(k) The amount of any money provided for debt consolidation;

(l) The interest charge for the amount advanced for debt consolidation;

(m) The total amount due under the home improvement contract, which shall be stated as a sum in dollars, less any down payment;

(n) The number of monthly payments and the amount of each payment, stated as a sum in dollars which shall include all insurance charges, finance charges, and official fees: and

(o) The description of any collateral security taken or to be taken for the owner's obligation under the home improvement contract.

(4) The home improvement contract shall contain the following notice, *in substantially this form* in ten point boldface type directly above the space provided for the signature of the owner:

"Notice To Owner

a. Do not sign this home improvement contract in blank.

b. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights."

Section 18. Subsection (3) of section 520.76, Florida Statutes, is amended to read:

520.76 Insurance provisions, procurement, rates.—

(3) The amount, if any, included for such insurance shall not be in excess of rates established in the then current published applicable manual of a recognized standard insurance rating bureau or the rates fixed by the state. If any such group credit life or other insurance is cancelled, the refund for unearned insurance premiums received or receivable by the holder of the home improvement contract or the excess of the amount included in the contract for insurance over the premiums paid or payable by the holder of the contract together with, in either case, the unearned portion of the *finance charge,* ~~time price differential~~ or other interest applicable thereto shall be credited to the final maturing installments of the home improvement contract. However, no such credit need be made if the amount would be less than $1.

Section 19. Subsections (1) and (3) of section 520.78, Florida Statutes, are amended and subsection (4) is added to said section to read:

520.78 Finance charge limitation.—

(1) The maximum *finance charge* ~~time price differential~~ included in a home improvement contract payable in substantially equal successive monthly installments beginning 1 month from the date the finance charge accrues shall not exceed $10 per $100 per annum. Such finance charge shall be computed on the principal amount financed on the contract notwithstanding that the time balance is required to be paid in installments. The finance charge shall not accrue over a longer period than one which commences on the date of substantial completion of the contract and ends on the date when the final installment is payable. For a period less or greater than 12 months or for amounts less or greater than $100, the amount of the maximum finance charge shall be increased or decreased proportionately. A fractional monthly period of 15 days or more may be considered a full month. If the finance charge computed as above provided is less than $25, a minimum finance charge of $25 may be made.

(3) If amounts for debt consolidation are included in the home improvement contract, the *finance* ~~time price differential~~ charge shall be computed as in subsections (1) and (2), but the charge computed on the principal amount advanced for debt consolidation shall not exceed 10 percent simple interest or the rate for simple interest set in the general usury statute, chapter 687.

(4) The buyer may be charged for and there may be collected from him, the reasonable fees and costs actually to be paid for construction authorizations and similar permits issued by public agencies and for title search, title insurance, and services of an attorney relating to any real property mortgage, lien or other incumbrance taken, granted or reserved pursuant to the contract.

Section 20. Subsection (2) of section 520.86, Florida Statutes, is amended to read:

520.86 Extension or deferment.—

(2) The holder may charge and contract for the payment of an extension or deferral charge by the owner and collect and receive the same, but such charge may not exceed an amount equal to *1.5* ~~1~~ percent per month simple interest on the amount of the installment or installments or part thereof extended or deferred during the period of extension or deferral. A minimum charge of $1 for the period of extension or deferral may be made in any case where the extension or deferral charge when computed amounts to less than $1.

Section 21. Notwithstanding the provisions of the Regulatory Reform Act of 1976, as amended, chapter 520, Florida Statutes, shall not stand repealed on July 1, 1980, as scheduled by such act, but chapter 520, Florida Statutes, as amended by this act, is hereby revived and readopted; except that subsection (5) of section 520.65, subsection (2) of section 520.79, and section 520.89, Florida Statutes, are repealed as of July 1, 1980.

Section 22. This act shall take effect on July 1, 1980, and if it becomes a law after that date, it shall operate retroactively to July 1, 1980.

Amendment 2—On page 1, lines 1-31 and on page 2, lines 1-26, strike all of said lines and insert: A bill to be entitled An act relating to retail installment sales; revising the Motor Vehicle Sales Finance Act; amending s. 520.02, Florida Statutes, redefining the term "motor vehicle"; amending s. 520.03(3), Florida Statutes, providing for a single license fee for each county; amending s. 520.04(1), Florida Statutes, providing grounds for the denial, suspension or revocation of a license; amending s. 520.06(4), Florida Statutes, clarifying language with respect to departmental powers; amending s. 520.07(1)(b) and (6), Florida Statutes, and adding a subsection thereto relating to the form of certain retail installment sales contracts; providing that such contracts shall be presumptive proof of delivery under certain circumstances; amending s. 520.10, Florida Statutes, extending the time period for deferred, unpaid installments; revising the Retail Installment Sales Act; amending s. 520.32(1), Florida Statutes, providing for application for a retail seller's license to be submitted as prescribed by the department; amending s. 520.332, Florida Statutes, providing for clarifying language; amending s. 520.34(1)(b), (5) and (11), Florida Statutes, providing for notice to described buyers; providing a limitation on the amount to be charged by the holder of a retail installment contract when the due date is extended upon request by the buyer; amending s. 520.41, Florida Statutes, relating to prior contracts; amending s. 520.42, Florida Statutes, relating to construction of the Retail Installment Sales Act; amending s. 520.56(4), Florida Statutes, relating to the powers of the department; providing clarifying language; amending s. 520.61(20), Florida Statutes, redefining the term "banking institution"; amending s. 520.62, Florida Statutes, providing clarifying language; conforming language; amending s. 520.65(6), Florida Statutes, requiring a fee for each additional home improvement contractor office; amending s. 520.68(2) and(5), Florida Statutes; exempting landscape architects from certain license requirements; deleting exemption for other specialty contractors; amending s. 520.73(2) and (4), Florida Statutes; clarifying the reference to finance charges when stated in a home improvement contract; amending s. 520.76(3), Florida Statutes, relating to insurance provisions; amending s. 520.78(1) and (3), Florida Statutes, and adding a subsection thereto; providing that the buyer in a retail installment transaction may be charged fees and costs actually to be paid for certain permits, for title search and insurance, and services of an attorney; amending s. 520.86(2), Florida Statutes; increasing the charge that may be made on installments which are extended or deferred; repealing s. 520.79(2), Florida Statutes, relating to unauthorized charges; repealing s. 520.65(5), Florida Statutes, relating to certain additional license fees for home improvement contractors; repealing s. 520.89, Florida Statutes, relating to promotional signs; reviving and readopting chapter 520, Florida Statutes, as amended, notwithstanding the provisions of the Regulatory Reform Act of 1976, as amended; providing a retroactive effective date.

The Committee on Commerce offered the following amendment which was moved by Senator W. D. Childers and adopted:

Amendment 1 to House Amendment 1—On page 15, line 23, after 1980 insert: *provided that the provisions of sections 5 and 9 of this act in so far as they require a change in the form of the notice to the buyer shall take effect on December 31, 1980.*

On motion by Senator W. D. Childers, the Senate concurrred in House Amendment 2 and House Amendment 1 as amended and the House was requested to concur in the Senate amendment to House Amendment 1.

SB 346 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Barron	Gorman	Maxwell	Stuart
Beard	Grizzle	McClain	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Poole	Vogt
Dunn	Jenne	Scarborough	Ware
Fechtel	Johnston	Scott	Williamson
Frank	MacKay	Skinner	Winn

Nays—None

Votes after roll call:

Yea—Hair, Myers

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Commerce—

CS for SB 348—A bill to be entitled An act relating to savings associations; substantially revising chapter 665, Florida Statutes, relating to savings associations; designating parts of the chapter; amending s. 665.011, Florida Statutes, and amending and renumbering s. 665.021, Florida Statutes, adding and revising definitions; amending and renumbering s. 665.031, Florida Statutes, changing references to "thrift institutions" to "associations"; altering procedures for the incorporation of an association and combining existing application provisions; amending and renumbering s. 665.051, Florida Statutes, deleting provisions relating to change of corporate name and forfeiture of charter for nonuse; creating s. 665.022, Florida Statutes, requiring incorporators to create an organization expense fund and restricting the use of such fund; amending and renumbering s. 665.701, Florida Statutes, changing the minimum permanent capital of an association; amending and renumbering s. 665.706, Florida Statutes, including both mutual and stock associations within general incorporation provisions; removing departmental approval of corporate bylaws; amending and renumbering s. 665.703, Florida Statutes, including both types of associations within provisions relating to directors; removing restrictions upon directors and prohibiting others from serving as directors; amending and renumbering s. 665.061, Florida Statutes, providing for conversions of federal savings associations into state associations and requiring a fee; amending and renumbering s. 665.441, Florida Statutes, designating all offices other than home offices as branches; providing standards for branch office applications; providing restrictions upon home and branch offices; amending and renumbering s. 665.073, Florida Statutes, providing for procedural rules and review standards for merger, reorganization, and consolidation; amending and renumbering s. 665.081, Florida Statutes, relating to dissolutions to conform to the act; amending and renumbering s. 665.710, Florida Statutes, providing review standards for conversion of state and federal mutual associations into stock associations; amending and renumbering s. 665.715, Florida Statutes, providing for rules with respect to acquisition of majority control over an association; amending and renumbering s. 665.716, Florida Statutes, conforming to the act provisions restricting the acquisition of control of capital stock associations; creating s. 665.036, Florida Statutes, providing for the registration of savings and loan holding companies and restricting their acquisition of associations; amending and renumbering s. 665.091, Florida Statutes, merging provisions relating to meetings of members and stockholders of associations; amending and renumbering s. 665.111, Florida Statutes, expanding the applicability of provisions relating to access to corporate records and to communications between members and stockholders; renumbering s. 665.121, Florida Statutes, relating to financial statement provisions; creating s. 665.043, Florida Statutes, providing for the election and classification of directors; amending and renumbering s. 665.141, Florida Statutes, conforming provisions relating to indemnity bonds to the act; amending and renumbering s. 665.151, Florida Statutes, conforming to the act provisions restricting transactions of officers and directors; amending and renumbering s. 665.171, Florida Statutes, removing departmental approval in provisions relating to the indemnification of officers, directors, and employees; creating s. 665.047, Florida Statutes, providing for the applicability of general corporation laws to associations; amending and renumbering s. 665.191, Florida Statutes, removing restrictions upon record keeping and accounting practices; requiring certain stockholder records; providing for real estate records; amending and renumbering ss. 665.55, 665.57, 665.58, 665.59, 665.60, 665.61, 665.62, 665.63, and 665.64, Florida Statutes, merging provisions regulating safe-deposit facilities; amending and renumbering ss. 665.214 and 665.241, Florida Statutes, expanding the powers of associations, including borrowing and lending powers; amending and renumbering s. 665.215, Florida Statutes, restricting associations in exercising powers granted to federal savings and loan associations; amending and renumbering s. 665.221, Florida Statutes, conforming provisions relating to savings liability to the act; amending and renumbering s. 665.231, Florida Statutes, removing statutory limitations upon savings inducements; amending and renumbering s. 665.262, Florida Statutes, expanding the applicability of provisions relating to married women and minors and providing for the disposition of deceased minors savings; amending and renumbering ss. 665.271, 665.301, 665.311 and 665.272, Florida Statutes, merging provisions relating to and regulating various kinds of accounts; amending and renumbering s. 665.251, Florida Statutes, conforming to the act provisions relating to power of attorney on savings accounts; renumbering s. 665.281, Florida Statutes, relating to savings accounts in joint tenancy; amending and renumbering s. 665.331, Florida Statutes, authorizing an association to refuse to pay interest on negotiable orders of withdrawal; amending and renumbering s. 665.341, Florida Statutes, authorizing negotiable and transferable orders and authorizations unless prohibited by federal law; providing for the applicability of provisions regulating withdrawals to both types of associations; amending and renumbering s. 665.351, Florida Statutes, conforming to the act provisions relating to redemptions of savings accounts; creating s. 665.069, Florida Statutes, restricting the effect upon associations of adverse claims to accounts; amending and renumbering s. 665.361, Florida Statutes, restricting securities investments by associations; amending and renumbering s. 665.381, Florida Statutes, restricting the investment of associations in loans restricting other investments; amending and renumbering s. 665.391, Florida Statutes, providing procedures for real estate loans; providing legislative intent with respect to acceleration clauses in real estate contracts; amending and renumbering s. 665.401, Florida Statutes, providing for the applicability of provisions relating to loan expenses to both types of associations; renumbering ss. 665.411 and 665.421, Florida Statutes, relating to provisions dealing with successors in interest and to the right of an association to act to avoid loss; amending and renumbering s. 665.395, Florida Statutes, providing for the applicability of provisions relating to the collection of fines, interest and premiums on loans; amending and renumbering s. 665.431, Florida Statutes, granting investigatory and rulemaking powers to the department; amending and renumbering s. 665.451, Florida Statutes, increasing the departmental examination period of association records; authorizing the auditing of savings and loan holding companies; authorizing department to require independent audits; amending and renumbering s. 665.032, Florida Statutes, conforming fee and assessment provisions to the act; amending and renumbering ss. 665.201 and 665.371, Florida Statutes, permitting stock associations to designate their capital, surplus, or retained earnings as reserves; creating s. 665.084, Florida Statutes, providing for the confidentiality of various records; providing exemptions; providing penalties for unauthorized disclosures; creating ss. 665.084-665.098, Florida Statutes; providing confidentiality of records; providing protection from liability when acting upon department rule or order; providing for removal of an officer, director, or employee; providing for cease and desist orders; providing for public hearing and method of service; providing for administrative fines; providing criminal penalties; providing for investigations, hearings, subpoenas, and witnesses; amending and renumbering s. 665.461, Florida Statutes; providing for conservatorship; amending and renumbering 665.471, Florida Statutes; providing for receivership; amending and renumbering s. 665.481, Florida Statutes; providing for correction of wrongdoings by an unimpaired institution; amending and renumbering s. 665.501, Florida Statutes, permitting foreign associations to lend real estate mortgages covering property in Florida pursuant to a reciprocal arrangement; amending and renumbering s. 665.511, Florida Statutes, restricting the federal savings associations which are not considered foreign associations; amending and renumbering s. 665.53, Florida Statutes, updating grandfather provisions; amending and renumbering s. 665.54, Florida Statutes, authorizing the department to require associations to insure their accounts; amending and re-

numbering s. 665.321, Florida Statutes, conforming to the act provisions relating to savings accounts as legal investments; amending and renumbering s. 665.491, Florida Statutes, conforming to the act provisions relating to declaratory judgments; repealing ss. 665.041, 665.101, 665.131, 665.162, 665.181, 665.291, 665.442, 665.445, 665.56, 665.702, 665.704, 665.705, 665.707, 665.708, 665.709, 665.711, 665.712, 665.713, 665.714, and 665.717, Florida Statutes, as amended, removing various provisions appearing elsewhere in the act and provisions relating to capitalization minimums, membership changes, association deposits, facilities, safe-deposit boxes, stockholder's meetings, minimum capital requirements, savings deposits, conversions to federal associations, publication of statewide record dates, hearings on conversion plans, organization of stock associations, Saturday closing, approval of operating contracts, dividend limitations, and accounts of fiduciaries; repealing s. 3(3) (x) of chapter 76.168, Laws of Florida, as created by chapter 77-457, Laws of Florida, which repeals chapter 665, Florida Statutes; providing for repeal and legislative review; providing a retroactive effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 8, line 16, strike everything after the enacting clause and insert the following:

Section 1. Chapter 665, Florida Statutes, relating to savings associations, shall be divided into 10 parts as follows: Part I (Short Title and Definitions), consisting of ss. 665.011 and 665.012; Part II (Incorporation and Organization), consisting of ss. 665.020-665.026; Part III (Offices; Mergers; Etc.; Conversion to Stock; Control; Holding Companies), consisting of ss. 665.030-665.036; Part IV (Corporate Administration), consisting of ss. 665.040-665.049; Part V (Powers), consisting of s. 665.050; Part VI (Savings Associations), consisting of ss. 665.060-665.069; Part VII (Investment Operations), consisting of ss. 665.070-665.077; Part VIII (Additional Supervisory Powers), consisting of ss. 665.0815-665.083; Part IX (Enforcement), consisting of ss. 665.094-665.097; and Part X (Miscellaneous), consisting of ss. 665.100-665.104.

PART I

SHORT TITLE AND DEFINITIONS

Section 2. Section 665.011, Florida Statutes, is amended to read:

665.011 Short title.—This chapter *shall be known and* may be cited as the "*Florida* Savings Association Act."

Section 3. Section 665.021, Florida Statutes, is renumbered as section 665.012, Florida Statutes, and amended to read:

665.012 ~~665.021~~ Definitions.—When used in this chapter, the following words and phrases shall have the following meanings, except to the extent that any such word or phrase specifically is qualified by its context:

(1) "Association" shall mean a *mutual or capital stock* savings association, ~~or~~ savings and loan association *or building and loan association* subject to the provisions of this chapter.

(2) *"Capital stock" shall mean the aggregate of shares of nonwithdrawable capital issued by a capital stock association, but does not include nonwithdrawable capital represented by capital certificates.* ~~"Department" shall mean the Department of Banking and Finance.~~

(3) "Community" shall mean a centralized area or locality in which a body of inhabitants is gathered in one group having common residential, social or business interests. The term does not necessarily mean a municipal corporation or other political subdivision; a community need not be limited by lines and boundaries. A village, town, or other governmental unit, either incorporated or unincorporated, may constitute one community, but a large, populous area under one or more forms of government may be composed of several communities.

~~(4) "Direct reduction loan" shall mean a loan or other obligation repayable in consecutive monthly installments, equal or unequal, beginning not later than 98 days after the date of the advance, sufficient to retire the debt, interest, and principal within 30 years, the initial contract of which shall not provide for any subsequent monthly installment of interest and principal of an amount larger than any previous monthly installment, except that provisions may be contained in such contract which specify that one or more consecutive monthly installments may be lapsed to the extent that monthly installments have been made ahead of schedule or, in the event of an emergency to the borrower affecting his ability to pay, to the extent of no more than 6 monthly installments but that nevertheless the full amount of principal and interest shall be paid within the scheduled term of the loan. In the case of construction loans, the first installment under said contract shall be payable not later than 18 months after the date of the first advance. Any such loan or obligation is an amortized loan.~~

(5) "Department" shall mean the Department of Banking and Finance.

(6)~~(5)~~ "Dwelling unit" shall mean a single, unified combination of rooms designed for residential use by one family in a multiple dwelling unit structure, and which is not "home property."

(7)~~(6)~~ "Earnings" shall mean that part of the sources available for payment of earnings of an association which is declared payable on savings accounts from time to time by the board of directors, and is the cost of savings money to the association. Earnings also may be referred to as "interest."

(8)~~(7)~~ "Financial *depository* institution" shall mean *an association* ~~a thrift institution~~, ~~commercial~~ bank, *industrial savings bank,* ~~or trust company~~, *or credit union.*

(9)~~(8)~~ "Home property" shall mean real estate on which there is located, or will be located pursuant to a real estate loan, either a structure designed for residential use by one family or a single condominium unit, including common elements pertinent thereto, designed for residential use by one family in a multiple dwelling unit structure or complex, and shall include fixtures and home furnishings and equipment.

(10)~~(9)~~ "Impaired condition" shall mean a condition in which the assets of an association in the aggregate do not have a fair value equal to the aggregate amount of liabilities of the association to its creditors, including *the holders of its savings accounts* ~~its members~~ and all other persons *or in which an association is unable to meet current obligations as they mature, even though assets may exceed liabilities.*

(11)~~(10)~~ "Improved real estate" shall mean real estate on which there is a structure or an enclosure, or which is cultivated, reclaimed, used for the purpose of agriculture in any form, prepared as building lots or sites, or otherwise occupied, made better, more useful, or of greater value by care so as to produce an enjoyment thereof.

(12)~~(11)~~ "Insured association" shall mean an association the savings accounts of which are insured wholly or in part in accordance with the provisions of this chapter.

(13)~~(12)~~ "Liquid assets" shall mean:

(a) Cash on hand;

(b) Cash on deposit in federal home loan banks, *federal reserve banks,* state banks performing similar reserve functions, or in *financial depository institutions* ~~commercial banks~~, which is withdrawable upon not more than 30 days' notice and which is not pledged as security for indebtedness, except that any deposits in a *financial depositor institution* ~~bank~~ under the control or in the possession of any supervisory authority shall not be considered as liquid assets; and

(c) Obligations of, or obligations which are fully guaranteed as to principal and interest by, the United States or this state.

(14)~~(13)~~ "Member" shall mean a person holding a savings account of *a mutual* ~~an~~ association, or a person borrowing from or assuming or obligated upon a loan or interest therein held by *a mutual* ~~an~~ association, or purchasing property securing a loan or interest therein held by *a mutual* ~~an~~ association. A joint and survivorship relationship, whether of savers or borrowers, constitutes a single membership. *A capital stock association has no members.* ~~Neither a savings account holder, depositor, nor borrower is a member of an association capitalized solely on a capital stock basis as authorized by~~ s. ~~665.701.~~

(15)~~(14)~~ "Net income" shall mean gross revenues for an accounting period less all expenses paid or incurred, taxes, and

losses sustained as shall not have been charged to reserves pursuant to the provisions of this chapter.

(16) "Net worth" shall mean the sum of all reserve accounts (except specific or valuation reserves), retained earnings, capital stock, any other nonwithdrawable accounts or capital contributions of an association, and the principal amount of any subordinated debt securities.

(17) ~~(15)~~ "One borrower" shall mean:

(a) Any person or entity which is, or which upon the making of a loan will become, obligor on a real estate loan;

(b) Nominees of such obligor;

(c) All persons, trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock; and

(d) If such obligor is a trust, partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member or record or beneficial stockholder owning 10 percent or more of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock of such obligor.

(18) ~~(16)~~ "Primarily residential property" shall mean real estate on which there is located, or will be located pursuant to a real estate loan, any of the following:

(a) A structure or structures designed or used primarily for residential rather than nonresidential purposes and consisting of more than one dwelling unit;

(b) A structure or structures designed or used primarily for residential rather than nonresidential purposes for students, residents and persons under care, employees or members of the staff of an educational, health or welfare institution or facility; and

(c) A structure or structures which are used in part for residential purposes for not more than one family and in part for business purposes provided that the residential use of such structure or structures must be substantial and permanent, not merely transitory.

(19) ~~(17)~~ "Primary lending area" shall mean this state and any additional area within 100 miles from the home office of an association.

(20) "Primary service area" shall mean the smallest geographical area from which a proposed association expects to draw approximately 75 percent of its deposits.

(21) ~~(18)~~ "Real estate loan" shall mean any loan or other obligation secured by a ~~first~~ lien on real estate in any state held in fee or in a leasehold extending or renewable automatically for a period of at least 15 years beyond the date scheduled for the final principal payment of such loan or obligation, or any transaction out of which a ~~first~~ lien or claim is created against such real estate, including *among other things* ~~inter alia~~ the purchase of such real estate in fee by an association and the concurrent or immediate sale thereof on installment contract.

(22) ~~(19)~~ "Savings account" shall mean that part of the savings liability of the association which is credited to the account of the holder thereof. A savings account also may be referred to as a savings deposit.

(23) ~~(20)~~ "Savings liability" shall mean the aggregate amount of savings accounts of *depositors* ~~members~~, including earnings credited to such accounts, less redemptions and withdrawals.

(24) ~~(21)~~ "Service *corporation* ~~organization~~" shall mean an organization ~~substantially all the activities of~~ which *is empowered to engage in any activity that is related or incidental to the business of an association, or any other activity permitted by the department, and which is wholly or partially owned or controlled by an association.* ~~consist of originating, purchasing, selling, and servicing loans upon real estate and participating interest therein, or clerical, bookkeeping, accounting, statistical, or similar functions performed primarily for financial institutions, plus such other activities as the department may approve.~~

(25) ~~(22)~~ "Sources available for payment of earnings" shall mean net income for an accounting period less amounts transferred to reserves as provided in or permitted by this chapter, plus any balance of undivided profits from preceding accounting periods.

(26) "Stockholder" shall mean the holder of one or more shares of any class of capital stock of a capital stock association organized or operating pursuant to the provisions of this chapter.

(27) "Surplus" shall mean the aggregate amount of the undistributed net income of an association held as undivided profits or unallocated reserves for general corporate purposes, and any paid-in surplus held by an association.

~~(23) "Thrift institution" shall mean an association, a savings and loan association, a building and loan association, a federal savings association, a federal savings and loan association, and a supervised thrift and residential financing institution of a substantially similar nature.~~

(28) ~~(24)~~ "Withdrawal value" shall mean the amount credited to a savings account ~~of a member~~, less lawful deductions therefrom, as shown by the records of the association.

~~(25) "Net worth" shall mean the sum of all reserve accounts, except specific or valuation reserves, retained earnings, capital stock, any other nonwithdrawable accounts of an association, and the principal amount of any subordinated debt securities to the extent authorized by the department.~~

PART II

INCORPORATION AND ORGANIZATION

Section 4. Section 665.031, Florida Statutes, is renumbered as section 665.020, Florida Statutes, and amended to read:

665.020 ~~665.031~~ Incorporation.—

(1) CREATION OF *ASSOCIATION* ~~THRIFT INSTITUTIONS~~.—When authorized by the department ~~of Banking and Finance~~ as provided herein, a corporation may be formed under the laws of this state ~~by five or more natural persons, a majority of whom are residents of this state~~, for the purpose of promoting thrift and home financing.

(2) NOTICE OF INTENT TO ORGANIZE.—The proposed incorporators of an association shall file with the department a notice of intent to organize, upon such form as the department may by rule prescribe. In the case of a capital stock association, upon filing proper notice under this subsection, the organizational subscriptions for shares of the proposed new association shall be defined as securities representing an interest in an association, and therefore subject to the exemption in s. 517.051 (5).

(3) ~~(2)~~ APPLICATION FOR AUTHORITY TO ORGANIZE.—A written application for authority to organize a corporation as provided in subsection (1) shall be filed with the department and shall include:

(a) The *proposed corporate* name *and evidence that the proposed name has been reserved with the Department of State* ~~and address of the exact site at which the association is to be located~~; *however, evidence that an association has reserved a corporate name with the Department of State shall not preclude the department from disapproving the name on the grounds of potential confusion with the name of an existing financial institution;*

(b) *Such detailed financial and biographical information as the department may require for each proposed director, proposed chief executive officer, proposed managing officer, and in the case of a capital stock association, each individual subscribing to 5 percent or more of the voting stock or nonvoting stock which is convertible into voting stock.* ~~Such detailed financial and biographical information for each incorporator and subscriber as the department may require~~;

(c) The total amount of the savings account capital *or capital stock proposed and subscribed, the total amount of* ~~and~~ organization expense fund subscribed, together with the name and address of each subscriber *and the amount subscribed* thereto;

(d) The name and address of the proposed managing officer and chief executive officer, if known;

(e) The community, including the street and number, if available, where the proposed association is to be located;

(f)~~(d)~~ *Such additional information as the department may reasonably require* ~~Such economic data, projections of business volume, income, expense, and other information as the department may require~~; and

(g) ~~(e)~~ A complete set of fingerprints taken by an authorized law enforcement officer of each organizing incorporator, proposed director, ~~and~~ proposed managing officer *and, in the case of a capital stock association, each person subscribing to 5 percent or more of the voting stock.* Such fingerprints shall be submitted by the department to appropriate law enforcement agencies for processing.

The application for authority to organize shall be filed with the department in triplicate and shall be accompanied by a nonrefundable filing fee of $5,000.

(4)~~(3)~~ INVESTIGATION BY DEPARTMENT.—

(a) Upon the filing of an application, the department shall make an investigation of:

1.~~(a)~~ *The character, reputation, financial standing, experience, and business qualifications of the proposed officers and directors.* ~~The character, financial standing, responsibility, and experience of the persons named in the application to conduct the affairs of the thrift institution;~~

2. The character, reputation, financial standing, and motives of the incorporator or incorporators in organizing the proposed state association.

3.~~(b)~~ The public need for *an association a* ~~thrift institution~~ or additional *association* ~~thrift institution~~, as the case may be, in the community where the proposed *association* ~~thrift institution~~ is to be located, giving particular consideration to the ~~present and future~~ ability of the *primary service area* ~~community~~ to support both the proposed and all other existing *associations* ~~thrift institutions~~ in the community in the conduct of profitable operations.

(b) Any applicant who files an application which will require an investigation to be conducted outside this state shall reimburse the department for all costs incurred in the normal course of investigation, which shall be in addition to the filing fee set forth in this section.

(5)~~(4)~~ DECISION BY DEPARTMENT.—The department shall approve the application *if it finds that* ~~upon such terms and conditions as it determines necessary to protect the public interest or disapprove the application at its discretion. but it shall not approve such application unless, in its opinion~~:

(a) Public convenience and advantage will be promoted by the establishment of the proposed *association.* ~~thrift institution;~~ *In determining whether an applicant meets the requirements of this paragraph the department shall consider all materially relevant factors including:*

1. The location and services offered by existing associations in the general service area as indicative of the competitive climate of the market.

2. The area's general economic and demographic characteristics.

(b) Local conditions *indicate* ~~assure~~ reasonable promise of the successful operation of the proposed *association* ~~thrift institution~~ and of those *associations* ~~thrift institutions~~ already established in the community.; *In determining whether an applicant meets the requirements of this paragraph the department shall consider all materially relevant factors including:*

1. Current economic conditions and the growth potential of the community in which the proposed association intends to locate.

2. The growth rate, size, financial strength, and operating characteristics of associations in the general service area of the proposed association.

(c) The proposed officers and directors have ~~good character,~~ sufficient ~~financial standing, and adequate~~ experience, *ability, standing* and responsibility to *indicate* ~~assure~~ reasonable promise of the successful operation of the *association.* ~~thrift institution; and~~

(d) The proposed ~~savings account~~ capital *structure is adequate* ~~and organization expense fund or capital stock subscriptions comply with the requirements of this chapter~~. *In determining whether an applicant meets the requirements of this paragraph the following minimum capitalization requirements must be met:*

1. $2,000,000 in savings account capital for a mutual association or $1,500,000 in voting common capital stock for a capital stock association if the population of the community in which the association is to have its home office does not exceed 100,000.

2. $2,500,000 in savings account capital for a mutual association or $2,000,000 in voting common capital stock for a capital stock association if the population of the community in which the association is to have its home office exceeds 100,000.

3. Every capital stock association hereafter organized shall establish, in addition to the capital required by this section, a paid-in surplus equal in amount to not less than 20 percent of its paid-in capital.

The department may, however, in its discretion, require a larger amount by rule. Nothing in this paragraph shall be construed to require any existing association to increase its capital structure over that existing on the effective date of this act.

(e) The name of the proposed association complies with s. 665.0215.

(f) Provision has been made for suitable quarters at the location specified in the application.

(6)~~(5)~~ ACTION BY DEPARTMENT.—If the department approves the application for authority to organize, the applicant *shall* ~~may~~ apply for *a commitment for* insurance of accounts as provided for in s. *665.050(8)* ~~665.214(6)~~. *Upon approval by the department of the application for authority to organize, the department shall forward a copy of its final order to the Federal Savings and Loan Insurance Corporation, or other approved insurer. A final order of denial by the insurer will terminate and revoke the final order issued by the department approving the application.* Upon notice to the department that said *commitment for* insurance of accounts has been approved by the insurer, the department shall furnish to the applicant form articles of incorporation and bylaws for execution and adoption. The executed and adopted articles of incorporation ~~and bylaws~~ shall be returned to the department for approval and filing with the Department of State, *together with the filing fee due under s. 607.361 and the tax, if any, due under s. 607.364. The department shall require retention of one certified copy.* The corporate existence of *an association a* ~~thrift institution~~ shall begin on the date that ~~the Department of State records~~ the approved articles of incorporation *are filed with the Department of State, unless otherwise provided in the articles of incorporation.* However, no *association* ~~thrift institution~~ shall commence business before it is in possession of a certificate of authorization to transact business as provided in *this section* ~~s. 665.041(3)~~. *Prior to that time, an association may perform only such acts as are necessary to perfect its organization, obtain and equip a place of business, and otherwise prepare for a general savings association business.* Corporate existence shall be perpetual unless terminated in accordance with the provisions of this chapter.

(7) OPENING FOR BUSINESS.—

(a) An association shall be prepared to open and conduct a general savings and loan business no earler than 60 days and no later than 6 months after the commencement of its corporate existence. The department may extend the opening date for an additional period on its own motion or at the association's request, for good cause shown.

(b) At such time as subscriptions for stock have been fully paid and stock certificates issued, but no later than 30 days prior to its intended opening date, the association shall file with the department a statement, in such form and with such supporting data and proof as may be required, showing that the entire capital and surplus have been fully paid in lawful money unconditionally, and that the funds or assets representing such capital and surplus are held by the association.

(c) The department shall perform a pre-opening examination for the general purpose of verifying the association's good faith compliance with all the requirements of law and confirming the association's readiness to engage in a general savings and loan business. If the department finds that the association has in good faith complied with all the requirements of law, it shall issue, in duplicate, under its official seal, a certificate of authorization to transact a general savings and loan business.

(d) Upon opening for business, an association shall have power to engage in a general savings and loan business and to exercise, subject to law and the approval of the department, all such incidental powers as may reasonably promote its general savings and loan business.

Section 5. Section 665.051, Florida Statutes, is renumbered as section 665.0215, Florida Statutes, and amended to read:

665.0215 ~~665.051~~ Name~~; office, forfeiture of charter for nonuse.~~—

(1) CORPORATE NAME.—The name of every association shall include either the words "savings association," or "savings and loan association." These words shall be preceded by an appropriate descriptive word or words approved by the department. An ordinal number may not be used as a single descriptive word preceding the words "savings association," or "savings and loan association.;" ~~unless such words are followed by the words "of . . . ," the blank being filled by the name of the community, town, city, or county in which the association has its home office.~~ An ordinal number may be used together with another descriptive word preceding the words, "savings association" or "savings and loan association," provided the other descriptive word has not been used in the corporate name of any other association in the state~~, in which case the suffix mentioned above is not required to be used. An ordinal number may be used, together with another descriptive word preceding the words "savings association" or "savings and loan association," even when such other descriptive word has been used in the corporate name of an association in the state, provided the suffix "of . . . ," as provided above, is also used~~. The *words "of . . . . . ," the blank being filled by the name of the community, town, city, county or state* ~~suffix provided above~~ may be used in any corporate name. The use of the words "National," "Federal," "United States," "insured," *or* "guaranteed," ~~or any form thereof,~~ separately or in any combination thereof with other words or syllables, is prohibited as part of the corporate name of an association. No certificate of incorporation of a proposed association having the same name as a corporation authorized to do business under the laws of this state or a name so nearly resembling it as to be likely to deceive *or cause confusion in the mind of the public with any other financial depository institution in this state* shall be issued by the department, except to an association formed by the reincorporation, reorganization, *conversion,* or consolidation of the association with other associations, or upon the sale of the property or franchise of an association. *Nothing herein shall be construed to require any association doing business or any applicant approved by the department on the effective date of this act to change its name or be in conflict with the provisions contained in this section.*

(2) EXCLUSIVENESS OF NAME.—No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless he or it is lawfully authorized to do business in this state under the provisions of this chapter and actually is engaged in carrying on a savings association business shall do business under any name or title which contains the terms "savings association," "savings and loan association," "building and loan association," "building association," or any combination employing either or both of the words "building" or "loan" with one or more of the words "saving," "savings," ~~"thrift,"~~ or words of similar import, or any combination employing one or more of the words "saving," "savings," ~~"thrift,"~~ or words of similar import with one or more of the words "association," "institution," "society," "company," "fund," "corporation," or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that his or its business is the character or kind of business carried on or transacted by an association or which is likely to lead any person to believe that his or its business is that of an association*; provided, however, that the words "saving," "savings," "company," or "corporation," or the plural of any thereof, may be used by, and in the corporate or other name or title of, any company which is or becomes a savings and loan holding company pursuant to the provisions of this chapter or regulations of the Federal Home Loan Bank Board.* Upon application by the department or any association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this subsection. Any person who violates any provision of this subsection shall be punished by a fine of not more than $5,000, and each day of violation shall constitute a separate offense. The prohibitions of this subsection shall not apply to any corporation or association formed for the purpose of promoting the interests of *associations* ~~thrift institutions~~, the membership of which is comprised of *associations* ~~thrift institutions~~, their officers or other representatives.

~~(3) CORPORATE OFFICE.—Without the prior approval of the department, as provided in this chapter, no association shall establish any office other than its home office, which shall be in the location named in the certificate of incorporation. No office of an association shall be moved from its immediate vicinity unless approved by the department.~~

~~(4) CHANGE OF NAME OR OFFICE.—The name or the location of the home office or branch office of any association fixed in the certificate of incorporation or other certificate of approval may be changed in the following manner: The proposed new name or the new location of the home office or branch office of the association shall be approved by a resolution adopted by the board of directors. Immediately preceding application to the department for approval, notice of intention to change the name or the location of the home office or branch office, signed by two officers, shall be published once a week for 2 successive weeks in a newspaper of general circulation in the county in which the home office is located, and a copy of such notice shall be displayed during such consecutive 2 weeks' period in a conspicuous public place in the home office and in the branch office, if the branch location of the association is sought to be changed. Five copies of an application to the department for approval shall be signed by two officers of the association, acknowledged before an officer competent to take acknowledgements of deeds and filed with the department. Upon approval of an application for change of name, the department shall endorse on each copy of the application therefor a certificate of approval thereof, and the change of name of such association shall be effective immediately. Whenever the department shall receive from any association an application for change of location of its home office or a branch office, it shall make a determination based upon the criteria set out in s. 665.031(3) and (5) in the case of establishment of a newly chartered association, and, acting in its sole discretion, may hold a hearing as provided for in that section. Upon its approval of such application, the department shall endorse on each copy of such application a certificate of approval. When the department shall have endorsed such approval upon the copies of an application for approval of change of name or change of location of home office or branch office, it shall file one copy thereof with the Department of State, two copies with the Federal Home Loan Bank of which the association is a member, return one copy to the applicant association and retain the original copy in the permanent files of the department.~~

~~(5) FORFEITURE OF CHARTER FOR NONUSE.—Any association which shall not commence business within 6 months after the date upon which its corporate existence shall have begun, shall forfeit its corporate existence, unless the department, before the expiration of such 6-month period, shall have approved the extension of time within which it may commence business, upon a written application stating the reasons for such delay. Upon such forfeiture the certificate of incorporation shall expire, and all action taken in connection with the incorporation thereof except the payment of the incorporation fee shall become void. Amounts credited on savings accounts, less expenditures authorized by law, shall be returned pro rata to the respective holders thereof.~~

Section 6. Section 665.022, Florida Statutes, is created to read:

665.022 Organization expense fund.—

(1) MUTUAL FORM OF ORGANIZATION.—The incorporators shall create an organization expense fund of not more than 5 percent of the total savings account capital required

by this chapter, subject, however, to a minimum amount of $50,000. The incorporators shall, at the time of filing the application for authority to organize a mutual association, pay to their designated escrow agent a minimum of 20 percent of said fund in cash. The expense of organizing the association shall be paid from the fund.

(2) CAPITAL STOCK ASSOCIATION.—Prior to filing an application for authority to organize a state association, the proposed incorporator or incorporators of a capital stock association shall cause written subscriptions to be obtained from one or more persons subscribing in good faith in each subscriber's own right, and not as agent or attorney for any undisclosed person, for all the shares of the capital stock to be proposed in the application as the initial amount of capital stock to be issued, and agreeing to pay unconditionally the subscription price therefore which shall include the amounts required for the surplus fund. The organization expense fund for a proposed capital stock association shall consist of at least 5 percent of the par value of the common capital stock. The organization expense fund shall be paid in cash at the time of subscription to the stock. The expense of organizing the association shall be paid from the fund.

(3) GENERAL PROVISIONS.—Organization expenses shall, in the case of a capital stock association, not be recoverable to the contributors. Contributions made by the incorporators of a mutual association may be repaid pro rata to the contributors from the net income of the association after provisions for statutory reserves and declaration of earnings of not less than the lowest contracted rate on savings accounts. Expenditures, in the aggregate, shall not exceed $75,000 without the prior written approval of the department, which shall be granted for good cause shown. Expenses incurred up to and until the association's articles of incorporation are filed and effective are organizational expenses if incurred and necessary to the process of obtaining a certificate of authorization to transact a general savings and loan business. The department shall provide by rule a list of allowable categories of expenditures. The balance remaining in the fund on the date the association's articles of incorporation become effective shall be transferred to undivided profits as a source from which to pay operating expenses until such time as its net income is sufficient to pay such earnings as may be declared and paid or credited to its savings account holders. Thereafter, expenses incurred by the association are not organizational expenses, but are expenses of the association with the exception of expenses directly related to obtaining insurance of accounts or membership in the Federal Home Loan Bank system which would still be charged to organization expense.

Section 7. Section 665.701, Florida Statutes, is renumbered as section 665.023, Florida Statutes, and amended to read:

665.023 ~~665.701~~ Capital stock ~~associations~~; power and limitations on sale and issuance of stock; characteristics of capital stock; loans secured by capital stock prohibited.—

~~(1) CAPITAL STOCK ASSOCIATIONS; GENERAL PURPOSE AND POWERS.—A capital stock savings and loan association, hereinafter referred to as a "capital stock association," is a financial institution incorporated under the provisions of ss. 665.701-665.717, having for its purposes the encouragement of thrift and home financing, the accumulation of funds through the issuance and sale of its capital stock, the acceptance of savings deposits and such other accounts as may be authorized by the department for mutual savings and loan associations, hereinafter referred to as "mutual associations," and the loaning of funds so accumulated in accordance with the powers conveyed by this chapter.~~

~~(2) CAPITAL STOCK.—~~

(1)~~(a)~~ COMMON STOCK.—A capital stock association may issue the shares of stock authorized by its articles of incorporation and none other. Capital stock shall have the par value stated in the articles of incorporation and, with the prior approval of the department, may consist of common stock and preferred stock, which may be divided into classes and classes into series. Each kind, class, and series may have such distinguishing characteristics, including designations, preferences, or restrictions as regards dividends, redemption, voting powers, or restrictions or qualifications of voting powers, as are imposed in the articles of incorporation. Such provisions of the articles of incorporation which shall control in any case in which any vote or consent of stockholders is now or hereafter required by statute unless such statute shall expressly provide to the contrary.

(2)~~(b)~~ PREFERRED STOCK.—With the prior approval of the department, shares of preferred or special stock of any class may be divided by number from time to time into, and issued in, designated series. Such shares of preferred or special stock of any class or series thereof shall have such relative rights and preferences with regard to dividend rates, redemption rights, conversion privileges, voting power, and other distinguishing characteristics, as shall be stated and expressed with respect to such class or series, either in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors ~~of the corporation~~.

(3)~~(c)~~ CONSIDERATION FOR ISSUANCE OF STOCK.—Except for stock issued pursuant to a plan of merger, consolidation, ~~or conversion from a mutual to a stock association~~ or other type of reorganization which has been approved by the department, the consideration for the issuance of voting common capital stock shall be paid in cash. The par value thereof shall be maintained as the permanent capital of the association, and any excess shall be credited to paid-in surplus which shall not be available for dividends or other distribution to stockholders, except upon liquidation.

(4)~~(d)~~ PERMANENT CAPITAL.—Except as provided herein, the total of the par values of all outstanding shares of voting common capital stock shall be the permanent capital of the association and shall not be retired until final liquidation of the association. No association shall reduce its outstanding voting common capital stock without first obtaining the consent of the department. Such consent shall be withheld if the reduction will cause the par value of outstanding voting common capital stock to be less than the minimum required by this chapter *at the time of its incorporation as a capital stock association* ~~or result in loss than adequate net worth, as provided in s. 665.707(3)~~.

(5)~~(e)~~ PREEMPTIVE RIGHTS.—Unless otherwise provided by the articles of incorporation, *no* ~~every~~ stockholder, ~~upon the sale for cash of any new stock of the same kind, class, or series as that which he already holds,~~ shall have the *preemptive* right to *acquire unissued shares or securities convertible or carrying a right to subscribe to or acquire shares of the association. In the case of any capital stock association in existence prior to the effective date of this act, stockholders of such association shall continue to have the preemptive rights in such association which they had immediately prior to such effective date, unless and until the articles of incorporation are amended to alter or terminate stockholders' preemptive rights.* ~~purchase his pro rata share thereof, as nearly as may be done without issuance of fractional shares, at the price at which it is offered to others, which price must be in excess of par.~~

(6)~~(f)~~ CAPITAL STOCK AS SECURITY FOR LOAN PROHIBITED.—An association shall not make a loan secured by the pledge of its capital stock.

Section 8. Section 665.706, Florida Statutes, is renumbered as section 665.024, Florida Statutes, and amended to read:

665.024 ~~665.706~~ Articles of incorporation, content; approval by department; filing; bylaws.—

(1) ARTICLES OF INCORPORATION, CONTENTS.—The articles of incorporation shall contain:

(a) The name of the proposed association which shall comply with s. *665.0215* ~~665.051~~.

(b) The general nature of the business to be transacted or a statement that the *association* ~~corporation~~ may engage in any activity or business permitted under this chapter. Such statement shall authorize all such activities and business by the *association* ~~corporation~~.

(c) *With respect to a capital stock association,* the amount of capital stock authorized, showing the maximum number of shares of par value common stock and of preferred stock, and of every kind, class, or series of each, together with the distinguishing characteristics and the par value of all shares.

(d) The amount of capital with which the *association* ~~corporation~~ will begin business, which shall not be less than the amount required by the department pursuant to s. *665.020* ~~665.707~~.

(e) A provision that the corporation is to have perpetual existence unless existence is terminated pursuant to this chapter.

(f) The initial street address of the home office of the *association* ~~corporation~~, which shall be in this state.

(g) The number of directors, which shall not be less than 5 ~~or more than 15~~, and the names and street addresses of the members of the first board of directors who, unless otherwise provided by the articles of incorporation, the bylaws, or this chapter, shall hold office for the term set forth in s. *665.025* ~~665.703(2)~~ or until their successors are elected or appointed and have qualified.

(h) The name and street address of each *stockholder* ~~person signing the articles of incorporation as a subscriber~~ and the number of shares subscribed.

(i) Any provision which the incorporators may choose to insert for the regulation of the business and for the conduct of affairs of the *association* ~~corporation~~ and any provision creating, dividing, limiting, or regulating the powers of the *association* ~~corporation~~, the directors, and the *members or* stockholders or any class of the stockholders, including, but not limited to, provisions for cumulative voting for directors, provisions governing the issuance of stock certificates to replace lost or destroyed certificates, and a list of officers.

(2) ARTICLES OF INCORPORATION MUST BE APPROVED BEFORE FILING.—The articles of incorporation shall be in writing, subscribed to by five or more persons competent to contract, acknowledged by all of the subscribers before an officer authorized to take acknowledgments, and submitted to the department ~~of Banking and Finance~~ for its approval. Upon approval, the department shall place the following legend upon the articles of incorporation and affix the seal of the office of the Comptroller of Florida thereto. The legend shall in substance read: "Approved by the Department of Banking and Finance this ..... day of ....., ... (herein the name and signature of the head of the department)." Thereafter the articles of incorporation shall be filed with the Department of State.

(3) BYLAWS.—Unless the articles of incorporation provide otherwise, the board of directors shall have authority to adopt or amend bylaws that do not conflict with bylaws that may have been adopted by the *members or* stockholders. The bylaws shall be for the government of the *association* ~~corporation~~, subordinate only to the articles of incorporation and the laws of the United States and of this state. *A current copy of the bylaws shall be filed with the department at all times.* ~~No bylaws or amendments thereto shall be adopted until approved by the department.~~

Section 9. Section 665.703, Florida Statutes, is renumbered as section 665.025, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 665.703, F.S., for present text.)

665.025 Directors; number; qualifications; etc.—

(1)(a) The business of the association shall be managed and its corporate powers exercised by a board of directors. The board shall consist of not less than five adult natural persons who, unless appointed to fill a vacancy, shall be elected at the annual meeting of members or stockholders or at a special meeting called for such purpose.

(b) At the first annual meeting, and at each annual meeting thereafter, the members or stockholders shall elect directors to hold office until the next succeeding annual meeting, except in the case of the classification of directors as permitted by this subsection. Each director shall hold office for the term for which elected and until any successor shall have been elected and qualified or until resignation, removal from office, or death.

(c) The articles of incorporation or the bylaws may provide that the directors be divided into not more than three classes of as nearly equal numbers as possible. The term of office of directors of the first class shall expire at the annual meeting next after the first election; of the second class, 1 year thereafter; and of the third class, 2 years thereafter; and at each annual meeting thereafter directors shall be chosen for a full term of 3 years to succeed those whose terms expire. If directors are classified and the number of directors is thereafter changed, any increase or decrease in directorships shall be so apportioned among the classes as to make all classes as nearly equal in numbers as possible.

(d) Any vacancy occurring in the board of directors, including any vacancy created by reason of any increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors. A director elected to fill a vacancy shall hold office for the remainder of the original term of said vacancy.

(2) The board of directors of each association shall hold a meeting at least once every 2 months at such time and place in this state as shall be fixed by the bylaws of such association or by a majority vote of the board of directors.

(3) Not less than a majority of the directors must, during their whole term of service, be citizens of the United States, and at least three-fifths of the directors must have resided in this state for at least 1 year preceding their election and must be residents therein during their continuation in office.

(4) No person shall serve as an officer or director of an association who:

(a) Has been convicted of an offense involving fraud or a breach of trust, or which constitutes a violation of the laws relating to financial institutions, except with the prior approval of the department upon a showing of rehabilitation.

(b) Is indebted to the association for more than 30 days upon a judgment that has become final.

(5) After the corporate existence has begun, an organization meeting of the board of directors named in the articles of incorporation shall be held for the purpose of adopting bylaws, electing officers, approving organizational expenses to date, authorizing the call for payment of stock subscriptions or savings account capital, and conducting such other business relating to organization as may come before the board. Until the first annual meeting, the proposed directors shall serve as the board of directors.

Section 10. Section 665.061, Florida Statutes, is renumbered as section 665.026, Florida Statutes, and amended to read:

665.026 ~~665.061~~ Conversion without change of business form.—

(1) CONVERSION INTO FEDERAL SAVINGS ASSOCIATION.—At an annual meeting or at any special meeting of the members or stockholders called to consider such action, any association or corporation of this state doing a home-financing business may convert itself into a federal savings association or federal savings and loan association, hereinafter called "Federal Association," in accordance with the laws of the United States, as now or hereafter amended, upon a vote of 51 percent or more of the total number of votes of the members or stockholders eligible to be cast. A copy of the minutes of the proceedings of such meeting of the members or stockholders, verified by the affidavit of the secretary or an assistant secretary, shall be filed with the department within 10 days after the date of such meeting. A sworn copy of the proceedings of such meeting, when so filed, shall be presumptive evidence of the holding and action of such meeting. Within 3 months after the date of such meeting, the association shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a federal association. There shall be filed with the department a copy of the charter issued to such federal association by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a federal association, certified by the secretary or assistant secretary of the Federal Home Loan Bank Board. A similar copy of the charter, or of such certificate, shall be filed by the association with the Department of State. No failure to file any such instruments with either the Department of Banking and Finance or the Department of State shall affect the validity of such conversion. Upon the grant to any association of a charter by the Federal Home Loan Bank Board, the association receiving such charter shall cease to be an association incorporated under this chapter and shall no longer be subject to the supervision and control of the department. Upon the conversion of any association into a federal association, the corporate existence of such association shall not terminate, but such federal association shall be deemed to be a continuation of the entity of the association so converted and all property of the converted association, including its rights, titles, and interest in all and to all property of whatever kind, whether real, personal, or

mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, shall immediately by operation of law and without any conveyance or transfer and without any further act or deed remain and be vested in and continue and be the property of such federal association into which the state association has converted itself, and such federal association shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting association. Such federal association as of the time of the taking effect of such conversion shall continue to have and succeed to all the rights, obligations, and relations of the converting association. All pending actions and other judicial proceedings to which the converting state association is a party shall not be deemed to have abated or to have discontinued by reason of such conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion into such federal association had not been made and such federal association resulting from such conversion may continue such action in its corporate name as a federal association, and any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the converting state association theretofore involved in such judicial proceedings. Any association or corporation, which has heretofore converted itself into a federal association under the provisions of the Laws of the United States and has received a charter from the Federal Home Loan Bank Board, shall hereafter be recognized as a federal association, and its federal charter shall be given full recognition by the courts of this state to the same extent as if such conversion had taken place under the provisions of this section; provided, however, that there shall have been compliance with the foregoing requirements with respect to the filing with the department of a copy of the federal charter or a certificate showing the organization of such association as a federal association. All such conversions are hereby ratified and confirmed, and all the obligations of such an association which has so converted shall continue as valid and subsisting obligations of such federal association, and the title to all of the property of such an association shall be deemed to have continued and vested, as of the date of issuance of such federal charter, in such federal association as fully and completely as if such conversion had taken place since the enactment of this chapter pursuant to this section.

(2) CONVERSION INTO STATE-CHARTERED ASSOCIATION.—*Any federal association may apply to the department for permission to convert itself into an association operated under the provision of this chapter in accordance with the following procedures:*

(a) The board of directors shall approve a plan of conversion by resolutioin adopted by a majority vote of all the directors. The plan shall include, among other terms:

1. Financial statements of the association as of the last day of the month preceding adoption of the plan.

2. Such financial data as may be required to determine compliance with federal law or regulation regarding insurance reserve requirements, liquidity, and such other federal regulatory requirements as may exist respecting financial condition.

3. Such other information as the department may, by rule, require.

(b) The plan of conversion shall be executed by a majority of the board of directors and submitted to the department for approval prior to any vote on conversion by the members or stockholders.

(c) The department may approve or disapprove the plan in its discretion, but it shall not approve the plan unless it finds that the association complies sufficiently with the requirements of this chapter to entitle it to become an association operating under this chapter and the rules of the department. The department may deny any application from any federal association that is subject to any cease and desist order or other supervisory restriction or order imposed by the federal supervisory authority or insurer.

(d) If the department approves the plan of conversion, the question of such conversion may be submitted to members or stockholders at an annual meeting or at any special meeting of the members or stockholders called to consider such action., Any federal association may *then* convert itself into an association under this chapter upon a vote of 51 percent or more of the total number of votes of the members or stockholders of such federal association eligible to be cast. Copies of the minutes of the proceedings of such meeting of members or stockholders, verified by the affidavit of the secretary or an assistant secretary, shall be filed in the office of the department and mailed to the Federal Home Loan Bank Board, Washington, D. C., within 10 days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of such meeting. At the meeting at which conversion is voted upon, the members or stockholders shall also vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors shall then execute ~~two copies of~~ the *articles* ~~petition for certificate~~ of incorporation and two copies of the bylaws. The *association* ~~department~~ shall insert in the *articles* ~~certificate~~ of incorporation~~, at the end of the paragraph preceding the testimonium clause,~~ the following: 'This association is incorporated by conversion from a federal association." All of the directors who are chosen for the association shall sign and acknowledge the *articles* ~~petition for certificate~~ of incorporation as subscribers thereto and the proposed bylaws as incorporators of the association. The provisions of this chapter shall, so far as applicable, apply to such conversion under this section. The department may provide, by rule, for the procedure to be followed by any federal association converting into a state-chartered association. All the applicable provisions regarding property and other rights contained in the preceding subsection shall apply to the conversion of a federal association into an association incorporated under this chapter, so that the state-chartered association shall be a continuation of the corporate entity of the converting federal association and continue to have all of its property and rights. *All rights, powers and privileges respecting the holding of proxies of a converting association shall continue in full force and effect after such conversion.*

(e) The application for conversion into an association operating under the provisions of this chapter shall be accompanied by a nonrefundable filing fee computed on the same basis as a semiannual assessment for an association operating under this chapter. If the conversion occurs, this fee will be credited to, and reduce, the first semiannual assessment.

(3) LIMITATION.—No conversion of an association or a federal association, direct or indirect, *without change of business form,* shall be permitted except as specifically authorized by this *section* ~~chapter~~.

PART III

OFFICES; MERGERS, ETC.; CONVERSION TO STOCK; CONTROL; HOLDING COMPANIES

Section 11. Section 665.441, Florida Statutes, is renumbered as section 665.030, Florida Statutes, and amended to read:

665.030 ~~665.441~~ Branch Offices.—

(1) BRANCH OFFICES.—

(a)~~(1)~~ Definitions.—A "branch office" is a legally established place of business of the association, other than the home office *or corporate offices,* authorized by the board of directors and approved by the department, *where the business of an association may be conducted* ~~at which savings accounts and loan payments may be accepted, application for loans may be received, account books and membership certificates may be issued, and loans may be closed.~~

(b)~~(2)~~ Subject to home *or corporate* office.—Each association shall be operated from the home *or corporate* office. All branch offices shall be subject to direction from the home *or corporate* office.

(c)~~(3)~~ Approval of *department required* ~~establishment.~~— *No association shall establish or maintain a branch office without the prior written approval of the department.* Each application for approval of the establishment and maintenance of a branch office shall *be in such form as the department may prescribe and shall* state:

1. The proposed location thereof;~~, the need therefor,~~

2. The functions to be performed therein ;~~,~~

3. The estimated volume of business thereof;~~,~~

4. The estimated annual expense thereof; ~~, and~~

5. The mode of payment therefor*; and*

6. Such other information as the department may require. ~~Each such application shall be accompanied by a budget of the association for the current earnings period and for the next succeeding semiannual period, which reflects the estimated additional expense of the maintenance of such a branch office.~~

(d) Upon the receipt by the department of such an application, it shall *consider the following:* ~~determine whether the establishment and maintenance of such office will unduly injure any properly conducted existing association or federal association in the community where such branch office is proposed to be established. If it finds that no undue injury is likely to result and that the establishment and maintenance of such branch office is advisable, it may approve the application.~~

1. The sufficiency of capital accounts to support the association's deposit base and the additional fixed assets proposed for the branch and its operations, without undue exposure to its depositors, members or stockholders.

2. The sufficiency of earnings and earnings prospects to support the anticipated expenses of the branch, without jeopardizing the financial position of the association.

3. The sufficiency and quality of management available to operate the branch.

4. The name of the proposed branch reasonably identifies the branch and is not likely to unduly confuse the public.

5. The association's substantial compliance with all state and federal law affecting its operations.

(e) When the department has approved an application pursuant to this subsection, it shall issue a certificate authorizing the operation of the branch and specifying the date on which it may be opened and the place where it will be located.

(f) A nonrefundable filing fee of $1,000 shall accompany the application for a branch.

(2) FACILITIES.—With prior written notification to the department, and in order to relieve some of the burdens on the public caused by congestion of public streets, roadways, and parking facilities, promote safety of pedestrians on public ways, or otherwise serve the needs or convenience of the public, an association may operate facilities providing services to customers. It shall not be necessary that any such facility be a part of, or physically connected to, the main structure of the home office or branch if the facility is located on the property on which the main structure of the home office or branch is situated or on property contiguous thereto. Property which is separated from the property on which the main structure of the home office or branch is situated only by a street and one or more walkways and alleyways shall, for the purposes of this subsection, be deemed contiguous. The operation of any such facility which is not located on the property on which the main structure of the home office or branch is situated or on property contiguous thereto, except as provided in subsection (1), shall constitute a violation of this section.

(3) HOME OR CORPORATE OFFICES.—The home office of an association shall be the location specified in the articles of incorporation. Nothing in this chapter shall be construed to prohibit any association from establishing a corporate office or offices upon prior written notification to the department. A corporate office shall be primarily established for the purpose of managing the administrative functions of the association and any subsidiary corporations and shall not accept deposits, loan applications or issue payment for withdrawals of certificates or accounts. A corporate office may be established in connection with a branch office, in which case an application pursuant to subsection (1) shall be submitted.

(4) *RELOCATION.—A home office or branch office may be relocated with the prior written approval of the department. The department shall consider the criteria set forth in subsection (1) for the establishment of a branch office in the determination of approval for such relocation.* ~~REVOCATION OF APPROVAL. The department may for reasonable cause revoke its approval of the maintenance of any branch office by an order to the association fixing a reasonable time after which the association shall cease to use and maintain such branch office.~~

(5) All offices approved for operation by the department prior to the effective date of this act shall be considered branch offices pursuant to subsection (1) upon said effective date.

Section 12. Section 665.073, Florida Statutes, is renumbered as section 665.0315, Florida Statutes, and amended to read:

665.0315 ~~665.073~~ Power to *merge,* reorganize~~, merge~~ or consolidate.—Pursuant to a plan adopted by the board of directors and approved by the department as equitable, *as resulting in substantial business benefit* to the ~~members of the~~ association, *as adequately protecting the interests of the association, its members or stockholders, its savings account holders and the public,* ~~and as not impairing the usefulness and success of other properly conducted associations in the community,~~ an association shall have power to reorganize, ~~or~~ merge or consolidate with another association or federal association within its primary lending area, provided that the plan of such reorganization, merger or consolidation shall be approved at an annual meeting or at any special meeting of the members *or stockholders* called to consider such action by a vote of 51 percent or more of the total number of votes ~~of the members~~ eligible to be cast. In all cases the corporate continuity of the resulting *association* ~~corporation~~ shall possess the same incidents as that of an association which has converted in accordance with this chapter. No association, directly or indirectly, shall convert or reorganize, or merge, consolidate, assume liability to pay savings accounts or other liabilities of, transfer assets in consideration of the assumption of liabilities for any portion of the savings accounts, deposits made in, or other liabilities of such association to, or acquire the assets of or assume liability to pay any liabilities of, any financial institution or any other organization, person, or entity, except as specifically authorized by this chapter. *The department may provide by rule for the procedures to be followed by any association submitting a plan of merger, reorganization or consolidation pursuant to this section. Each application for merger, reorganization or consolidation shall be accompanied by a nonrefundable filing fee of $2,500; provided that if three or more associations are involved in the transaction, the fee is $1,000 for each participating association subject to a maximum of $5,000.*

Section 13. Section 665.081, Florida Statutes, is renumbered as section 665.032, Florida Statutes, and amended to read:

665.032 ~~665.081~~ Dissolution.—

(1) DISSOLUTION.—Subject to the limitations of s. *665.0315* ~~665.073~~, any association may, at any special meeting of the members *or stockholders* called to consider such action, terminate its existence in accordance with the provisions of this section upon a vote of 51 percent or more of the total number of votes of members eligible to be cast.

(2) CERTIFICATE OF DISSOLUTION.—Upon such vote, *three* ~~five~~ copies of a certificate of dissolution, which shall state the vote cast in favor of dissolution, shall be signed by two officers and acknowledged before an officer competent to take acknowledgments of deeds. *Three* ~~Five~~ copies of such certificate shall be filed with the department, which shall examine such association, and, if it finds that the association is not in an impaired condition, shall so note, together with its approval of such dissolution, upon all the copies of the certificate of dissolution. The department shall place a copy in its permanent files, file a copy with the Department of State, and return the remaining *copy* ~~copies~~ to the parties filing the same.

(3) CONTINUATION AS CORPORATE ENTITY FOR SOLE PURPOSE OF WINDING UP AFFAIRS.—Upon such approval the association shall be dissolved and shall cease to carry on business but nevertheless shall continue as a corporate entity for the sole purpose of paying, satisfying, and discharging existing liabilities and obligations, collecting and distributing assets, and doing all other acts required to adjust, wind up, and dissolve its business and affairs.

(4) DIRECTORS AS LIQUIDATING TRUSTEES.—The board of directors *in office at the time of the vote of dissolution* shall act as *trustee* ~~trustees~~ for liquidation. *The board* ~~It~~ shall proceed as quickly as may be practicable to wind up the affairs of the association and, to the extent necessary or expedient to that end, shall exercise all the powers of such dissolved association and, without prejudice to the generality of such authority, may fill vacancies, elect officers, carry out the contracts, make new contracts, borrow money, mortgage or pledge the property, sell its assets at public or private

sale, or compromise claims in favor of or against the association, apply assets to the discharge of liabilities, distribute assets either in cash or in kind among savings account members *of a mutual association or stockholders of a capital stock association* according to their respective pro rata interests after paying or adequately providing for the payment of other liabilities, and perform all acts necessary or expedient to the winding up of the association. All deeds or other instruments shall be in the name of the association and executed by the president or a vice president and the secretary or an assistant secretary. The board of directors shall also have power to exchange or otherwise dispose of or put in trust all, or substantially all, or any part of the assets, upon such terms and conditions and for such considerations, which may be money, stock, bonds, shares, or accounts of any insured association, or of any federal association, or other instruments for the payment of money, or other property, or other considerations, as the board of directors may deem reasonable or expedient, and may distribute such considerations or the proceeds thereof, or trust receipts, or certificates of beneficial interest among the savings account members *of a mutual association or stockholders of a capital stock association* in proportion to their pro rata interests therein. In the absence of fraud, any determination of value made by the board of directors for any such purposes shall be conclusive.

(5) SUPERVISION BY DEPARTMENT DURING LIQUIDATION.—The association, during the liquidation of the assets of the association by the board of directors, shall continue to be subject to the supervision of the department, and the board of directors shall report the progress of such liquidation to the department from time to time as it may require. Upon completion of liquidation, the board of directors shall file with the department a final report and accounting of such liquidation. The approval of such report by the department shall operate as a complete and final discharge of the board of directors and each member *or stockholder* thereof in connection with the liquidation of such association. No such dissolution or any action of the board of directors in connection therewith shall impair any contract right between such association and any borrower or other person or persons or the vested rights of any member *or savings account holder* of such association.

Section 14. Section 665.710, Florida Statutes, is renumbered as section 665.033, Florida Statutes, and amended to read:

665.033 ~~665.710~~ *Conversion* ~~Power~~ of state or federal mutual association ~~to convert~~ to capital stock association~~; procedure; approval of department required; minutes of meeting; succession.~~

(1) *CONVERSION INTO CAPITAL STOCK ASSOCIATION* ~~POWER TO CONVERT; PROCEDURES; APPROVAL OF PLAN OF CONVERSION BY DEPARTMENT AND MEMBERS.~~—*Any state or federal mutual association may apply to the department for permission to convert itself into an association operated under the provisions of this chapter in accordance with the following procedures:*

(a) The board of directors shall approve a plan of conversion by resolution adopted by a majority vote of all the directors. The plan shall include, among other terms:

1. Financial statements of the association as of the last day of the month preceding adoption of the plan.

2. Such financial data as may be required to determine compliance with applicable regulatory requirements respecting financial condition.

3. A provision that each savings account holder of the mutual association will receive a withdrawable account in the capital stock association equal in amount to his withdrawable account in the mutual association.

4. A provision that each member of record will be entitled to receive rights to purchase voting common stock.

5. Pro forma financial statements of the association as a capital stock association which shall include data required to determine compliance with applicable regulatory requirements respecting financial condition.

6. With particularity, the business purpose to be accomplished by the conversion.

7. Such other information as the department may, by rule, require.

(b) The plan of conversion shall be executed by a majority of the board of directors and submitted to the department for approval prior to any vote on conversion by the members.

(c) The department may approve or disapprove the plan in its discretion, but it shall not approve the plan unless it finds that the association will comply sufficiently with the requirements of this chapter after conversion as to entitle it to become an association operating under this chapter and the rules of the department. The department may deny any application from any federal association that is subject to any cease and desist order or other supervisory restriction or order imposed by the federal supervisory authority or insurer.

(d) If the department approves the plan of conversion, the question of such conversion may be submitted to the members ~~If the board of directors determines, and the department concurs, that a substantial business benefit to the association will or may result, and if federal law, regulations, or administrative rulings authorize federal associations to convert to capital stock associations, the voting members of a mutual association organized pursuant to this chapter, or otherwise subject to the provisions of this chapter, or a federal mutual association located in Florida may vote to convert the association into a total or partial capital stock association by adopting a plan of conversion which is approved by the department. The plan of conversion must be approved~~ at a meeting of voting members called to consider such action. ~~by~~ A vote of 51 percent or more of the total number of votes eligible to be cast, unless federal law permits a lesser percentage of votes for a federal mutual association to convert, in which case that percentage shall control, *shall be required for approval.* ~~The department may approve or disapprove the plan of conversion in its discretion, but it shall not approve the plan unless it finds that the plan is fair and equitable to members of the association and that the interest of the savings account holders and the public are adequately protected.~~ Notice of the meeting, giving the time, place, and purpose thereof, together with a proxy statement and proxy form approved by the department covering all matters to be brought before the meeting shall be mailed at least 30 days prior thereto to the department and to each voting member at his last address as shown on the books of the association.

(2) MINUTES OF MEETING.—Copies of the minutes of the meeting of members, verified by the affidavit of the secretary or assistant secretary of the association, shall be filed in the office of the department, and with the Federal Home Loan Bank Board *if applicable,* within a reasonable time after the meeting. When so filed, the verified copies of the minutes are presumptive evidence of the holding of the meeting and of the action taken.

(3) FILING OF ARTICLES OF INCORPORATION AND COMMITMENT FOR INSURANCE OF ACCOUNTS.—The directors of the association shall *have executed* ~~execute~~ and *filed* ~~file~~ with the *department* ~~supervisory authority~~ proposed articles of incorporation as provided for in s. *665.024* ~~665.706~~, together with *the* ~~an~~ application for conversion and a firm commitment for, or evidence of, insurance of deposits and other accounts of a withdrawable type. The articles shall contain a statement that the *association* ~~corporation~~ resulted from the conversion of a state or federal mutual association to a capital stock association. Approval by the department shall be affixed to the articles of incorporation. An authenticated copy of the articles of incorporation shall be filed in the Department of State and one copy of the articles of incorporation and the certificate of incorporation shall be returned to the association. The association shall cease to be a mutual association at the time and on the date specified in the approved articles of incorporation.

(4) SUCCESSION.—Upon conversion of a mutual association, the legal existence of the association shall not terminate, but the capital stock association shall be a continuation of the entity of the mutual association, and all property of the mutual association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, things in action, and every right, privilege, interest, and asset of every conceivable value or benefit then existing or pertaining to it, or which would inure to it, immediately, by act of law and without any conveyance or transfer and

without any further act or deed, shall vest and remain in the capital stock association into which the mutual association has converted itself. The capital stock association shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the mutual association. The capital stock association, upon the taking effect of the conversion, shall continue to have and succeed to all the rights, obligations, and relations of the mutual association. All pending actions and other judicial proceedings to which the mutual association is a party shall not be abated or discontinued by reason of the conversion but may be prosecuted to final judgment, order, or decree in the same manner as if the conversion had not been made, and the capital stock association resulting from the conversion may continue the actions in its corporate name as a mutual association. Any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the mutual association theretofore involved in the proceedings.

(5) FEE.—The application for conversion from federal mutual to state capital stock association shall be accompanied by a nonrefundable filing fee computed on the same basis as a semiannual assessment for an association operating under this chapter. If the conversion occurs, this fee will be credited to, and reduce, the first semiannual assessment.

Section 15. Section 665.715, Florida Statutes, is renumbered as section 665.034, Florida Statutes, and amended to read:

665.034 ~~665.715~~ Acquisition of *majority* control over an existing association.—

(1)(a) In any case in which a person or group of persons propose to purchase or acquire voting common stock of any capital stock association, which purchase or acquisition would cause such person or group of persons to have control, as defined in s. *665.035(2)*~~665.716(2)~~, of said association, such person or group of persons shall first make application to the department for a certificate of approval of such purchase or acquisition. ~~The application shall contain the name and address of the proposed new owner or owners of voting common stock, and~~

(b) An application for majority control shall be in such form and request such information as the department may, by rule, require.

(c) The application for majority control shall be accompanied by a nonrefundable filing fee of $2,000.

(2) The department shall issue said certificate of approval only after it has *made an investigation and determined* ~~become satisfied~~ that*:*

(a) The proposed new owner or owners of voting common stock are qualified by character, experience, and financial responsibility to control said association in a legal and proper manner, ~~and that the interest of the stockholders, depositors, and creditors of the association and~~

(b) The *interests* ~~interest~~ of the public generally will not be jeopardized by the proposed purchase or acquisition of voting common stock.

(3) Any such person or persons required to submit an application pursuant to this section shall file with the department a complete set of fingerprints taken by an authorized law enforcement officer, and such fingerprints shall be submitted by the department to appropriate law enforcement agencies for processing.

(4) Notwithstanding any other provisions of this section, no person will be considered to be purchasing or acquiring a controlling interest by virtue of directors voting proxies acquired in the normal course of business as a result of proxy solicitation in conjunction with a member's or stockholder's meeting or its ownership or control of stock in a fiduciary capacity. For the purpose of the preceding sentence, association stock shall not be deemed to have been acquired in a fiduciary capacity if the acquiring person has sole discretionary authority to exercise voting rights with respect thereto. Further, no person shall be subject to the requirements of this section by virtue of its ownership or control of stock acquired in securing or collecting a debt contracted in good faith until 2 years after the date of acquisition.

Section 16. Section 665.716, Florida Statutes, is renumbered as section 665.035, Florida Statutes, and amended to read:

665.035 ~~665.716~~ Restrictions on acquisition of control of capital stock associations.—

(1) DEFINITIONS.—As used in this section, unless the context otherwise requires:

(a) "Business organization" or "company" means any corporation, partnership, trust, joint stock company, or similar organization, but does not include any company the majority of the stock of which is owned by the United States or this state, by an officer of the United States or this state in his official capacity, or by an instrumentality of the United States or this state.

(b) "Savings and loan holding company" means *a savings and loan holding company as defined in s. 665.036* ~~any company which directly or indirectly controls a savings and loan association or controls any other company which is a savings and loan holding company by virtue of this section~~.

(c) "Person" means an individual or company.

(d) "Subsidiary" of a person means *a subsidiary as defined in s. 665.036* ~~any company which is controlled by such person or by a company which is a subsidiary of such person by virtue of this section~~.

(2) CONTROL DEEMED TO EXIST.—For purposes of this section, a business organization shall be deemed to have control of *an* ~~a savings and loan~~ association or any other business organization if the business organization:

(a) Directly or indirectly, or acting in concert with one or more persons or through one or more subsidiaries, owns, controls, holds with powers to vote, or holds proxies representing, more than 25 percent of the voting common stock of such ~~savings and loan~~ association or other business organization.

(b) Controls in any manner the election of a majority of the directors of such ~~savings and loan~~ association or other business organization.

(c) Exercises a controlling influence over the management or policies of such ~~savings and loan~~ association or other business organization.

(3) RESTRICTIONS ON OWNERSHIP OR CONTROL.—

(a) Unless organized pursuant to the laws of Florida and not controlled by a business organization organized under the laws of another jurisdiction, no business organization shall, either directly or indirectly, control any ~~savings and loan~~ association located in Florida.

~~(b) No business organization which is a bank or trust company or subsidiary of a bank or trust company or a bank holding company according to federal law or regulation or a subsidiary of a bank holding company shall, either directly or indirectly, acquire or own any of the capital stock of any savings and loan association located in Florida. However, a bank or trust company located within or without the territorial boundaries of Florida may accept capital stock of a capital stock savings and loan association as collateral for a loan and may acquire said stock to satisfy the loan. If a bank or trust company acquires the capital stock of a savings and loan association in partial or complete satisfaction of a loan it shall divest itself of the stock within a reasonable period of time which shall not exceed 2 years unless a longer period of time is approved by the department. However, if a law regulating banks fixes a shorter period of time, then the shorter period shall prevail.~~

(b)~~(c)~~ No business organization which controls or seeks to control any capital stock association located in Florida shall engage in any business activity which has not been determined by the department or prescribed by *rule* ~~regulation~~ to be a proper incident to the operation of a capital stock association and which is, or may be deemed to be, detrimental to savings account holders by the department, nor shall it control or be controlled by any business organization whose business activities have not been determined by the department or prescribed by *rule* ~~regulation~~ to be a proper incident to the operation of a capital stock association and which is, or may be deemed to be, detrimental to savings account holders by the department.

(c)~~(d)~~ The following are deemed to be proper incidents to the operation of a capital stock association:

1. Furnishing or performing management services for a subsidiary ~~savings and loan~~ association.

2. Holding, managing, or liquidating assets owned by, or acquired from, a subsidiary ~~savings and loan~~ association.

3. Holding or managing properties used or occupied by a subsidiary ~~savings and loan~~ association.

(d)~~(c)~~ Such business organizations may furnish or perform such other services or engage in such other activities as the department may approve or prescribe by *rule* ~~regulation~~ as being proper incidents to the operation of capital stock associations and not detrimental to the interests of savings account holders therein.

(e)~~(f)~~ No business organization shall acquire control of a capital stock association located in Florida without first obtaining the prior written approval of the department *pursuant to s. 665.034.* ~~Prior to such acquisitions, such business organization shall file an application with the department containing such information as the department may require and as will aid it in determining that the acquisition will not be detrimental to the public interest.~~

~~(g) Each savings and loan holding company and each subsidiary thereof shall file such reports as the department may require from time to time. Each savings and loan holding company and each subsidiary thereof shall be subject to such examinations as the department shall prescribe. The cost of such examinations shall be assessed against such holding company and paid to the state treasurer who shall credit such amount to a special bank and trust company trust fund to be used to administer this chapter.~~

Section 17. Section 665.036, Florida Statutes, is created to read:

665.036 Holding companies and stock acquisitions.—

(1) DEFINITIONS.—For the purposes of this section, the following words and phrases shall have the following meanings:

(a) "Savings and loan holding company" shall mean:

1. Any person, except an individual, which directly or indirectly, or acting in concert with one or more other persons:

a. Owns, controls, or holds with power to vote or holds proxies to vote, 25 percent or more of the outstanding voting capital stock of any capital stock association or savings and loan holding company located in this state or 25 percent or more of the total number of votes or proxies of votes eligible to be cast by the members of any mutual association located in this state.

b. Control in any manner, whether by the holding of proxies or otherwise, the election of a majority of the directors of any association or savings and loan holding company located in this state.

2. Any one or more individuals who, directly or indirectly, or acting in concert with one another:

a. Own, control or hold with power to vote, or holds proxies to vote, 25 percent or more of the outstanding voting capital stock of two or more capital stock associations or any savings and loan holding company located in this state or 25 percent or more of the total number of votes or proxies of votes eligible to be cast by the members of two or more mutual associations located in this state.

b. Control in any manner, whether by the holding of proxies or otherwise, the election of a majority of the directors of any two or more associations or any savings and loan holding company located in this state.

(b) "Subsidiary" shall mean any person, except an individual, which is directly or indirectly owned, controlled or otherwise held by another person to the extent or in the manner described in paragraph (a).

(c) "Tender offer" shall mean an offer by any person to acquire, or the acquistion by any person of, voting capital stock of an association or savings and loan holding company organized under the laws of this state pursuant to a tender offer or request or invitation for tenders, which, if, accepted or acquired, would result in a person becoming, directly or indirectly, a beneficial owner of more than 5 percent of the outstanding shares of the class of the capital stock offered or acquired. Any increase or other change in the terms of a tender offer shall be deemed to be a new tender offer. A tender offer does not include an offer to acquire or the acquisition of voting capital stock if:

1. The offer is made to not more than 15 stockholding persons in this state during any consecutive 12 months.

2. The offer is effected by or through a broker-dealer in the ordinary course of his business without solicitation of orders to sell capital stock by the stockholders of the association or savings and loan holding company.

3. The acquisition of shares of capital stock pursuant to such offer together with all other acquisitions by the offering person of stock of the same class during the preceding 12 months would not exceed 2 percent of that class of the outstanding capital stock of the issuer:

a. By the issuer of the capital stock;

b. Of a subsidiary corporation by the parent corporation if more than 50 percent of the voting capital stock of the subsidiary is owned beneficially by the parent;

c. If the offer by its terms does not apply to any owners of capital stock who are residents within the association's primary lending area.

(d) "Takeover offer" shall mean any tender offer which, if accepted or acquired and, if approved by the department, would result in a person becoming a savings and loan holding company.

(2) QUALIFYING AS A SAVINGS AND LOAN HOLDING COMPANY.—No person may become a savings and loan holding company unless, within 90 days after the filing with the department a complete application to become a savings and loan holding company, the department shall have approved the application, or shall have failed to act within such period, in which event the application shall be deemed approved. The application shall be in the form prescribed by the department, contain the following information and any additional information that the department may determine, by rule, to be necessary or appropriate to preserve the public interest, the integrity of the state's savings and loan association system, and to protect the interest of savings account holders, borrowers and stockholders resident in the association's primary lending area:

(a) The identity, experience and financial and managerial resources of each acquiring person by whom or on whose behalf the application is made.

(b) The terms, conditions and method of any proposed acquisition, including copies of all tender offers and the takeover offer used or to be used in connection with any proposed acquisition of capital stock.

(c) The source, kind and amount of the consideration used or to be used in making the acquisition, and, if any part of such consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction and the names of all participating persons.

(d) Any plans or proposals which any acquiring person may have to liquidate or convert such association or savings and loan holding company to sell its assets or merge it with any company, to change the number of its employees in this state or the terms and conditions of their employment, or to make any other substantial change in its business, corporate structure, management or employees upon becoming a holding company.

(e) The names of those officers and directors which the acquiring person proposes to install in any change of management, and for each such party a financial statement, a description of his experience in savings association related matters and a statement as to whether such party has even been the subject of a civil, criminal or administrative action for misrepresentation, fraud or financial misdealings.

(3) ACTION ON APPLICATION.— The department may approve the application with such conditions as it deems reasonable, necessary or advisable in the public interest, or deny the application if it finds any of the following:

(a) The acquisition under any federal or state law would substantially lessen competition or would in any manner be in restraint of trade or would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the state, unless it also finds that the anticompetitive effects of the proposed acquisition clearly are outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community which the association serves.

(b) The financial condition of any acquiring person might jeopardize the financial stability of the association or the savings and loan holding company sought to be acquired or might prejudice the interest of the savings account holders, borrowers, or stockholders of the association or is not in the public interest.

(c) The plan or proposal under which the acquiring person intends to liquidate the savings association or the savings and loan holding company, to sell its assets or to merge it with any person or association, or to make any other major change in its business or corporate structure or management, is not fair and reasonable to the association, its savings account holders, borrowers, or stockholders, or would tend to impair the integrity of the state's savings and loan system, or is not in the public interest.

(d) The competence, experience, integrity, or resources of any acquiring person does not indicate that approval would be in the interest of the association, its savings account holders, borrowers, or resident stockholders or of the community which the association serves.

(e) The requirements of this section have not been met.

(4) TENDER OFFER DISCLOSURES AND PROTECTION TO STOCKHOLDERS.—No tender offer shall be effective until the acquiring person shall have complied with the requirements of this subsection. After a tender offer becomes effective, it shall remain open for acceptance for a period not less than 21 days. Twenty-one days prior to the effective date of any such offer the offering person shall file with the department a disclosure report and deliver a copy of such report to the association or savings and loan holding company the stock of which is sought to be acquired. Such report shall be submitted on a form prescribed by the department and make the following disclosures:

(a) The identity of, and material information concerning the acquiring person, his business activities during the past 5 years, and a description of any legal or administrative proceedings in which that person is or has been a party.

(b) The source, kind and amount of consideration used or to be used in making the acquisition.

(c) Copies of the proposed tender offer including the material terms and conditions thereof in the form proposed to be published, or sent or delivered to stockholders of the association or savings and loan holding company.

(d) Information as to any contracts, arrangements, understandings or negotiations with any person with respect to any voting stock of such association or savings and loan holding company and information as to any contracts, arrangements or negotiations with any person who is an officer, director, executive employee, or record or beneficial owner of voting stock of such association or savings and loan holding company.

(e) At the time any stockholder of such association or savings and loan holding company tenders his voting stock for acceptance of the takeover or other tender offer, the acquiring person shall furnish to such stockholder a disclosure statement in at least 10-point type on a form to be prescribed by the department informing such stockholder of his right to:

1. Rescind his acceptance of the offer for a period of 30 days from the time the disclosure statement is given to him. This disclosure shall be in boldface type and shall appear at the head of the disclosure statement separate and apart from the other disclosures required by this paragraph.

2. Register a complaint with the department and file a civil damage suit under the federal securities laws if the stockholder believes he has been misled, or that the acquiring person has omitted material information the absence of which has made the disclosed information misleading.

3. Obtain a copy of the disclosure report required under paragraph (d), and in the case of a takeover offer, of the application to become a savings and loan holding company required under subsection (2). Such disclosure statement also shall contain the high and low bid price for the voting stock of such association over the preceding 5 years and the price earnings ratio represented by those prices, the net profits of such association for at least each annual period over the last 5 years, the price earnings ratio that the tender offer price bears to the earnings, a projected earnings forecast for such association or savings and loan holding company for the next fiscal year, the amount each stockholder would receive if such association or savings and loan holding company were liquidated at the time of the takeover or other tender offer, the current dividend and the dividends for each of the last 5 years and any other information which the department feels will enable the offeree to make an informed decision as to whether he should accept the takeover offer or tender offer.

(5) REGISTRATION.—Within 60 days after becoming a savings and loan holding company, or the effective date of this chapter, whichever is later, or such later date if extended by the department in its discretion, each savings and loan holding company shall register with the department on forms prescribed by it, which shall require information with respect to the financial condition, ownership, operations, management and interpersonal relationships of the savings and loan holding company and its subsidiaries, and related matters as the department may deem necessary or appropriate. Accompanying the registration, each savings and loan holding company shall file with the department an irrevocable appointment of the department as an agent for service of process upon such registrant, and shall pay a registration fee, and thereafter annually, of $500 if the registrant's association or federal savings and loan association subsidiaries have total assets of up to $100,000,000, or $1,000 if such subsidiaries have total assets in excess of $100,000,000.

(6) ISSUANCE OF REGISTRATION CERTIFICATES.—When a savings and loan holding company has satisfied the requirements of this section, the department shall issue each such holding company a certificate of registration, and shall send a copy to each association or federal savings and loan association subsidiary in this state with respect to which such holding company has registered. No such subsidiary in this state or any savings and loan holding company which does not have in effect a certificate of registration as required by this subsection or which holding company has failed to comply with an order of a court made in respect to the provisions of this section, shall knowingly, without consent of the department:

(a) Transfer or register stock or other securities on its books for or issue certificates to such holding company.

(b) Pay dividends with respect to stock of which such holding company is the record or beneficial owner.

(c) Make any other payments of any nature to such holding company.

(d) Enter into any agreement, contract or transaction with such holding company.

(7) REPORTS, EXAMINATIONS, PENALTIES.—The department from time to time may require reports from any savings and loan holding company and its subsidiaries in such form and as to such matters as it may deem necessary or appropriate, and which are relevant to the jurisdiction and responsibilities of the department under this chapter. Any such savings and loan holding company and its subsidiaries shall file reports and be subject to such examination as required by the department pursuant to this section and in the manner provided for associations in this chapter. The cost of any examination shall be assessed against each savings and loan holding company examined and such amount shall be paid to the department. The department shall have the enforcement powers with respect to savings and loan holding companies and their subsidiaries that it has with respect to associations, and any person which willfully violates any provision of the section, or any rule or order thereunder issued by the department, shall pay as a penalty a sum not to exceed $1,000 for each day during which the violation continues. The foregoing shall be in addition to any other applicable penalties or remedies.

PART IV

CORPORATE ADMINISTRATION

Section 18. Section 665.091, Florida Statutes, is renumbered as section 665.040, Florida Statutes, and amended to read:

665.040 ~~665.091~~ Meetings of members *or stockholders.*—

(1) ANNUAL AND SPECIAL MEETINGS.—The annual meeting of the members *or stockholders* of each association shall be held during the first 4 months of the fiscal year, as fixed in the bylaws of such association. Special meetings may be called as provided in the bylaws.

(2) MEMBERS *OR STOCKHOLDERS* ENTITLED TO VOTE.—*Those* ~~The members~~ who shall be entitled to vote at any meeting ~~of the members~~ shall be*:*

(a) In the case of a mutual association, those who are members of record at the end of the calendar month next preceding the date of the meeting, except those who have ceased to be members. The number of votes which members shall be entitled to cast shall be in accordance with the books on the said date determinative of entitlement to vote.

(b) In the case of a capital stock association, the directors may, unless prohibited by the articles of incorporation or the bylaws, fix a date not more than 60 days and not less than 10 days prior to the date set for such meetings as the record date as of which the stockholders of record who have the right to and are entitled to notice of and to vote at such meeting and any adjournment thereof shall be determined.

(3) VOTING RIGHTS.—

(a) Mutual association.—In the determination of all questions requiring action by the members, each member shall be entitled to cast one vote for each $100 of the withdrawal value of savings accounts, if any, held by such member. No member however, shall cast more than *400* ~~50~~ votes.

(b) Capital stock association.—Unless otherwise provided in the articles of incorporation, every such stockholder shall be entitled at such meeting, and upon each proposal presented at such meeting, to one vote for each share of voting stock recorded in his name on the books of the association on the record date fixed as above provided or, if no such record date was fixed, on the day of the meeting. The books of record of stockholders shall be produced at any stockholders' meeting upon the request of any stockholder.

(4) VOTING BY PROXY.—At any meeting of the members *or stockholders, or any adjournment thereof,* voting may be in person or by proxy~~,~~ *as* provided *in the bylaws.* ~~that no proxy shall be eligible to be voted at any meeting unless such proxy shall have been filed with the secretary of the association, for verification, at least 5 days prior to the date of such meeting.~~ Every proxy shall be in writing and signed by the member *or stockholder* or his duly authorized attorney-in-fact and, when filed with the secretary, shall, unless otherwise specified in the proxy, continue in force from year to year until revoked by a writing duly delivered to the secretary or until superseded by subsequent proxies. *In the event that any such instrument shall designate two or more persons to act as proxies, a majority of such persons present at the meeting or, if only one be present, that one, shall have all of the powers conferred by the instrument upon all the persons so designated unless the instrument shall otherwise provide.*

(5) QUORUM.—At an annual meeting or at any special meeting of the members *or stockholders, any number of* ~~25~~ members, *or the stockholders entitled to vote a majority of the stock,* present in person or by proxy eligible to be voted, constitutes a quorum. A majority of all votes cast at any meeting of members *or stockholders* shall determine any question unless this chapter specifically provides otherwise.

Section 19. Section 665.111, Florida Statutes, is renumbered as section 665.0415, Florida Statutes, and amended to read:

665.0415 ~~665.111~~ Access to books and records; communication with members *or stockholders.*—

(1) EXCLUSIVENESS OF ACCESS.—Every member *or stockholder* shall have the right to inspect *such* ~~the~~ books and records of an association *as* ~~which~~ pertain to his loan, ~~or~~ savings account, *or the determination of his voting rights.* Otherwise, the right of inspection and examination of the books and records shall be limited:

(a) To the department or its duly authorized representatives;

(b) To persons duly authorized to act for the association; and

(c) To any federal or state instrumentality or agency authorized to inspect or examine the books and records of an insured association. The books and records pertaining to the accounts, ~~and~~ loans *and voting rights* of members *and stockholders* shall be kept confidential by the association, its directors, officers and employees~~,~~ *except upon express authorization of the account holder as to his own accounts and loans.* ~~and by the department, its examiners and representatives, except where the disclosure thereof shall be compelled by a court of competent jurisdiction or by legislative subpoena as provided by law. All such books and records which have been produced or furnished to any legislative body or committee pursuant to legislative subpoena, as described herein, shall be kept confidential by the legislative body or committee and shall not be made public. The confidential status of such books and records and information obtained therefrom shall exist while the books and records are in the possession of the legislative body or committee and shall continue after the legislative body or committee has returned the books and records to the association from whence they came. No member of the legislature, member of the legislative body or committee, or other person shall make public or disclose any of the information found in the books and records which are subpoenaed, except in cases involving investigation of charges against any officer subject to impeachment.~~ No member, *stockholder* or any other person shall have access to the books and records or be furnished or possessed of a partial or complete list of the members *or stockholders* except upon express action and authority of the board of directors. Any violation of the provisions of this section relating to an unlawful disclosure of confidential information is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) COMMUNICATION WITH MEMBERS *OR STOCKHOLDERS.*—In the event, however, that any member, ~~or~~ members, *stockholder or stockholders* desire to communicate with ~~the~~ other members *or stockholders* of the association with reference to any question pending or to be presented for consideration at a meeting of the members *or stockholders,* the association shall furnish upon request a statement of the approximate number of members *or stockholders* of the association at the time of such request, and an estimate of the cost of forwarding such communication. The requesting member, ~~or~~ members, *stockholder or stockholders* shall then submit the communication, together with a sworn statement that the proposed communication is not for any reason other than the business welfare of the association, to the department, which, if it finds it to be appropriate, ~~truthful, and in the best interest of the association and its members,~~ shall forward the communication to the association, together with its order directing that the communication be prepared and mailed by the association to the members *or stockholders* upon the ~~requesting member's or members'~~ payment to it *by those making the request* of the expenses of such preparation and mailing. If the department finds such proposed communication to be inappropriate, ~~untruthful, or contrary to the best interests of the association and its members,~~ it shall have the discretion to make any disposition of the request to communicate which it deems proper, and it shall execute its order making disposition of the request.

(3) APPLICABILITY OF SECTION TO FEDERAL ASSOCIATIONS.—Insofar as the provisions of this section are not inconsistent with federal law, such provisions shall apply to federal associations whose home offices are located in this state, and to the members thereof, except that the communication and statement provided for in subsection (2) shall be tendered to the Federal Home Loan Bank Board, Washington, D.C., in the case of a federal association and forwarded only upon the board's certificate and direction.

Section 20. Section 665.141, Florida Statutes, is renumbered as section 665.044, Florida Statutes, and amended to read:

665.044 ~~665.141~~ Indemnity bonds.—All directors, officers, and employees of an association shall, before entering upon the

performance of any of their duties, execute their individual bonds with adequate corporate surety payable to the association as an indemnity for any loss the association may sustain of money or other property by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, holdup, wrongful or unlawful abstraction, misapplication, misplacement, destruction or misappropriation, or any other dishonest or criminal act or omission by any such director, officer, employee, or agent. Associations which employ collection agents, who for any reason are not covered by a bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collection of such agent. Such agents shall be required to make settlement with the association at least monthly. No bond coverage will be required of any agent which is *an insured* ~~a~~ financial *depository* institution ~~insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation~~. The amounts and form of such bonds and sufficiency of the surety thereon shall be approved by the board of directors ~~and by the department~~. In lieu of individual bonds, a blanket bond, ~~in an amount and form approved by the department~~ protecting the association from loss through any such act or acts on the part of any such director, officer, or employee, may be obtained. A true copy of every such indemnity bond shall be filed at all times with the department. Such bonds shall provide that a cancellation thereof either by the surety or by the insured shall not become effective unless and until 10 days' notice in writing first shall have been given to the department, unless it shall have approved such cancellation earlier. *The amount of any such bond shall provide for sufficient surety.*

Section 21. Section 665.151, Florida Statutes, is renumbered as section 665.045, Florida Statutes, and amended to read:

665.045 ~~665.151~~ Transactions of officers and directors.—

(1) CONFLICT OF INTEREST.—Directors and officers occupy a fiduciary relationship to the association of which they are directors or officers, and no director or officer shall engage or participate, directly or indirectly, in any business or transaction conducted on behalf of or involving the association, which would result in a conflict of his own personal interests with those of the association which he serves, unless:

(a) Such business or transactions are conducted in good faith and are honest, fair and reasonable to the association;

(b) A full disclosure of such business or transaction and the nature of the director's or officer's interest is made to the board of directors;

(c) Such business or transactions are approved in good faith by the board of directors, any interested director abstaining, and such approval is recorded in the minutes;

(d) Any profits inuring to the officer or director are not at the expense of the association and do not prejudice the best interests of the association in any way; and such business or transactions do not represent a breach of the officer's or director's fiduciary duty and are not fraudulent, illegal or ultra vires.

(2) DISCLOSURE OF PERSONAL INTEREST.—Without limitation by any of the specific provisions of this section, the department may require the disclosure by directors, officers, and employees of their personal interest, directly or indirectly, in any business or transactions on behalf of or involving the association and of their control of or active participation in enterprises having activities related to the business of the association.

(3) SPECIFIED RESTRICTIONS.—The following restrictions governing the conduct of directors and officers expressly are specified, but such specification is not to be construed in any manner as excusing such persons from the observance of any other aspect of the general fiduciary duty owed by them to the association which they serve:

(a) Dual status.—No officer ~~or director~~ of an association shall hold office or status as *an* ~~a director or~~ officer of another *association* ~~thrift institution~~ the principal office of which is located in the association's primary lending area.

(b) Remuneration.—No director shall receive remuneration as director except reasonable fees for service as a director or for service as a member of a committee of directors, except that nothing herein contained shall be deemed to prohibit or in any way to limit any right of a director who is also an officer or employee of or attorney for the association to receive compensation for service as an officer, employee or attorney.

(c) Loans.—No director or officer shall have any interest, directly or indirectly, in the proceeds of a loan or investment or of a purchase or sale made by the association, unless such loan, investment, purchase or sale is authorized expressly by resolution of the board of directors, and unless such resolution is approved by vote of at least two-thirds of the directors authorized of the association, any interested director taking no part in such vote.

(d) Savings.—No director or officer shall have any interest, direct or indirectly, in the purchase at less than its face value of any evidence of a savings account, deposit or other indebtedness issued by the association.

(e) Coercion.—No director, association, or officer thereof shall require, as a condition to the granting of any loan or the extension of any other service by the association, that the borrower or any other person undertake a contract of insurance or any other agreement, or understanding with respect to the furnishing of any other goods or services, with any specific company, agency or individual.

(f) Voting rights; office.—No officer or director acting as proxy for a member of an association shall exercise, transfer, or delegate such vote or votes in any consideration of a private benefit or advantage, direct or indirect. The voting rights of members and directors shall not be the subject of sale, barter, exchange or similar transaction, either directly or indirectly. Any officer or director who violates the provisions of this section shall be held accountable to the association for any increment.

(g) Inducements.—No director or officer shall solicit, accept or agree to accept, directly or indirectly, from any person other than the association any gratuity, compensation or other personal benefit for any action taken by the association or for endeavoring to procure any such action.

(4) PENALTY.—Any violation of the provisions of this section shall be punishable as a misdemeanor.

Section 22. Section 665.171, Florida Statutes, is renumbered as section 665.046, Florida Statutes, and amended to read:

665.046 ~~665.171~~ Indemnification of officers, directors, and employees.—Any person shall be indemnified or reimbursed by the association for reasonable expenses, including but not limited to attorney fees, actually incurred by him in connection with any action, suit or proceedings, instituted or threatened, judicial or administrative, civil or criminal, to which he is made a party by reason of his being or having been a director, officer or employee of an association; provided, however, that no person shall be so indemnified or reimbursed, nor shall he retain any advancement or allowance for indemnification which may have been made by the association in advance of final disposition, in relation to such action, suit or proceedings in which and to the extent that he finally shall be adjudicated to have been guilty of a breach of good faith, to have been negligent in the performance of his duties or to have committed an action or failed to perform a duty for which there is a common law or a statutory liability; and provided further, that a person may, with the approval of the *board of directors* ~~department~~, be so indemnified or reimbursed for amounts paid in compromise or settlement of any action, suit or proceeding, including reasonable expenses incurred in connection therewith, or reasonable expenses including fines and penalties incurred in connection with a criminal or civil action, suit or proceeding in which such person has been adjudicated guilty, negligent or liable if it shall be determined by the board of directors and by the *court adjudicating such guilt, negligence or liability* ~~department~~ that such person was acting in good faith and in what he believed to be the best interests of the association and without knowledge that the action was illegal, and if such indemnification or reimbursement is approved at an annual or special meeting of the members *or stockholders* by a majority of the votes eligible to be cast. Amounts paid to the association, whether pursuant to judgment or settlement by any person within the meaning of this section shall not be indemnified or reimbursed in any case.

Section 23. Section 665.047, Florida Statutes, is created to read:

665.047 Application of general corporation act.—When not in direct conflict with or superseded by specific provisions of this chapter, the provisions of the Florida General Corporation Act, chapter 607, shall extend to associations organized or operated under this chapter.

Section 24. Section 665.191, Florida Statutes, is renumbered as section 665.048, Florida Statutes, and amended to read:

665.048 ~~665.191~~ Records.—

(1) RECORDS ~~AT HOME OFFICE~~.—Every association shall keep at the home *or corporate* office correct and complete books of *accounts,* ~~account~~ *membership or stockholder records,* and minutes of the proceedings of members, *stockholders,* directors, and the executive committee. Complete records of all business transacted at the home *or corporate* office shall be maintained at the home *or corporate* office. Control records of all business transacted at each branch office ~~or agency~~ shall be *accessible to* ~~maintained at~~ the home *or corporate* office. *Such accessiblity shall be by physical retention of records or direct access by electronic or other means.*

(2) RECORDS AT BRANCH OFFICE.—Each branch office shall keep detailed records of all transactions ~~at such branch office~~ and shall furnish full control records to the home office. *Such transactions may be furnished by electronic or other means.*

(3) ~~FORMS AND~~ ACCOUNTING *PRACTICES;* ~~APPROVAL~~.—Every association shall ~~use such forms and~~ observe ~~such~~ *generally accepted* accounting principles and practices ~~as the department may require from time to time~~.

(4) CLOSING OF BOOKS.—Every association shall close its books at the end of its fiscal year *and such other times as desired* ~~or calendar year;~~ or *as* ~~more often if authorized or~~ required by the department.

(5) INACCURATE DESIGNATION OF ASSETS.—No association by any system of accounting or any device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of any other person, partnership, association or corporation or under any title or designation that is not truly descriptive of such assets.

(6) OVERVALUED ASSETS; SPECIAL RESERVES.—The department, after a determination of value made in accordance with s. *665.0815* ~~665.451(6)~~, may order that assets, individually or in the aggregate, to the extent that such assets are overvalued on an association's books, be charged off, or that a special reserve or reserves equal to such overvaluation be set up by transfers from undivided profits or reserves.

~~(7) BONDS AND OTHER OBLIGATIONS. The bonds or other interest bearing obligations purchased by an association shall not be carried on its books at more than the cost thereof.~~

~~(8) REAL ESTATE INVESTMENTS. An association shall not carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs, and improvements but excluding accrued but uncollected interest.~~

(7)~~(9)~~ APPRAISAL OF *CERTAIN* REAL ESTATE.—Every association shall have appraised each parcel of real estate at the time of acquisition thereof *if acquired in foreclosure or deed in lieu of foreclosure.* The report of each such appraisal shall be submitted in writing to the board of directors and shall be kept in the records of the association. In addition to its powers under s. *665.0815* ~~665.451(6)~~, the department may require the appraisal of real estate securing loans which are delinquent more than four months.

(8)~~(10)~~ MAINTENANCE OF LOAN AND INVESTMENT RECORDS.—Every association shall maintain complete loan and investment records, and shall do so in a manner satisfactory to the department. Detailed records necessary to make determinations of compliance by an association with the requirements of ~~ss. 665.351 665.391 and other~~ *the* provisions of this chapter shall be maintained consistently and at all times, the record of each real estate loan or other ~~secured~~ loan or investment containing documentation to the satisfaction of the department of the type, adequacy and complexion of the security.

(9)~~(11)~~ MAINTENANCE OF MEMBERSHIP RECORDS.—Every *mutual* association shall maintain membership records, which shall show the name and address of the member, the status of the member as a savings account holder, or an obligor, or a savings account holder and obligor, and the date of membership thereof. In the case of members holding a savings account the association shall obtain a savings account contract containing the signatures of each holder of such account or his duly authorized representative, and shall preserve such contract in the records of the association.

(10) MAINTENANCE OF STOCKHOLDER RECORDS.—Every capital stock association shall maintain a register of investors and stock transfers which shall show the name and address of the stockholder, the number of shares of each type of stock and the voting status of the stockholder, and the date each share of stock was acquired. A current list of stockholders shall be made available to department representatives for their inspection and, upon the request of the department, shall be transmitted to the department, but the department shall not disclose or make public said list or any part thereof.

(11) FORMS AND RECORDS.—Every association shall use such forms and keep such records, including, without limitation, those of its members or stockholders, as the department may from time to time require.

(12) REAL ESTATE RECORDS.—Every association shall keep a record of the status of taxes, assessments, insurance premiums, ground rents, and other charges on all real estate securing its loans and on all real and other property owned by it.

(13)~~(12)~~ REPRODUCTION AND DESTRUCTION OF RECORDS.—Any association may cause any or all records kept by such association to be copied or reproduced by a photostatic, photographic or microfilming process which correctly and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material, and such association may thereafter dispose of the original record. Any such copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such copy or reproduction reproduced from a film record shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

Section 25. Sections 665.55, 665.57, 665.58, 665.59, 665.60, 665.61, 665.62, 665.63, and 665.64, Florida Statutes, are combined and renumbered as section 665.049, Florida Statutes, and amended to read:

665.049 Safe-deposit facilities.—

(1) DEFINITIONS ~~665.55 Definitions for ss. 665.56-665.64.~~ *—For the purposes of this section, the following words and phrases shall have the following meanings* ~~As used in ss. 665.56-665.64~~:

(a)~~(1)~~ "Lessee" means a person contracting with a lessor for the use of a safe-deposit box.

(b)~~(2)~~ "Lessor" means *an* ~~a building and loan~~ association ~~or savings and loan association~~ renting safe-deposit facilities.

(c)~~(3)~~ "Safe-deposit box" means a safe-deposit box, vault, or other safe-deposit receptacle maintained by a lessor, and the rules relating thereto apply to property or documents kept in the ~~building and loan~~ association's ~~or savings and loan association's~~ vault.

(2)~~665.57~~ ACCESS BY FIDUCIARIES.—When a safe-deposit box is made available by a lessor to one or more persons acting as fiduciaries, the lessor may, except as otherwise expressly provided in the lease or the writings pursuant to which such fiduciaries are acting, allow access thereto as follows:

(a)~~(1)~~ By any one or more of the persons acting as *personal* ~~representatives executors or administrators~~.

(b)~~(2)~~ By any one or more of the persons otherwise acting as fiduciaries, when authorized in writing signed by all other persons so acting.

(c)~~(3)~~ By any agent authorized in writing signed by all of the persons acting as fiduciaries.

(3)~~665.58~~ EFFECT OF LESSEE'S DEATH OR INCOMPETENCE.—When a lessor without knowledge of the death or of an adjudication of legal incompetence of the lessee deals with his agent pursuant to a written power of attorney signed by such lessee, the transaction binds the lessee's estate and the lessee.

(4)~~665.59~~ SEARCH PROCEDURE ON DEATH OF LESSEE.—If satisfactory proof of the death of the lessee is presented, a lessor shall permit the person named in a court order for the purpose or, if no order has been served upon the lessor, the spouse, a parent, an adult descendant, or a person named as *a* ~~an~~ *personal representative* ~~executor~~ in a copy of a purported will produced by him to open and examine the contents of a safe-deposit box leased by a decedent, or any documents delivered by a decedent for safekeeping, in the presence of an officer of the lessor; and the lessor, if so requested by such person, must deliver:

(a)~~(1)~~ Any writing purporting to be a will of the decedent to the court having probate jurisdiction in the county wherein the ~~building and loan~~ association ~~or savings and loan association~~ is located;

(b)~~(2)~~ Any writing purporting to be a deed to a burial plot or give burial instructions to the person making the request for a search; and

(c)~~(3)~~ Any document purporting to be an insurance policy on the life of the decedent to the beneficiary named therein; but no other contents shall be removed pursuant to this *subsection* ~~section~~.

(5)~~665.60~~ LEASE TO MINOR.—*An* ~~A building and loan~~ association ~~or savings and loan association~~ may lease a safe-deposit box to, and in connection therewith deal with, a minor with the same effect as if leasing to and dealing with a person of full legal capacity.

(6)~~665.61~~ DELIVERY OF ~~safe deposit box~~ CONTENTS ~~or property held in safekeeping~~ TO PERSONAL REPRESENTATIVE.—

(a)~~(1)~~ The lessor shall immediately deliver to a resident personal representative, upon presentation of a certified copy of his letters of authority, all property deposited with it by the decedent for safekeeping, and it shall grant him access to any safe-deposit box in the decedent's name and permit him to remove from such box any part or all of the contents thereof.

(b)~~(2)~~ If a personal foreign representative of a deceased lessee has been appointed by a court of any other state, a lessor may, at its discretion, after 3 months from the issuance to such foreign personal representative of his letters of authority, deliver to such foreign personal representative all properties deposited with it for safekeeping and the contents of any safe-deposit box in the name of the decedent, if at such time the lessor has not received written notice of the appointment of a personal representative in this state, and such delivery shall be a valid discharge of the lessor for all property or contents so delivered. Such foreign personal representative shall furnish the lessor with an affidavit setting forth facts showing the domicile of the deceased lessee to be other than this state and stating that there are no unpaid creditors of the deceased lessee in this state, together with a certified copy of his letters of authority. A lessor making delivery pursuant to this subsection shall maintain in its files a receipt executed by such foreign personal representative which itemizes in detail all property so delivered.

(c)~~(3)~~ No lessor shall be liable for damages or penalty by reason of any delivery made pursuant to this *subsection* ~~section~~.

(7)~~665.62~~ ACCESS TO SAFE-DEPOSIT BOXES LEASED IN TWO OR MORE NAMES.—

(a)~~(1)~~ When specifically provided in the lease ~~or rental agreement~~ covering safe-deposit boxes heretofore or hereafter ~~rented or~~ leased in the names of two or more lessees that access to said safe-deposit box shall be granted to either lessee, or to either or the survivor, access to said safe-deposit box shall be granted to:

1.~~(a)~~ Either or any of said lessees, regardless of whether or not the other lessee or lessees or any of them is living or is competent, or

2.~~(b)~~ The *personal representative* ~~executor or administrator~~ of the estate of either or any of said lessees who is deceased or the guardian of the property of either or any of said lessees who is incompetent, and in either such case, the provisions of *subsection (2)* ~~s.~~ ~~665.57~~ shall apply, and the signature on the safe-deposit entry or access record (or the receipt of acquittance, in the case of property or documents otherwise held for safekeeping) shall be a valid and sufficient release and discharge to the lessor for granting access to such safe-deposit box *and removal of its contents* or for the delivery of such property or documents otherwise held for safekeeping.

(b)~~(2)~~ No lessor shall be held liable for damages or penalty by reason of any access granted or delivery made pursuant to this *subsection* ~~section~~.

(8)~~665.63~~ ADVERSE CLAIMS TO CONTENTS ~~of safe deposit box~~.—

(a)~~(1)~~ An adverse claim to the contents of a safe-deposit box or to property held in safekeeping is not sufficient to require the lessor to deny access to its lessee unless:

1.~~(a)~~ The lessor is directed to do so by a court order issued in an action in which the lessee is served with process and named as a party by a name which identifies him with the name in which the safe-deposit box is leased or the property held; or

2.~~(b)~~ The safe-deposit box is leased or the property is held in the name of a lessee with the addition of words indicating that the contents or property are held in a fiduciary capacity, and the adverse claim is supported by a written statement of facts disclosing that it is made by or on behalf of a beneficiary and that there is reason to know that the fiduciary will misappropriate the trust property.

(b)~~(2)~~ A claim is an adverse claim when:

1.~~(a)~~ One of several lessees claims, contrary to the terms of the lease, an exclusive right of access;

2.~~(b)~~ One or more persons claim a right of access as agents or officers of a lessee to the exclusion of others as agents or officers; or

3.~~(c)~~ It is claimed that a lessee is the same person as one using another name.

(9)~~665.64~~ SPECIAL REMEDIES FOR NONPAYMENT OF RENT.—

(a)~~(1)~~ If the rental due on a safe-deposit box has not been paid for 6 months, the lessor may send a notice by registered mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and a notary public who is not a director, officer, employee, or stockholder of the lessor. The contents shall be sealed in a package by a notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box, and a list of its contents. The certificate shall be included in the package, and a copy of the certificate shall be sent by registered mail to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box.

(b)~~(2)~~ If the contents of the safe-deposit box have not been claimed within 1 year of the mailing of the certificate, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within 30 days, the contents of the box will be sold at public auction at a specified time and place or, in the case of securities listed on a stock exchange, will be sold upon the exchange on or after a specified date and that unsalable items will be destroyed. The time, place, and manner of sale shall also be posted conspicuously on the premises of the lessor and advertised once in a newspaper of general circulation in the community. If the articles are not claimed, they may then be sold in accordance with the notice. The balance of the proceeds, after deducting accumulated charges, including the expenses of advertising and conducting the sale, shall be deposited to the

credit of the lessee in any account maintained by him. If no account is maintained, said balance shall be deemed a deposit account ~~with the bank or trust company operating the safe-deposit facility~~, and shall be identified on the books ~~of the bank~~ as arising from the sale of contents of a safe-deposit box.

(c)~~(3)~~ Any documents or writings of a private nature having little or no apparent value need not be offered for sale, but, unless claimed by the owner, shall be retained for the period specified for unclaimed contents, after which they may be destroyed.

PART V

POWERS

Section 26. Sections 665.214 and 665.241, Florida Statutes, are combined and renumbered as section 665.050, Florida Statutes, and amended to read:

665.050 ~~665.214~~ Powers of association generally.—Every association incorporated pursuant to or operating under the provisions of this chapter shall have all the powers enumerated, authorized, and permitted by this chapter and such other rights, privileges, and powers as may be incidental to or reasonably necessary or appropriate for the accomplishment of the *objectives* ~~objects~~ and purposes of the association. Among others, and except as otherwise limited by the provisions of this chapter, every association shall have the following powers:

(1) EXISTENCE; SEAL; BYLAWS.—To have perpetual existence; to adopt and use a corporate seal, which may be affixed by imprint, facsimile, or otherwise; and to adopt and amend bylaws as provided in this chapter.;

(2) PLAINTIFF; DEFENDANT.—To sue and be used, complain and defend in any court of law or equity.;

(3) PROPERTY TRANSFERS.—To acquire, hold, sell, dispose of and convey real and personal estate consistent with its objects and powers; to mortgage, pledge, or lease any real or personal estate; and to take property by gifts, devise, or bequests.;

(4) BORROWING.—~~If and when an association is not a member of a Federal Home Loan Bank,~~ To borrow from sources, individual or corporate, not more than an aggregate amount equal to one-*half* ~~fourth~~ of its savings liability on the date of borrowing. ~~and such additional sums as the department may approve. If and when an association is a member of a Federal Home Loan Bank, to secure advances of not more than an aggregate amount equal to one-half of its savings liability; within such amount equal to one-half of its savings liability, the association may borrow from sources individual or corporate, other than such Federal Home Loan Bank an aggregate amount not in excess of 20 percent of its savings liability. Sources of borrowing other than financial institutions or Federal Home Loan Banks shall require advance written approval of the department, acting in its sole discretion.~~ A subsequent reduction of savings liability shall not affect in any way outstanding obligations for borrowed money. All such *borrowings* ~~loans and advances~~ may be secured by property of the association, and may be evidenced by such notes, bonds, debentures, *commercial paper, bankers' acceptances,* or other obligations or securities, except capital stock *and capital certificates* ~~, as the department may authorize for all associations, provided that authorization by the department shall not be required in the case of securities guaranteed pursuant to s. 306(g) of the National Housing Act of 1934, as amended~~.

(5) CAPITAL CERTIFICATES.—To issue and sell, directly or through underwriters, capital certificates which shall represent nonwithdrawable capital contributions, and constitute part of the reserves and net worth of the association. Such certificates shall have no voting rights, shall be subordinate to all savings accounts, debt obligations and claims of creditors of the association and shall constitute a claim in liquidation against any reserves, surplus and other net worth accounts remaining after the payment in full of all savings accounts, debt obligations and claims of creditors. Such capital certificates shall be entitled to the payment of earnings prior to the allocation of any income to surplus or other net worth accounts of the association and may be issued with a fixed rate of earnings or with a prior claim to distribution of a specified percentage of any net income remaining after required allocations to reserves, or a combination thereof. Losses shall be charged against capital certificates only after reserves, surplus and other net worth accounts have been exhausted.

(6)~~(5)~~ SALE OF LOANS.—To sell with or without recourse any loan, including any participating interests therein.~~, at any time, provided that the total dollar amount of such loans sold, including such sale, within the calendar year beginning January 1 immediately preceding the date of such sale, does not exceed a sum equivalent to 25 percent of the dollar amount of all loans and participating interests in loans held by such association at the beginning of such calendar year; provided, further, that the department, upon application of the association showing good cause, may authorize the sale of a greater amount during a calendar year. Notwithstanding the limitations of this subsection, loans may be assigned for collateral purposes with recourse to any Federal Home Loan Bank of which the association is a member.~~

(7) SERVICING.—To service loans and investments for others.

(8)~~(6)~~ INSURANCE OF ACCOUNTS.—To obtain and maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation, any agency of this state or other federal agency established for the purpose of insuring savings accounts in associations, or with any other insurer approved by the department and meeting the qualifications prescribed in this subsection; provided that no association subject to the provisions of this chapter shall have the power to obtain insurance of accounts from, or represent in any way that its accounts are insured by, any insurer other than the Federal Savings and Loan Insurance Corporation, or other federal agency or a state agency as herein defined, unless the department, after application to the department for approval has been submitted by the association, shall have determined that:

(a) The contract of insurance contemplated is written upon substantially the same basis as to form, amount, coverage, maturity, voluntary and involuntary termination and other provisions as the insurance contract provided at that time by the Federal Savings and Loan Insurance Corporation, and complies with such further requirements for protection as the department in its discretion may deem reasonably necessary; and

(b) The contract is underwritten by an insurer having a net worth reasonably commensurate with the risks underwritten, but in no event less than $25 million, which is licensed in this state and authorized to do business in this state, and which is admitted and authorized by law to write such insurance in all of the states of the union, and shall have issued its certificate of approval of such application. The aforesaid requirements shall apply to all revisions or modifications of such contracts of insurance. Associations and foreign associations insured as provided in this subsection may make representations as to such insurance of savings accounts, provided that any such representations shall set forth the name of the insurer. Excepting banks, *industrial savings banks and credit unions,* no association or foreign association or any other person shall advertise or represent or accept or offer to accept any savings accounts in this state as insured or guaranteed accounts or as the savings accounts of an insured or guaranteed institution unless the same are insured as provided in this subsection, any violation of this provision shall be a separate offense for each day of such violation and shall be a misdemeanor and shall be enjoined upon the application of the Department of Legal Affairs, the Department of Banking and Finance, or other state prosecuting official, or by an association in this state. The requirements of this subsection are in the exercise of the police power of this state and are enacted to protect the people of the state from misrepresentation, misunderstanding and loss.

(9)~~(7)~~ FEDERAL HOME LOAN BANK MEMBERSHIP.—To qualify as and become a member of a Federal Home Loan Bank.~~:~~

(10)~~(8)~~ EMPLOYEES.—

(a) To appoint *and remove* officers, agents, and employees as its business shall require and to provide them suitable compensation;

(b) To provide for life, health and casualty insurance for officers and employees;

(c) To adopt and operate reasonable bonus plans and retirement benefits for such officers and employees; and

(d) To provide for indemnification of its officers, employees and directors as prescribed or permitted in this chapter whether by insurance or otherwise.~~;~~

(11)~~(9)~~ FACILITATING ORGANIZATIONS.—To become a member of, deal with, or make reasonable payments or contributions to any organization to the extent that such organization assists in furthering or facilitating the association's purposes, powers or community responsibilities, and to comply with any reasonable condition of eligibility.~~;~~

(12)~~(10)~~ FISCAL AGENT.~~—If and when an association is a member of a Federal Home Loan Bank,~~ To act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, to perform, under such regulations as he may prescribe, all such reasonable duties as fiscal agent of the United States as he may require; and to act as agent for any instrumentality of the United States and as agent of this state or any instrumentality thereof~~;~~

(13) TAX AND LOAN ACCOUNTS.—To act as depository for receipt of payments of federal or state taxes and loan funds, and satisfy any federal or state statutory or regulatory requirements in connection therewith, including pledging of assets as collateral, payment of earnings at prescribed rates and, notwithstanding any other provision of this chapter, issuing such accounts subject to the right of immediate withdrawal.

~~(11) SERVICING.—To service loans and investments for others, provided that the maximum principal amount of loans and investments serviced for others at any one time shall not exceed 75 percent of the amount of the savings liability of such association;~~

(14)~~(12)~~ *AGENT* ~~AGENCY~~.—To act as agent *or escrowee* for others in any transaction incidental to the operation of its business.~~;~~

(15) LIMITED TRUSTEESHIP.—To act, and receive compensation therefor, as trustee of any trust created or organized in the United States and forming a part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under Section 401 of the Internal Revenue Code of 1954, as amended, and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of such code if the funds of such trust or account are invested only in savings accounts of such association or in obligations or securities issued by such association. All funds held in fiduciary capacity by any such association under the authority of this subsection may be commingled and consolidated for appropriate purposes of investment, provided that records reflecting each separate beneficial interest are maintained by the fiduciary unless such responsibility is lawfully assumed by another appropriate party.

(16) GENERAL TRUST BUSINESS.—Upon application to an approval by the department pursuant to chapter 663, and chapter 664 to act as trustee, executor, administrator, personal representative, conservator, guardian, custodian, or in any other fiduciary capacity, and to receive reasonable compensation therefor. Such trust business shall be conducted in all respects pursuant to the provisions regarding trust operations in chapter 663 and chapter 664.

(17) REMOTE FINANCIAL SERVICE UNITS.—To own and use or participate in the use or ownership and use of remote financial service units.

(18)~~(13)~~ SAVINGS, *LOANS,* INVESTMENTS.—To acquire savings and pay earnings thereon, and to lend *and commit to lend, extend credit,* and invest its funds as provided in this chapter.

~~(14) MEMBERS OF A FEDERAL HOME LOAN BANK.—Notwithstanding and without regard to any other provisions of this chapter, if and when an association is a member of a Federal Home Loan Bank, to raise capital in the form of such savings deposits or other accounts as are authorized by regulations made by the Federal Home Loan Bank Board, and the holders of such deposits or accounts shall, to such extent as may be provided by such regulations, be members of the association and shall have such voting rights and such other rights as are thereby provided, and the association may, to such extent as said board may authorize by regulation or by other action authorized by or under Federal Statute, exercise any authority to borrow money, to give security, or to issue notes, bonds, debentures, or other obligations, or other securities, provided by or under provisions of Federal Statute as from time to time in effect.~~

(19) SAFE-DEPOSIT BOXES.—To maintain and let safes, boxes or other receptacles or premises for the safekeeping of personal property upon such terms and conditions as may be agreed upon.

(20) MONEY ORDERS, ETC.—To sell money orders, travel checks and similar instruments drawn by it on its deposit accounts or as agent for any organization empowered to sell such instruments through agents within this state.

(21) DIVIDENDS ON CAPITAL STOCK.—To declare and pay dividends on capital stock in cash or property out of the unreserved and unrestricted earned surplus of the association, or its own shares, from time to time except when the association has failed within the preceding 12 months to make any minimum allocation to surplus or reserve accounts required by s. 665.083 or to maintain any minimum required level, and except when the association is in an impaired condition or when the payment thereof would cause the association to be in an impaired condition. A split-up or division of the issued shares of capital stock into a greater number of shares without increasing the stated capital of the association is authorized, and shall not be construed to be a dividend within the meaning of this subsection.

~~665.241 Contracts for savings programs.—~~

(22)~~(1)~~ SCHOOL SAVINGS.—*To* ~~An association may~~ contract with the proper authorities of any public or nonpublic elementary or secondary school or institution of higher learning, or any public or charitable institution caring for minors, for the participation and implementation by the association in any school or institutional thrift or savings plan, and it may accept savings accounts at such a school or institution, either by its own collector or by any representatives of the school institution, which becomes the agent of the association for such purpose.

(23)~~(2)~~ PAYROLL SAVINGS.—*To* ~~An association may~~ contract with any employer with respect to the solicitation, collection and receipt of savings by payroll deduction to be credited to a designated account or accounts of his or its employee or employees who voluntarily may participate, *or with respect to the direct deposit of wages or salary paid by such employer to the account of the employee in a financial depository institution by electronic or other medium upon authorization in writing by the employee and his designation of the association or other financial depository institution as the recipient of such deposits.*

PART VI

SAVINGS OPERATIONS

Section 27. Section 665.221, Florida Statutes, is renumbered as section 665.060, Florida Statutes, and amended to read:

665.060 ~~665.221~~ Savings liability.—The savings liability of an association is not limited, but shall consist only of the aggregate amount of savings accounts of its *account holders* ~~members~~, plus earnings credited to such accounts, less redemption and withdrawal payments. Except as limited by the board of directors from time to time, *an account holder* ~~a member~~ may make additions to his savings accounts in such amounts and at such times as he may elect. Savings accounts may be opened for cash or property in which the association is authorized to invest, and, in the absence of fraud in the transaction, the value of the property taken in payment therefor as determined by the board of directors shall be conclusive. *No* ~~The~~ members of *a* ~~an~~ *mutual* association shall ~~not~~ be responsible for any losses which its savings liability shall not be sufficient to satisfy, and *no* savings accounts shall ~~not~~ be subject to assessment, nor shall the holders thereof be liable for any unpaid installments on their accounts. Earnings shall be declared in accordance with the provisions of this chapter. Except as provided in s. *665.066* ~~665.331~~, no association shall prefer one of its savings accounts over any other savings account as to the right to participate in earnings. No preference between savings account *holders* ~~members~~ shall be created with respect to the distribution of assets upon voluntary or involuntary liquidation, dissolution, or winding up of an association. No association shall issue, sell, negotiate, or advertise for issuance or sale to *account holders* ~~members~~ any type of savings or investment media other than savings

accounts or savings deposits, nor shall it contract with respect to the savings liability in a manner inconsistent with the provisions of this chapter.

Section 28. Section 665.231, Florida Statutes, is renumbered as section 665.0615, Florida Statutes, and amended to read:

665.0615 ~~665.231~~ Savings accounts.—

(1) OWNERSHIP.—Savings accounts *may be opened* or ~~savings~~ deposits *made* ~~may be opened~~ and held ~~solely and absolutely in his own right~~ by, or in trust or other fiduciary capacity for, any person, *persons,* ~~including an adult or minor individual, male, or female, single or married,~~ partnership, association, fiduciary, corporation, or political subdivision, ~~or~~ public *unit* or governmental unit. Savings accounts shall be ~~represented only by the account of each savings account or savings deposit holder on the books of the association, and such accounts or any interest therein shall be~~ transferable only on the books of the association *after* ~~and upon~~ proper written application by the transferee as *an account holder* ~~a member upon terms approved by the board of directors~~. The association may treat the holder of record of a savings account as the owner thereof for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing notice of a pledge of such savings account.

(2) SAVINGS ACCOUNT CONTRACT.—Each *account* holder ~~of a savings account~~ shall execute a savings account contract setting forth any special terms and provisions*; however,* ~~applicable to such savings account and~~ the ownership thereof and the conditions upon which withdrawals may be made *shall* not *be* inconsistent with the provisions of this chapter.

(3) EVIDENCE OF OWNERSHIP.—An account book, *separate certificate, card, device or other evidence, or means of access or identity, evidencing the ownership of the account, shall be issued to each savings account holder of record as shown by the books of the association.* ~~may be issued to each savings account holder of record as shown by the books of the association, and such account book shall, if issued, indicate the withdrawal value of the savings account. A separate certificate for a savings account may be issued in lieu of an account book, entitled "Certificate of Savings Account," and if issued shall be on the following form:~~

~~This certifies that . . . . is a member of the undersigned savings association and holds a . . . . dollar savings account therein, subject to the Savings Association Act, the certificate of incorporation, and bylaws of the association.~~

(4) DUPLICATE *EVIDENCE OF OWNERSHIP* ~~ACCOUNT BOOKS AND CERTIFICATES~~.—Upon the filing with an association by the holder of record as shown by the books of the association, or by his legal representative, of an affidavit to the effect that the *evidence of ownership of* ~~account book or certificate evidencing~~ his savings account with the association has been lost or destroyed, and that such *evidence of ownership* ~~account book or certificate~~ has not been pledged or assigned in whole or in part, such association shall issue a new *evidence of ownership* ~~account book or certificate~~ in the name of the holder of record, such evidence stating that it is issued in lieu of the one lost or destroyed, and the association shall in no way be liable thereafter on account of the original *evidence of ownership* ~~account book or certificate~~, provided that the board of directors shall, if in its judgment it is necessary, require a bond in an amount it deems sufficient to indemnify the association against any loss which might result from the issuance of such new *evidence of ownership* ~~account book or certificate~~.

(5) INDUCEMENTS.—*An* ~~No~~ association *may* ~~shall~~, directly, or indirectly, for the opening or increasing of any savings account, give, sell, dispose of, or permit the giving, selling or disposition of, for any one such opening or increase anything *of* ~~having a cost or~~ value ~~in excess of $2.50~~, except that the department ~~in its sole discretion~~ may, by rule, *determine a maximum* ~~or regulation authorize a~~ cost or value *of such item or items* ~~up to, but not in excess of, $15~~, based upon the amount of the deposit required to open or increase the savings account, and may limit the frequency of offering inducements. ~~However, the amount of the inducement shall not exceed the amount of inducements which may be offered by federally chartered associations.~~

Section 29. Section 665.262, Florida Statutes, is renumbered as section 665.062, Florida Statutes, and amended to read:

665.062 ~~665.262~~ Married *persons* ~~women~~ and minors.—Any association operating under this law and any federal savings and loan association doing business in this state may accept savings accounts from any married *person* ~~woman~~ or minor as the sole and absolute owner of such savings account, and receive payments thereon by or for such owner, and pay withdrawals, accept pledges to the association, and act in any other matter with respect to such accounts in the order of such married *person* ~~woman~~ or minor. Any payment or delivery of rights to a married *person* ~~woman~~ or to any minor, or a receipt or acquittance signed by a married *person* ~~woman~~ or by a minor who holds a savings account, shall be a valid and sufficient release and discharge of such *association* ~~institution~~ for any payment so made or delivery of rights to such married *person* ~~woman~~ or minor. In the case of a minor, the receipt, acquittance, pledge or other action required by the institution to be taken by the minor shall be binding upon such minor with like effect as if he were of full age and legal capacity. *The parent or guardian of such minor shall not in his capacity as parent or guardian have the power to attach or in any manner to transfer any savings account issued to or in the name of such minor. However, in the event of the death of such minor the receipt or acquittance of either parent or guardian of such minor shall be valid and sufficient discharge of such association for any sum or sums not exceeding in the aggregate $2,500 unless the minor shall have given written notice to the association to accept the signature of such parent or guardian.*; ~~provided, if any parent or guardian of such minor should not desire the minor to have authority to pledge, hypothecate, control, transfer or make withdrawals from his savings account, such fact may be made known to the association in writing by such parent or guardian, in which event the right of the minor to pledge, hypothecate, control, transfer and make withdrawals from the account during the minority of such minor shall not be exercised by him except with the joinder of such parent or guardian. In the event of the death of such minor, the receipt or acquittance of either parent or guardian of such minor shall be valid and sufficient discharge of such institution for any sum or sums not exceeding in the aggregate $1,000.~~

Section 30. Sections 665.271, 665.301, 665.311, and 665.272, Florida Statutes, are combined and renumbered as section 665.063, Florida Statutes, and amended to read:

665.063 Additional accounts.—

(1) ~~665.271~~ ACCOUNTS IN TWO OR MORE NAMES.—

(a) When a savings account, other than a convenience account ~~as provided in s. 665.272~~, is *held* ~~maintained~~ in any association or federal association in the names of two or more persons, whether minor or adult, in such form that the moneys in the account are payable to either or the survivor or survivors, then, in the absence of fraud or undue influence, such account and all additions thereto shall be the property of such persons as joint tenants. ~~The moneys in the account may be paid to or on the order of any one of such persons during their lifetimes or to or on the order of any one of the survivors of them after the death of any one or more of them.~~ The opening of the account in such form shall, in the absence of fraud or undue influence, be conclusive evidence in any action or proceeding to which either the association or the survivor or survivors is a party of the intention of all of the parties to the account to vest title to such account and the additions thereto in such survivor or survivors. *The association shall not be subject to any liability for fraud or undue influence if it complies with the provisions of this paragraph.*

(b) Except as provided in paragraph (c) the moneys in the account may be paid to or on the order of any one of the joint tenants during their lifetimes or to or on the order of any of the survivors of them after the death of any of them, and the name of a joint tenant may be deleted from the account on the written direction to the association of any other joint tenant.

(c) By written instructions given to the association by all *of* the *joint tenants* ~~parties to of an the~~ account, *either* the signatures of more than one of such *joint tenants* ~~persons~~ during their lifetime or ~~of~~ more than one of the survivors after the death of any ~~one~~ of them may be required on any check, receipt, or withdrawal order, *or the deletion of the name of a joint tenant from the account may be allowed only on the writ-*

ten direction of certain specified tenants. ~~in which case~~ The association shall pay the moneys in the account *or allow deletions thereto, or both, as the case may be* only in accordance with such instructions, *provided that* ~~but~~ no such instructions shall limit the right of the survivor or survivors to receive the moneys in the account.

(d) Payment of all or any of the moneys in *an* ~~such~~ account *or deletion of the name of an account holder* as provided in this *subsection* ~~section~~ shall discharge the association from liability with respect to the moneys so paid, *or names so deleted, until* ~~prior to~~ receipt by the association of a written notice from any one of *the joint tenants* ~~them~~ directing the association not to permit withdrawals *or deletions* in accordance with the terms of the account or the instructions. After receipt of such notice, an association *shall* ~~may~~ refuse, without liability, to honor any check, receipt, or withdrawal order *or deletion request* on the account pending determination of the rights of the parties. No association paying any survivor in accordance with the provisions of this section shall thereby be liable for any estate, inheritance, or succession taxes which may be due this state.

(2) ACCOUNTS OF TRUSTEES.—

(a) Any association or federal association may accept savings accounts in the name of any trustee, whether or not such account is opened for a named beneficiary or beneficiaries. Any such trustee shall have power to vote as a member in a mutual association as if the membership were held absolutely, to open and to make additions to, and to withdraw any such account in whole or in part. The withdrawal value of any such account and earnings thereon may be paid, in whole or in part, to such trustee. The payment to any such trustee or a receipt or acquittance signed by any such trustee to whom any such payment is made shall constitute a valid discharge of the association's obligations under the savings contract.

(b) Whenever a person holding an account as trustee dies and no written notice of the revocation or termination of the trust relationship shall have been given to an association and the association has no written notice of any other disposition of any beneficial estate, the withdrawal value of such account and earnings thereon may, at the option of the association, be paid, in whole or in part, to the named beneficiary or beneficiaries, if any. If there is no named beneficiary, the association may accept as trustee under the terms of this section the person or persons on the account remaining as trustee or, if there are none, any person eligible under law to serve and so designated in writing to the association by the original trustee. If there has been no such designation, the association shall proceed as authorized by court order. The payment to any such beneficiary, beneficiaries, remaining trustee or designated person, or a receipt or acquittance signed by any such beneficiary, beneficiaries, remaining trustee or designated person for any such payment shall constitute a valid discharge of the association's obligations under the savings contract. No association paying any such beneficiary, beneficiaries, remaining trustee or designated person in accordance with the provisions of this section shall thereby be liable for any estate, inheritance or succession tax which may be due this state.

(c) In all transactions with a trustee not acting for a named beneficiary or beneficiaries, the association may assume the existence of trust powers and their proper exercise by the trustee without inquiry. The association shall not be bound to inquire whether the trustee has power to act or is properly exercising the power. If the association is without actual written knowledge that the trustee is exceeding his powers or improperly exercising them, the association shall be as fully protected in dealing with the trustee as if the trustee possessed and properly exercised the powers such trustee purports to exercise. The association shall not be bound to assure the proper application of trust assets paid or delivered to the trustee.

(3) ~~665.301~~ ACCOUNTS OF *RESIDENT* INCOMPETENTS. —When a savings account is held in any association or federal association by a person who becomes incompetent and an adjudication of incompetency has been made by a court of competent jurisdiction, such an association may pay or deliver the withdrawal value of such savings account and any earnings that may have accrued thereon to the guardian *of such person's property* ~~for such person~~ upon proof of his appointment and qualification; provided that if such association has received no written notice and is not on actual notice that such savings account holder has been adjudicated incompetent, it may pay or deliver such funds to such holder in accordance with the provisions of the savings account contract, and the receipt or acquittance of such holder therefor shall be a valid and sufficient release and discharge of the association for the payment or delivery so made.

(4) ACCOUNTS OF NONRESIDENT INCOMPETENTS. —When a savings account is held in any association or federal association by a person who has been adjudicated incompetent by a court of law outside Florida, and the association has not received written notice of the appointment of a guardian of the person's property in Florida, such association may pay the withdrawal value of such savings account and any earnings thereon to the guardian of such person's property, after 60 days from the issuance to such guardian of letters of authority. Such guardian shall furnish the association with a certified copy of letters of authority and, if such letters of authority do not specifically authorize the fiduciary to collect, receive and remove personal property of the incompetent, a certified order of the proper court so authorizing. The guardian shall also furnish the association with an affidavit setting forth facts showing the domicile of the nonresident account holder and stating that to the knowledge of the guardian there are no similar letters of authority outstanding in Florida, there is no petition for letter of authority by anyone pending in Florida and there are no creditors of the account holder in Florida. Payment to such guardian after receipt of the affidavit and certified copy shall constitute a valid discharge of the association's obligations under the savings contract, and the association shall not be required to see to the application or disposition of the property. If, however, such association has received no written notice that such savings account holder has been adjudicated incompetent, it may pay or deliver such funds to such holder in accordance with the provisions of the savings account contract, and the receipt or acquittance of such holder therefor shall be a valid release and discharge of the association for the payment so made.

(5) ACCOUNTS OF DECEASED RESIDENTS.—When a savings account is held in any association by a person residing in Florida, the account, together with additions thereto and earnings thereon, may be paid to the personal representative appointed in this state, provided such personal representative has furnished the association with a certified copy of letters of authority. Upon payment or delivery to such personal representative after receipt of the certified copy, the association is released and discharged from any liability pertaining to said account and is not required to see to the application or disposition of the property. No action at law or in equity shall be maintained against the association for payment made in accordance with this subsection. No association paying any personal representative in accordance with the provisions of this section shall thereby be liable for any estate inheritance or succession tax which may be due the state.

(6) ~~665.311~~ ACCOUNTS OF DECEASED NONRESIDENTS. —When a savings account is held in any association or federal association by a person residing in another state or country, the account, together with additions thereto and earnings thereon, or any part thereof, shall be exempt from any taxation otherwise imposed by this state and may be paid to the *foreign personal representative* ~~administrator or executor~~ appointed in the state or country where the account holder resided at the time of death, provided such *foreign personal representative* ~~administrator or executor~~ has furnished the association with *a certified copy of letters of authority and, if such letters of authority do not specifically authorize the fiduciary* ~~authenticated copies of his letters and of the order or the court which issued the letters to him authorizing him~~ to collect, receive and remove ~~the~~ personal *property of the deceased* ~~estate~~, *a certified order of the proper court so authorizing. The foreign personal representative shall also furnish the association with* ~~and~~ an affidavit ~~by the administrator or executor~~ *setting forth facts showing the domicile of the nonresident account holder and stating* that to his knowledge *there are* no *similar* letters *of authority* ~~then are~~ outstanding in this state and no petition for letters *of authority* by *anyone* ~~an heir, legatee, devisee or creditor of the decedent is~~ pending on the estate in this state, and that there are no creditors of the *account holder* ~~estate~~ in this state. Upon payment or delivery to such *foreign personal* representative after receipt of the affidavit and *certified copy* ~~authenticated copies~~, the association is released and discharged to the same extent as if the payment or delivery has been made to a legally qualified resident ~~executor~~ or *personal representative* ~~administrator~~, and is not required to see to the application or disposition of the property. No action at

law or in equity shall be maintained against the association for payment made in accordance with this *subsection* ~~section~~.

(7) ~~665.272~~ CONVENIENCE ACCOUNTS.—

(a)~~(1)~~ "Convenience account" means a savings account in the name of one individual, who is the principal, in which one or more other individuals have been designated as agents with only the right to make deposits to and to withdraw funds from such account. The designation of agents, the substitution or removal of agents, or any other change in the contractual terms or provisions governing a convenience account may be made only by the principal. Except as otherwise provided in this *subsection* ~~section~~, the agency relationship created under this account shall not be affected by the subsequent death or incompetence of the principal.

(b)~~(2)~~ All rights, interests, and claims in, to, and in respect of said convenience account and the additions thereto shall be that of the principal only.

(c)~~(3)~~ Any balance standing to the credit of a convenience account shall be paid to the guardian of the property of the principal, to any person designated in a court order entered pursuant to s. 735.206, to any person designated by letter or other writing as authorized by s. 735.301, or to the personal representative of the deceased principal's estate. No such court order or letter, written notice, or proof of judicial appointment shall take priority over any withdrawal as provided in s. *665.067* ~~665.341~~, unless it is served upon and received by an officer of the ~~savings and loan~~ association at the association's office during regular business hours and at such time and in such manner as to afford the association a reasonable opportunity to act on it prior to any withdrawals authorized in s. *665.067* ~~665.341~~.

(d)~~(4)~~ Payment by *an* ~~a savings and loan~~ association pursuant to this *subsection* ~~section~~ shall be a valid and sufficient release and discharge to the association from all claims for payments so paid.

(e)~~(5)~~ Without qualifying any other right to setoff or lien, and subject to any contractual provision, if the principal is indebted to the association, the association has a right to setoff against the account.

Section 31. Section 665.251, Florida Statutes, is renumbered as section 665.064, Florida Statutes, and amended to read:

665.064 ~~665.251~~ Powers of attorney on savings accounts.—Any association or federal association may continue to recognize the authority of an attorney-in-fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of *an account holder* ~~a member~~, whether minor or adult, until it receives written notice or is on actual notice of the revocation of his authority. For the purposes of this section, written notice of the death or adjudication of incompetency of such *account holder* ~~member~~ shall constitute written notice of revocation of the authority of his attorney. No such institution shall be liable for damages, penalty or tax by reason of any payment made pursuant to this section.

Section 32. Section 665.281, Florida Statutes, is renumbered as section 665.065, Florida Statutes, and amended to read:

665.065 ~~665.281~~ Pledge to association of savings accounts in joint tenancy.—The pledge or hypothecation to any association or federal association of all or part of a savings account in joint tenacy signed by any tenant or tenants whether minor or adult, upon whose signature or signatures withdrawals may be made from the account shall, unless the terms of the savings account provide specifically to the contrary, be a valid pledge and transfer to the association of that part of the account pledged or hypothecated, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account.

Section 33. Section 665.331, Florida Statutes, is renumbered as section 665.066, Florida Statutes, and amended to read:

665.066 ~~665.331~~ Earnings.—An association may pay earnings on its savings accounts from sources available for payment of earnings at such rate and at *and for* such times as shall be determined by resolution of its board of directors. All savings account holders shall participate equally in earnings pro rata to the withdrawal value of their respective accounts, except that an association may classify its savings accounts according to the character, amount, or duration thereof, or regularity of additions thereto, and may agree in advance to pay an additional or different rate of earnings *on all savings accounts in the same account classification* ~~as authorized by the department which shall not exceed 3 percent over and above the rate of earnings paid on all savings accounts based on such classification~~, and shall regulate such earnings in such manner that each savings account in the same classification shall receive the same ratable portion of such additional earnings. Earnings shall be declared on the withdrawal value of each savings account at the beginning of the account period, plus additions thereto made during the period (less amounts previously withdrawn and noticed for withdrawal, which for earnings purposes shall be deducted from the latest previous additions thereto) computed at the declared rate for the time the funds have been invested, determined as next provided. The date of investment shall be the date of actual receipt by the association of an account or an addition to an account, except that if the board of directors shall so determine, accounts in one or more classifications or additions thereto received by the association on or before a date not later than the 20th day of the month (unless the day determined is not a business day, in which case it may be the next succeeding business day) shall receive earnings as if invested on the first day of the month in which such payments were received; if the board shall make such determination, it also shall determine that payments received subsequent to such determination date shall either receive earnings as if invested on the first day of the next succeeding month, or receive earnings from the date of actual receipt by the association. ~~Unless the department shall issue its approval in writing,~~ No earnings shall be declared or paid for an accounting period unless the allocation to the general reserve for the preceding accounting period required by s. *665.083* ~~665.301 or approved by the department thereunder~~ has been made. Notwithstanding the provisions of the second sentence of this section, the board of directors, by resolution, may determine that earnings shall not be paid on any savings account *from* which *withdrawals may be made by negotiable and transferable order or authorization or which* has a withdrawal value of a specified amount less than $50 ~~or which by written agreement is intended to be closed within a specified period less than 15 months from the date on which such savings account is opened, provided that an exception may be made and earnings paid on savings accounts opened pursuant to s. 665.231~~. The directors shall determine by resolution the method of calculating the amount of any earnings on *any* savings accounts *classification* as herein provided, and the time or times when earnings are to be declared, paid or credited.

Section 34. Section 665.341, Florida Statutes, is renumbered as section 665.067, Florida Statutes, and amended to read:

665.067 ~~665.341~~ Withdrawal.—Any savings account *holder* ~~member~~ or his authorized representative may at any time *apply* ~~present a written application~~ for withdrawal *or transfer* of all or any part of his savings accounts. *Such applications may be in the form of orders or authorizations, and in the case of a designated class or classes of accounts, such orders or authorizations may be negotiable and transferable unless prohibited by federal law. The department shall provide by rule for reasonable regulation of transaction accounts, including reserve requirements.* ~~No member shall have on file in any one association more than one application at a time.~~ Every application shall request ~~immediate~~ withdrawal of a *specified* ~~stated~~ amount in accordance with this section. Any *account holder* ~~member~~ may cancel his application at any time in whole or in part by a writing. Every association shall pay or number, date, and file in the order of actual receipt every *proper* withdrawal application. Withdrawals shall be paid in the order of actual receipt of applications, except as provided in this section. Upon receipt of a *proper* withdrawal request signed by the person or persons authorized to withdraw by the savings account contract or by operation of law, an association shall pay *the* ~~such~~ amount *specified* in the form of cash~~;~~ *or* one or more checks or similar instruments payable to the order of such person or persons or to the order of others as directed, or transfer of credits to the account or accounts of others in the *association* ~~institution~~ as directed, but not in excess of the withdrawal value of such savings account or accounts, together with any earnings which may have been declared and may have accrued thereon for the current period. If an association so elects, it may at any time pay in full ~~each and~~ every *such* application as *received* ~~presented~~. It shall not, however, pay some

in full unless it pays every application on file in full, except by paying all applications on file on the rotation system prescribed in this section. The board of directors, however, shall have an absolute right to pay upon any application not exceeding *$500* ~~$200~~ *by* ~~to~~ any one savings account *holder* ~~member~~ in any *one* ~~1~~ month in any order. ~~No association can obligate itself to pay withdrawals on any plan other than as provided in this chapter.~~ Savings account holders *in mutual associations* who have filed written applications for withdrawal shall remain savings account members so long as their applications remain on file. ~~No earnings shall be declared upon that portion of an account which has been noticed for withdrawal, which for earnings purposes is required to be deducted from the latest previous additions to such account, so long as such application is on file.~~ The rotation system for payment of withdrawals is as follows: On the first day of each month, each application which has been on file since the first day of the preceding month and which is reached in order shall be paid *$2,500* ~~$1,000~~ on account, or in full if the amount noticed for withdrawal or the unpaid balance of such application is less than *$2,500* ~~$1,000~~. Each such application for more than *$2,500* ~~$1,000~~ so paid shall be deemed refiled as if filed on that day. Such limited payment on the first day of each month and such renumbering shall take place on the first day of each subsequent month as long as there are applications unpaid. At least one-third of the receipts of an association from its *borrowers, savers and other sources* ~~members~~ during the preceding calendar month shall be applied on the first day of each month to the payment of applications which have been on file since the first day of the preceding month. Any association may apply to withdrawals an amount larger than one-third of such receipts, but cannot obligate itself to do so. When an application to withdraw is reached for payments as above provided, a written notice shall be sent to the applicant by mail at his last address recorded on the books and unless the applicant shall apply in person or in writing for such withdrawal within 30 days from the date of such notice, no payment on account of such application shall be made and such application shall be canceled. In no event shall an association voluntarily or involuntarily delay or postpone the whole or partial payment of the value of any savings account pursuant to a written withdrawal application by a savings account *holder* ~~member~~ for a period exceeding 30 days following the receipt of such application without first securing written permission~~, in the case of an association the accounts of which are not insured by the Federal Savings and Loan Insurance Corporation,~~ from the department~~. or in the case of an association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation,~~ *and* from the *insurer* ~~said corporation~~.

Section 35. Section 665.351, Florida Statutes, is renumbered as section 665.068, Florida Statutes, and amended to read:

665.068 ~~665.351~~ Redemption.—At any time funds are on hand for the purpose, the association shall have the right to redeem by lot or otherwise, as the board of directors may determine, all or any part of any of its savings accounts on an earnings date by giving 30 days' notice by registered mail addressed to each affected account holder at his last address as recorded on the books of the association. No association shall redeem any of its savings accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file more than 30 days and have not been reached for payment. The redemption price of savings accounts redeemed shall be the full value of the account redeemed, as determined by the board of directors, but in no event shall the redemption price be less than the withdrawal value. If the aforesaid notice of redemption shall have been duly given, and if on or before the redemption date the funds necessary for such redemption shall have been set aside so as to be and continue to be available therefor, earnings upon the accounts called for redemption shall cease to accrue from and after the earnings date specified as the redemption date, and all rights with respect to such accounts shall forthwith, after such redemption date, terminate, except only any right of account holder of record to receive the redemption price without interest. All savings account *evidence of ownership* ~~books or certificates~~ evidencing former savings accounts which have been validly called for redemption must be tendered for payment within 10 years from the date of redemption designated in the redemption notice, otherwise they shall be canceled, the funds set aside for such accounts shall become the property of the *state* ~~association~~, and all claims of such former account holders against the association shall be barred forever.

Section 36. Section 665.069, Florida Statutes, is created to read:

665.069 Adverse claim to account.—Notice to any association of an adverse claim to an account on the books of the association to the credit of any person shall not be effectual to cause the association to recognize said adverse claimant unless said adverse claimant shall also either:

(1) JUDICIAL PROCESS.—Procure a restraining order, injunction or other appropriate process against said association from a court in a case therein instituted by him wherein the person to whose credit the account stands is made a party and served with process; or

(2) INDEMNIFICATION.—Execute to the association in form, amount, and with sureties acceptable to it, a bond, indemnifying the association from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim of the person to whose credit the account stands on the books of the association.

PART VII

INVESTMENT OPERATIONS

Section 37. Section 665.361, Florida Statutes, is renumbered as section 665.070, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 665.361, F. S., for present text.)

665.070 Investment powers and limitations.—An association may invest its funds subject to the following definitions, restrictions and limitations:

(1) INVESTMENTS NOT SUBJECT TO LIMITATION.—There is no limitation with respect to the total assets of the investing association on the following investments:

(a) Direct obligations of the United States government.

(b) Obligations of federal agencies which are fully guaranteed as to payment of principal and interest by the United States.

(c) Stock or obligations of any Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, or any successor thereto.

(d) Obligations issued or guaranteed by the International Bank for Reconstruction and Development.

(e) Obligations issued and guaranteed by the Inter-American Development Bank.

(f) Demand, time or savings deposits, shares, or accounts of any financial depository institution, the accounts of which are insured.

(g) Bankers' acceptances which are eligible for purchase by federal reserve banks.

(2) INVESTMENTS SUBJECT TO AN AGGREGATE LIMITATION OF 25 PERCENT OF TOTAL ASSETS OF THE INVESTING ASSOCIATION.—Up to 25 percent of the total assets of the investing association may be invested in the following:

(a) Obligations of federal agencies which are not guaranteed by the United States;

(b) General obligations and revenue obligations of any state of the United States or their political subdivisions and municipalities; or

(c) Corporate obligations of any corporation which is not an affiliate of the investing association, provided such obligations are nonconvertible and are issued by a corporation which is listed on a recognized exchange.

(3) INVESTMENTS SUBJECT TO AN AGGREGATE LIMITATION OF 5 PERCENT.—

(a) Up to 5 percent of the total assets of the investing association may be invested in stock, obligations, or other securities of service corporations.

(b) Up to 5 percent of the net worth of the investing association may be used to invest in or purchase bonds or other evidences of indebtedness of the State of Israel.

(4) INVESTMENT IN REAL ESTATE FOR THE ASSOCIATION.—The association may invest in such real property or interests therein as the board of directors deems necessary or convenient for the conduct of the business of the association, which for the purposes of this part shall be deemed to include the ownership of stock of a wholly owned subsidiary corporation having as its exclusive authority the ownership and managment of such property or interests, but the amount so invested shall not exceed the sum of the reserves and undivided profits of the association, provided that the department may authorize a greater amount to be so invested.

(5) INVESTMENT IN REAL ESTATE.—

(a) An amount not exceeding the lesser of its net worth or 5 percent of its assets may be invested in the purchase of real estate within the association's primary lending area for the purpose of:

1. Producing income;

2. Inventory and sale;

3. Improvement, including the erection of buildings thereon; or

4. Sale or rental purposes.

(b) An association may hold, sell, lease, operate, or otherwise exercise the rights of an owner of any such property.

(6) SPECIAL PROVISIONS.—None of the bonds or securities described in this section shall be eligible for investment in any amount unless current as to all payments of principal and interest and unless rated at least Baa or BAA or higher, or any comparable rating as determined by the department, by a recognized investment rating service, or otherwise supported as to investment quality and marketability by a credit rating file complied and maintained in current status by the purchasing association.

(7) INVESTMENTS SUBJECT TO DEPARTMENT APPROVAL.—An association may make such other investments as the department may approve by rule.

Section 38. Section 665.381, Florida Statutes, is renumbered as section 665.0715, Florida Statutes, and amended to read:

665.0715 ~~665.381~~ Investment in loans.—Every ~~savings~~ association shall have power to invest in *or otherwise acquire* loans and *interests in loans, secured or unsecured, of any type, amount, and for any purpose, subject only to the requirement that, as an annual average, based on monthly computations, at least 60 percent of assets other than liquid assets shall be invested in either real estate loans or interests therein on home property or primarily residential property for terms not in excess of 40 years or for such additional term as may be provided by rule. Recognizing that associations are chartered to serve the convenience and needs of the communities in which they are chartered to do business, that the convenience and needs of communities include the need for credit services as well as deposit services, and that associations have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered, at least 80 percent of the assets required to be invested in by this section shall be secured by property within this state except that loans insured or guaranteed in whole or in part by the United States shall not be subject to this restriction.* ~~other investments as follows:~~

~~(1) SAVINGS ACCOUNT LOANS. Loans secured by its savings account to the extent of the withdrawal value thereof.~~

~~(2) REAL ESTATE LOANS. Real estate loans in an amount not exceeding the value of the security, subject to the following conditions:~~

~~(a) No association shall make a real estate loan to one borrower if the sum of:~~

~~1. The amount of such loan; and~~

~~2. The total balances of all outstanding real estate loans owed to such association by such borrower~~

~~exceeds an amount equal to 10 percent of such association's savings liability or an amount equal to the sum of such association's reserves for losses and undivided profits, whichever amount is less, except that any such loan may be made if the sum of 1. and 2. does not exceed $100,000;~~

~~(b) An association may:~~

~~1. Participate with one or more financial institutions, entities having a tax exemption under s. 501(a) of the Internal Revenue Code, or approved Federal Housing Administration mortgagees, in any real estate loan of the type in which such association is authorized to invest on its own account, provided that the participating interest of such association is not subordinated or inferior to any other participating interest; and~~

~~2. Participate in such real estate loans with other than financial institutions or those entities described, provided that the participating interest of such association is superior to the participating interests of such other participants;~~

~~(c) The aggregate balances outstanding of real estate loans on real estate located outside the primary lending area of an association shall at no time exceed 20 percent of the assets of the association, except that loans insured or guaranteed in whole or in part by the United States, the president or a federal agency and loans in which an association owns or has purchased no more than 75 percent participation interest shall not be subject to this restriction; and~~

~~(d) As an annual average, based on monthly computations, at least 60 percent of assets other than liquid assets shall be invested in either direct reduction real estate loans on primarily residential property or direct reduction real estate loans on home property, only those direct reduction real estate loans on home property, which do not exceed a maximum of $75,000 and which do not exceed 90 percent of the security value will be considered in the computation. In the case of direct reduction real estate loans on primarily residential property, only loans amounting to 80 percent or less of the value of the security, including participating interest in such loans, will be considered in the computation.~~

~~(3) LOANS SECURED BY LOANS. Loans secured by the pledge of loans or investments, the assignment of which need not be recorded, of a type in which the association is authorized to invest, provided that the loans and investments so pledged shall be subject to all restrictions and requirements which would be applicable were the association to invest directly in such loans or investments.~~

~~(4) IMPROVEMENT LOANS. Property improvement loans made pursuant to the provisions of any title of the National Housing Act, and, subject to any limitation as to maximum loan amount which may be prescribed by the department for all associations, other loans, secured or unsecured, to home owners and other property owners for the maintenance, repair, alteration, modernization, landscaping, improvement, including new construction, furnishing, or equipment of their properties, at an interest rate not exceeding 18 percent simple interest per annum. Such interest shall not be precomputed.~~

~~(5) MOBILE HOME LOANS. Loans made for the purpose of mobile home financing, subject to any limitation as to maximum loan amount which may be prescribed by the department for all associations, at an interest rate not exceeding 18 percent simple interest per annum. Such interest shall not be precomputed. For the purposes of this subsection, "mobile home" shall mean a movable accommodation used or designed for use as living quarters.~~

~~(6) BUSINESS PROPERTY. Such real property or interests therein as the directors may deem necessary or convenient for the conduct of the business of the association, which for the purposes of this chapter shall be deemed to include the ownership of stock of a wholly owned subsidiary corporation having as its exclusive activity the ownership and management of such property or interests, but the amount so invested shall not exceed the sum of the reserves and undivided profits of the association, provided that the department may authorize a greater amount to be so invested.~~

~~(7) PURCHASE OF REAL ESTATE. An amount not exceeding the lesser of the sum of its reserves and undivided profits or 5 percent of its assets, in the purchase of real estate within its primary lending area for the purpose of producing income or for inventory and sale or for improvement including~~

~~the erection of buildings thereon, for sale or rental purposes, and such an association may hold, sell, lease, operate or otherwise exercise the rights of an owner of any such property. Merchantable title to all real estate acquired under this subsection shall be taken and held in the name of the association and such title immediately shall be recorded in accordance with the laws of this state.~~

Section 39. Section 665.391, Florida Statutes, is renumbered as section 665.073, Florida Statutes, and is amended to read:

665.073 ~~665.391~~ Loan plans.—Real estate loans eligible for *classification under the real estate loan requirement of s. 665.0715* ~~investment by an association under this chapter~~ may be written upon the following plan, or upon any other loan plan approved by the department:

(1) APPRAISAL.—No investment in a real estate loan shall be made until a qualified person or persons approved by the board of directors shall have made a physical inspection and submitted a signed appraisal of the value of the real estate securing such loan.

(2) PAYMENTS.—Payments on real estate loans shall be applied first to the payment of interest on the unpaid balance of the loan and the remainder on the reduction of principal; provided that if the loan is in default in any manner, payments may be applied by the association as provided in the loan contract. All real estate loans may be prepaid in part or in full, at any time. On loans to occupants of home property or to borrowers who intend to occupy home property and on any loan of less than $100,000, the association shall not charge for such privilege of anticipatory payment an amount greater than 2 percent of the amount of such anticipatory payment *except that on any real estate loan eligible for sale in the secondary market, an amount equal to the prevailing secondary market rate or any amount required to be so charged shall be allowed.* Unless otherwise agreed in writing, any prepayment of principal may, at the option of the association, be applied on the final installment of the note or other obligation until fully paid, and thereafter on the installments in the inverse order of their maturity.

(3) EVIDENCE OF LOAN.—Every *real estate* loan shall be evidenced by a note or instrument of obligation for the amount of the loan. The note or instrument shall specify the amount, *initial* rate of interest and terms of repayment including any penalty or charge for late payment, *schedules of interest rate changes,* and may contain all other terms of the loan contract.

(4) SECURITY INSTRUMENT.—Every real estate loan shall be secured by a mortgage, deed of trust or other transaction or instrument ~~constituting a first lien or claim, or the full equivalent thereof,~~ upon the real estate securing the loan, according to any lawful and recognized practice which is suited to the transaction. Any such instrument or transaction constituting a ~~first~~ lien or claim is herein termed a "mortgage." Such mortgage shall provide specifically for full protection to the association with respect to such loan and additional advances and the usual insurance risks, ground rents, taxes, assessments, other governmental levies, maintenance, and repairs. It may provide for an assignment of rents, and if such assignment is made, any such assignment shall be absolute upon the borrower's default, becoming operative upon written demand made by the association. All such mortgages shall be recorded in accordance with the law of this state.

(5) LIEN OF MORTGAGE.—Any mortgage that can be made by an association under the provisions of this chapter may be made to secure existing debts or obligations, to secure debts or obligations created simultaneously with the execution of the mortgage, or to secure future advances pursuant to s. 697.04. All such debts, obligations, and future advances shall, from and as of the time the mortgage is filed for record as provided by the law of this state, be secured by such mortgage equally with, and have the same priority over the rights of all persons who subsequent to the recording of such mortgage acquire any rights in or liens upon the mortgaged real estate as, the debts and obligations secured thereby at the time of the filing of the mortgage for record; except that the mortgagor or his successor in title is authorized to file for record, and the same shall be recorded, a notice limiting the amount of optional future advances secured by such mortgage to not less than the amount actually advanced at the time of such filing, provided a copy of such filing is also filed with the mortgagee.

(6) ADVANCES FOR TAXES, ETC.—An association may pay taxes, assessments, ground rents, insurance premiums, and other similar charges for the protection of its real estate loans. All such payments shall be added to the unpaid balance of the loan and shall be equally secured by the ~~first~~ lien on the property as provided above. An association may require life insurance to be assigned as additional collateral upon any real estate loan. In such event, the association shall obtain a first lien upon such policy and may advance premiums thereon. Such premium advances shall be added to the unpaid balance of the loan and shall be equally secured by the ~~first~~ lien on the property as provided above.

(7) PROVISIONS FOR TAXES, INSURANCE, ETC.—An association may require the borrower to pay monthly in advance, in addition to interest or interest and principal payments, the equivalent of one-twelfth of the estimated annual taxes, assessments, insurance premiums, ground rents, and other charges upon the real estate securing a loan, or any of such charges, so as to enable the association to pay such charges as they become due from the funds so received. The amount of such monthly *payments* ~~charges~~ may be increased or decreased so as to provide reasonably for the payment of the estimated annual taxes, assessments, insurance premiums, and other charges. The association at its option may hold such funds in trust and commingle them with other such funds and use the same for such purposes, or place such funds in savings accounts and withdraw and use the same for such purposes, or hold such funds in open account and commingle them with its own funds and advance like amounts for such purposes, or credit such funds as received to the mortgage account and advance a like amount for the purposes stated. If such funds are held in trust or invested in savings accounts, the amounts shall be pledged to further secure the indebtedness and, if held in open account or credited to the loan account, the amounts when advanced for the purposes stated shall be secured by the mortgage with the same priority as the original amount advanced under the mortgage. The association shall have no obligation to pay interest, earnings or other increment to the borrower upon such monthly payments, nor to invest the same for the benefit of the borrower, unless such funds have been placed in a savings account or accounts. ~~Every association shall keep a record of the status of taxes, assessments, insurance premiums, ground rents, and other charges on all real estate securing its loans and on all real and other property owned by it.~~

(8) LEGISLATIVE INTENT.—It is the intent of the Legislature to provide parity for state chartered associations operating pursuant to this chapter with federal associations with respect to acceleration clauses in real estate loan contracts. Therefore, if federal associations domiciled within this state should lose the right to include such a provision in a real estate loan contract, then associations operating under this chapter shall be prohibited from including such a provision in real estate loan contracts.

Section 40. Section 665.401, Florida Statutes, is renumbered as section 665.074, Florida Statutes, and amended to read:

665.074 ~~665.401~~ Loan expenses.—

(1) FEES AND CHARGES.—Every association may require *borrowers* ~~borrowing members~~ to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Without limiting the generality of the foregoing, such expenses may include appraisal, attorney, abstract, recording, and registration fees, title examination, title insurance, *mortgage* loan insurance, credit report, survey, drawing of papers, escrow services, loan closing costs, and taxes or charges imposed upon or in connection with the making and recording of any loan. Every association also may require *borrowers* ~~borrowing members~~ to pay the cost of all other necessary and incidental services rendered by the association or by others in connection with real estate and other loans in such reasonable amounts as may be fixed by the board of directors. Without limiting the generality of the foregoing, such costs may include the costs of services of inspectors, engineers, and architects. Such initial charges may be collected by the association from the borrower and paid to any persons, including any director, officer, or employee of the association rendering such services, or paid directly by the borrower. In lieu of such initial charges to cover such expenses and costs, an association may make a reasonable charge, part or all of which may be retained by the association which renders such service, or part or all of which may be paid to others who render such services. The fees and

charges authorized by s. *665.073* ~~665.391~~ and this section shall be in addition to interest authorized by law, and shall not be deemed to be a part of the interest collected or agreed to be paid on such loans within the meaning of any law of this state which limits the rate of interest which may be exacted in any transaction. No director, officer, or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as above provided.

(2) SETTLEMENT STATEMENT.—The association shall furnish a loan settlement statement to each borrower ~~upon the closing of the loan,~~ indicating in detail the charges and fees such borrower has paid or obligated himself to pay to the association or to any other person in connection with such loan. A copy of such statement shall be retained in the records of the association. *A loan settlement statement which satisfies the requirements of applicable federal law shall be deemed to satisfy the requirements of this subsection.*

Section 41. Section 665.411, Florida Statutes, is renumbered as section 665.075, Florida Statutes, to read:

665.075 ~~665.411~~ Dealing with successors in interest.—In the case of any investment made by an association in a real estate loan, in the event the ownership of the real estate security or any part thereof becomes vested in a person other than the party or parties originally executing the security instruments, and provided there is not an agreement in writing to the contrary, an association may, without notice to such party or parties, deal with such successor or successors in interest with reference to said mortgage and the debt thereby secured in the same manner as with such party or parties, and may forbear to sue or may extend time for payment of or otherwise modify the terms of the debt secured thereby, without discharging or in any way affecting the original liability of such party or parties thereunder or upon the debt thereby secured.

Section 42. Section 665.421, Florida Statutes, is renumbered as section 665.076, Florida Statutes, to read:

665.076 ~~665.421~~ Right to act to avoid loss.—Nothing in this chapter or the statute law of the state shall be construed as denying to an association the right to invest its funds, operate a business, manage or deal in property, or take any other action over whatever period of time may reasonably be necessary to avoid loss on a loan or investment theretofore made or an obligation created in good faith.

Section 43. Section 665.395, Florida Statutes, is renumbered as section 665.077, Florida Statutes, and amended to read:

665.077 ~~665.395~~ Collection of fines, interest or premiums on loans made by ~~building and loan~~ associations.—No fines, interest or premiums paid on *the following* loans made by any ~~building and loan~~ association shall be deemed usurious, and the same may be collected as debts of like amount are now collected by law in this state, and according to the terms and stipulations of the agreement between the association and the borrower:

(1) Loans secured by a first lien on real estate;

(2) Loans secured by savings accounts to the extent of the withdrawal value thereof; and

(3) Loans secured by the pledge of those loans described in subsections (1) and (2) and by the pledge of investments of a type which the association is authorized to invest, provided that the loans and investments so pledged shall be subject to all restrictions and requirements which would be applicable were the association to invest directly in such loans or investments.

PART VIII

ADDITIONAL SUPERVISORY POWERS

Section 44. Section 665.451, Florida Statutes, is renumbered as section 665.0815, Florida Statutes, and amended to read:

665.0815 ~~665.451~~ *Appraisals by department* ~~Reports and examinations.~~—

~~(1) ANNUAL REPORT. On or before the last day of the first month of the fiscal year, every association shall make an annual written report to the department, upon a form to be prescribed and furnished by the department, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report, for the 12 months ending on December 31 of the previous year. Every such report shall be verified by the president and treasurer.~~

~~(2) OTHER REPORTS. Every association also shall make such other reports as the department may from time to time require, which shall be in such form and filed on such date as it may prescribe and shall, if required by it, be verified in the same manner as the annual report.~~

~~(3) ANNUAL AUDIT AND EXAMINATION. The department shall, at least once each year, without previous notice, examine or cause an examination to be made into the affairs of every association subject to this chapter. If an association is not audited at least once each year in a manner satisfactory to the department, the examination of such association shall include an audit.~~

~~(4) EXAMINATIONS BY FEDERAL AGENCIES. In lieu of such examination, the department may accept any examination made by a Federal Home Loan Bank, the Federal Home Loan Bank Board, or by the Federal Savings and Loan Insurance Corporation. Two copies of any audit signed and certified by the auditor making such audit, shall be filed promptly with the department.~~

~~(5) ADDITIONAL EXAMINATIONS; REPORTS. Whenever, in the judgment of the department, the condition of any association renders it necessary or expedient to make an extra examination or audit or to devote any extraordinary attention to affairs of the association, the department shall cause the same to be done. A full and complete copy of the report of all examinations and audits shall be furnished to the association examined. Such report of examination or audit shall be presented by the president to the board of directors at its next regular or special meeting.~~

~~(6) APPRAISALS BY DEPARTMENT.~~—The department is authorized ~~in connection with any examination or audit of any association~~ to cause to be made appraisals of real estate *or other property* held by the association *or any subsidiary* or securing the association's assets when specific facts or information with respect to real estate *or other property* held, secured loans or lending, or when in its opinion the association's policies, practices, operating results and trends, give evidence that an association's appraisals *or evaluations of ability to make payments* may be excessive, that lending or investment may be of a marginal nature, that appraisal policies and *loan* practices may not conform with generally accepted and established professional standards, or that real estate *or other property* held by the association or assets secured by real estate *or other property* are overvalued. In lieu of causing such appraisals to be made, the department may accept any appraisal caused to be made by a Federal Home Loan Bank, the Federal Home Loan Bank Board, or by the Federal Savings and Loan Insurance Corporation or other insuring agency *or corporation* of an insured association. Unless otherwise ordered by the department, appraisal of real estate *or other property* ~~in connection with any examination or audit~~ pursuant to this *subsection* ~~section~~ shall be made by a professional appraiser or appraisers selected by the department, and the cost of such appraisal shall be paid promptly by such association *or subsidiary* directly to such appraiser or appraisers upon receipt by the association of a statement of such cost bearing the written approval of the department. A copy of the report of each appraisal caused to be made by the department pursuant to this subsection shall be furnished to the association *or subsidiary* within a reasonable time, not to exceed 60 days, following the completion of such appraisals, and may, in the case of an insured association, be furnished to the insuring agency *or corporation.*

~~(7) ACCESSIBILITY OF RECORDS TO DEPARTMENT; ISSUANCE OF SUMMONS, ADMINISTRATION OF OATHS, EXAMINATION OF WITNESSES. The department, or its examiners or auditors shall have free access to all books and papers of an association or a service organization the principal office of which is located in this state and which is principally owned by one or more thrift institutions, which relate to its business and books and papers kept by any officer, agent, or employee, relating to or upon which any record of its business is kept, and may summon witnesses and administer oaths or affirmations in the examination of the directors, officers, agents, or employees of any such association, service~~

~~organization or any other person in relation to its affairs, transactions, and conditions, and may require and compel the production of records, books, papers, contracts, or other documents by court order, if not voluntarily produced.~~

Section 45. Section 665.032, Florida Statutes, is renumbered as section 665.082, Florida Statutes, and amended to read:

665.082 ~~665.032~~ ~~Examination~~ Fees and assessments.—

~~(1)~~ Each state savings and loan association shall pay to the *department* ~~Department of Banking and Finance application and examination~~ fees and assessments as follows:

(1)~~(a)~~ A semiannual fee of $250; plus

(2)~~(b)~~ A semiannual assessment of 5 cents per $1,000 of total assets up to $50 million, plus 3 cents per $1,000 in excess of $50 million, computed on total assets as shown on the *balance sheet* ~~report of condition~~ of the association as of the last business day in June and December of each year. *The fee and assessment shall be due and payable within 30 days of the last business day in June and December in each year.* The department is authorized to fix a fee or assessment which is less than the maximum herein. ~~Said assessment may be based upon a per man per day cost of examination. In fixing said cost, consideration shall be given to the qualifications of each man, and the rate may vary accordingly.~~

~~(2) The fee and assessment shall be due and payable within 30 days following the date of the semiannual report of condition.~~

~~(3) Applications required to be filed with the department by this chapter shall bear the following fees:~~

~~(a) The application to organize a new association shall be accompanied by a fee of $2,000.~~

~~(b) The application to change the location of the home office or branch office shall be accompanied by a fee of $1,000.~~

~~(c) The application to establish a branch office shall be accompanied by a fee of $1,500.~~

~~(d) The application to convert from a federal association to a state association shall be accompanied by a fee which shall not exceed an amount which is the sum of $250 plus an amount to be computed at the rate of 5 cents per $1,000 of total assets up to $50 million, plus 3 cents per $1,000 of total assets in excess of $50 million. Total assets shall be determined from the report of condition of the association as of the last business day in June or December immediately preceding the date of application for conversion. The department is authorized to fix a fee which is less than the maximum authorized herein. Said fee may be based upon a per man per day cost to process the application. In determining the per man cost, consideration shall be given to the qualifications of each man, and the rate may vary accordingly. If the conversion occurs, this fee will be credited to, and reduce, the first semiannual assessment.~~

~~(4) All fees and assessments imposed by this chapter shall be paid to the state treasurer who shall deposit all of the amount collected hereunder in a special bank and trust company trust fund. The funds so deposited are to be used by the department to administer this chapter.~~

Section 46. Sections 665.201 and 665.371, Florida Statutes, are combined and renumbered as section 665.083, Florida Statutes, and amended to read:

665.083 Regulatory standards ~~665.201~~ ~~Reserve accounts.~~—

(1) GENERAL RESERVE.—Every association shall set up and maintain adequate reserves satisfactory to the department, in accordance with rules promulgated by the department, for the sole purpose of absorbing losses. Such rules shall require the building up of reserves to *no more than* ~~at least~~ 5 percent of all savings accounts within a period not exceeding 20 years and shall prohibit the payment of dividends or interest on savings accounts from such reserves. However, the department may in its discretion extend the 20-year limitation period hereinabove prescribed by not more than 20 years for any association if it determines that such action is in the interests of the savings account holders therein.

(2) GENERAL RESERVES OF CONVERTED ASSOCIATION.—In the case of conversion of a federal ~~mutual~~ association to a state ~~mutual or state stock~~ association, the 20-year period referred to in subsection (1) shall begin as of the first year that said association acquired insurance of savings accounts. However, a federal association is deemed to meet the requirements of this section if, at the time it converts to a state ~~mutual or stock~~ association, it meets the reserve requirements of the Federal Home Loan Bank Board.

(3) CAPITAL STOCK, SURPLUS AND RETAINED EARNINGS AS RESERVES.—A capital stock association may designate any portion or all of its capital, surplus or retained earnings as any insurance or other reserve required by law or by any insurer.

(4) ~~665.371~~ *LIQUIDITY* ~~Required liquidity.~~—No association shall invest in any security, other than in liquid assets, or in any loan at any time when its liquid assets are less than 5 percent of its savings liability, *or as may be provided by rule for a lesser amount* ~~unless the department shall have issued written approval~~.

PART IX

ENFORCEMENT

Section 47. Section 665.094, Florida Statutes, is created to read:

665.094 Criminal penalties.—Any person responsible for an act or omission expressly declared to be unlawful or a criminal offense under this chapter is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or, if the act or omission was intended to defraud, of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 48. Section 665.461, Florida Statutes, is renumbered as section 665.096, Florida Statutes, and is amended to read:

665.096 ~~665.461~~ ~~Enforcement and~~ Conservatorship.—

~~(1) DEPARTMENT'S ORDER TO DISCONTINUE ILLEGAL PRACTICES.—If the department, as a result of any examination or from any report made to it, shall find that any association is violating the provisions of its certificate of incorporation or bylaws, or the laws of this state or of the United States, or any lawful order or regulation of the department, it shall order discontinuance of such violation and conformance with all requirements of law. Such order shall specify the effective date thereof, which may be immediate or at a later date, and such order shall remain in effect until withdrawn by the department, or until terminated by a court order. Such order of the department, upon application made on or after the effective date thereof by the department to a court of general jurisdiction in the county in which the home office of the association is located, shall be enforced ex parte and without notice by an order to comply entered by said court. Such proceedings shall be given precedence over other cases pending in such court, and shall in every way be expedited. Any association affected by such order of the department shall, after receipt thereof, have the right to apply within 30 days to any such court for an immediate hearing and order suspending the order of the department until such time as the hearing has been completed. The hearing of such application to the court shall be upon such notice to the department as the court shall provide. Whether upon application by the department or by the association, the court shall have power to and shall adjudicate the question and enter the proper order or orders and enforce the same.~~

(1)~~(2)~~ CONSERVATOR.—If the department, as a result of any examination or from any report made to it believes that the public interest may be served by the appointment of a conservator, and if it shall find that any association:

(a) Is in an impaired condition;

(b) Is engaging in practices which threaten to result in an impaired condition; or

(c) Is in violation of *a cease and desist* ~~an~~ order ~~or injunction, as authorized by this section~~, which has become final in that time to appeal has expired without appeal or a final order entered from which there can be no appeal *and such violation threatens to result in an impaired condition,*

the department may appoint a conservator for such association, which may be the department, or its agent or any other person, and upon such appointment shall apply immediately to a court

of general jurisdiction in the county in which the home office of the association is located for confirmation of such appointment, and such court shall have exclusive jurisdiction to determine the issues and all related matters. Such proceedings shall be given precedence over other cases pending in such court and shall in every way be expedited. Such court shall confirm such appointment if it shall find that one or more such grounds exist, and a certified copy of the order of the court confirming such appointment shall be evidence thereof. The conservator shall have the power and authority provided in this chapter and such other power and authority as may be expressed in the order of the court. The conservator shall endeavor promptly to remedy the situation complained of by the department in its application for confirmation of such appointment. Within 6 months of the date of such appointment, or within 12 months if the court shall extend such 6 months' period, such association shall be returned to the board of directors thereof and thereafter shall be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as hereinafter provided. If the department, or its agent, or examiner is appointed conservator it shall receive no additional compensation, but if another person is appointed, then the compensation of the conservator, as determined by the court, shall be paid by the association. A certified copy of the order of the court discharging such conservator and returning such association to the directors thereof shall be sufficient evidence thereof.

(2) ~~(2)~~ CONSERVATOR; POWERS OF DIRECTORS, OFFICERS AND MEMBERS.—Any conservator appointed shall have all the right, powers, and privileges possessed by the officers, board of directors, and members of the association.

(3) ~~(4)~~ SPECIAL COUNSEL OR EXPERTS; SPECIAL EXPENSES.—The conservator shall not retain special counsel or other experts, incur any expense other than normal operating expenses, or liquidate assets except in the ordinary course of operations.

(4) ~~(5)~~ REMOVAL OF OFFICERS OR DIRECTORS.—The directors and officers shall remain in office and the employees shall remain in their respective positions, but the conservator may remove any director, officer, or employee, providing the order of removal of a director or officer shall be approved in writing by the department.

(5) ~~(6)~~ OPERATION OF BUSINESS CONTINUED.—While the association is in the charge of a conservator, members of such association shall continue to make payments to the association in accordance with the terms and conditions of their contracts, and the conservator, in his discretion, may permit savings account members to withdraw their accounts from the the association pursuant to the provisions of this chapter or under and subject to such rules and regulations as the department may prescribe. The conservator shall have power to accept savings accounts and additions to savings accounts, but any such amounts received by the conservator may be segregated if the department shall so order in writing. If so ordered, such amounts shall not be subject to offset and shall not be used to liquidate any indebtedness of such association existing at the time the conservator was appointed for it or any subsequent indebtedness incurred for the purposes of liquidating the indebtedness of any such association existing at the time such conservator was appointed. All expenses of the association during such conservatorship shall be paid by the association.

Section 49. Section 665.471, Florida Statutes, is renumbered as section 665.097, Florida Statutes, and is amended to read:

665.097 ~~665.471~~ Receivership.—

(1) APPOINTMENT OF RECEIVER.—If the department shall find that any association:

(a) Is in an impaired condition;

(b) Is engaging in practices which threaten to result in an impaired condition; or

(c) Is in violation of *a cease and desist* ~~an~~ order ~~or injunction, as provided in s. 665.461~~, which has become final in that the time to appeal has expired without appeal or a final order entered from which there can be no appeal *and such violation threatens to result in an impaired condition*, the department may appoint a receiver for such association, which may be the department, its agent or any other person, and upon such appointment shall apply immediately to a court of general jurisdiction in the county in which the home office of the association is located for confirmation of such appointment, and such court shall have exclusive jurisdiction to determine the issues and all related matters. Such proceedings shall be given precedence over other cases pending in such court, and shall in every way be expedited. The court shall confirm the appointment if it shall find that one or more such grounds exist. A certified copy of the order of the court confirming such appointment shall be evidence thereof. In the case of an insured association, the appointment by the department of a receiver under this section shall constitute an official determination of a public authority of this state pursuant to which a receiver is appointed for the purpose of liquidation as contemplated by and within the meaning of s. 401(d) of the National Housing Act of 1934, as amended, if, within 10 days after the date the application of the department is filed, confirmation of such appointment or denial of appointment has not been issued by the court. Such receiver shall have all the powers and authority of a conservator plus the power to liquidate, and shall have such other powers and authority as may be expressed in the order of the court. If the department, or its agent, or examiner is appointed receiver, it shall receive no additional compensation, but if another person is appointed, then the compensation of the receiver, as determined by the court, shall be paid from the assets of the association.

(2) APPOINTMENT OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AS RECEIVER OR CORECEIVER.—If the association is an institution insured by the Federal Savings and Loan Insurance Corporation, the Federal Savings and Loan Insurance Corporation shall be tendered appointment as receiver or coreceiver. If it accepts such appointment, it may, nevertheless, make loans on the security of or purchase at public or private sale any part or all of the assets of the association of which it is receiver or coreceiver, provided such loan or purchase is approved by such court.

(3) PROCEDURE.—The procedure in such receivership action shall be in all other respects in accordance with the practice in such court, including all rights of appeal and review. The directors, officers and attorneys of an association in office at the time of the initiation of any proceeding under s. *665.096* ~~665.461~~ or this section are expressly authorized to contest any such proceeding and shall be reimbursed for reasonable expenses and attorney fees by the association or from its assets. Any court having any such proceeding before it shall allow and order the payment of reasonable expenses and attorney's fees for such directors, officers and attorneys.

PART X

MISCELLANEOUS

Section 50. Section 665.501, Florida Statutes, is renumbered as section 665.100, Florida Statutes, and amended to read:

665.100 ~~665.501~~ Foreign associations.—

(1) DEFINED.—For the purposes of this section, the term "foreign association" shall include any person, firm, company, association, fiduciary, partnership or corporation, by whatever name called, actually engaged in the business of a savings association, which is not organized under the provisions of this chapter or the laws of the United States, as now or hereafter amended, the principal business office of which is located outside the territorial limits of this state.

(2) DOING BUSINESS.—No foreign association shall do any business of a savings association within this state or maintain an office in this state for the purpose of doing such business. ~~unless an application is made to the department for permission to do such business in this state which is approved by it.~~ *The origination of real estate mortgages covering real property located in this state is considered doing business as a savings association unless the state of domicile of the principal business office of any such foreign association permits associations from this state to originate real estate mortgages covering real property located in such state.*

(3) *ACTION BY DEPARTMENT* ~~UNAPPROVED FOREIGN ASSOCIATIONS~~.—The department is authorized, empowered and directed to obtain an injunction or to take any other action necessary to prevent any foreign association from doing any business of a savings association in this state ~~without its approval~~.

(4) ACTIVITIES NOT CONSIDERED "DOING BUSINESS."—For the purposes of this section and any other law

of this state prohibiting, limiting, or regulating the doing of business in this state by foreign associations or foreign corporations of any type, any federal association the principal office of which is located outside this state, and any foreign association which is subject to state or federal supervision, or both, which by law is subject to periodic examination by such supervisory authority and to a requirement of periodic audit, shall not be considered to be doing business in this state by reason of engaging in any of the following activities:

(a) The purchase, acquisition, holding, sale, assignment, transfer, collecting and enforcement of obligations or any interest therein secured by real estate mortgages or other instruments in the nature of a mortgage, covering real property located in this state, or the foreclosure of such instruments, or the acquisition of title to such property by foreclosure, or otherwise, as a result of default under such instruments, or the holding, protection, rental, maintenance and operation of said property so acquired, or the disposition thereof; provided that such associations shall not hold, own or operate said property for a period exceeding 5 years without securing the department's approval.

(b) The advertising or solicitation of savings accounts, or the making of any representations with respect thereto in this state through the media of the mail, radio, television, magazines, newspapers or any other media which are published or circulated within this state, provided that such advertising, solicitation or the making of such representations shall be accurately descriptive of the fact, and provided further, that if such advertising, solicitation or the making of such representations shall contain any reference to insurance or guaranty of accounts, such shall comply with the provisions of s. *665.050(8)* ~~665.214(6)~~.

(5) SERVICE OF PROCESS AND SUIT.—Any foreign association or federal association described in subsection (4) which engages in any of the activities described in paragraph (a) thereof pursuant to the provisions of this section shall in any connection therewith be subject to suit in the courts of this state by this state and the citizens of this state, and service on such association shall be effected by serving the secretary of state of this state, provided that the provisions of this section shall have no other application to the question of whether any foreign association or federal association is subject to service of process and suit in this state as a result of the transaction of business or other activities in this state.

Section 51. Section 665.511, Florida Statutes, is renumbered as section 665.101, Florida Statutes, and amended to read:

665.101 ~~665.511~~ Federal savings *and loan* associations.—~~Federal savings association or~~ Federal savings and loan associations, incorporated pursuant to the laws of the United States, as now or hereafter amended *and whose principal place of business is located within this state,* are not foreign corporations or foreign associations. Unless federal laws or regulations provide otherwise, *such* federal associations and the members *or stockholders* thereof shall possess all of the rights, powers, privileges, benefits, immunities and exemptions that are now provided or that hereafter may be provided by the laws of this state for associations organized under the laws of this state and for the members *or stockholders* thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to federal associations and the members *or stockholders* thereof.

Section 52. Section 665.53, Florida Statutes, is renumbered as section 665.102, Florida Statutes, and amended to read:

665.102 ~~665.53~~ Grandfather clause.—This chapter shall not impair or affect any act done, offense committed or right accruing, accrued, or required, or liability, penalty, forfeiture or punishment incurred prior to *the effective date of the chapter* ~~June 2, 1969~~, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this chapter had not been passed.

Section 53. Section 665.54, Florida Statutes, is renumbered as section 665.103, Florida Statutes, and amended to read:

665.103 ~~665.54~~ Conformity.—

(1) ALL *ASSOCIATIONS* ~~THRIFT AND HOME FINANCING ORGANIZATIONS~~ SUBJECT TO PROVISIONS OF *CHAPTER* ~~ACT~~.—All persons accepting moneys from the public and engaged in home financing, whether or not incorporated, and every corporation heretofore incorporated under the statutes of this state which has for its purpose the promotion of thrift and the financing of homes, by whatever name known, ~~as defined in s. 665.021(23),~~ shall at the time this *chapter* ~~act~~ becomes effective be subject to the provisions of the chapter and shall be deemed to exist hereunder. However, nothing contained in this chapter shall be construed to require any ~~building and loan~~ association heretofore organized under the laws of this state and existing on *the effective date of this chapter* ~~June 2, 1969~~, to become an insured association as herein defined or to change its name. *The previous sentence notwithstanding, in order to promote the safety and soundness of the association, the department may require any uninsured association to obtain satisfactory insurance of accounts.*

(2) *ASSOCIATIONS* ~~CORPORATIONS~~ HERETOFORE INCORPORATED; CONFORMANCE TO CH. 665.—The name, rights, powers, privileges, and immunities of every such *association* ~~corporation~~ heretofore incorporated in this state shall be governed, controlled, construed, extended, limited and determined by the provisions of this chapter to the same extent and effect as if such *association* ~~corporation~~ had been incorporated pursuant hereto. The articles of *incorporation* ~~association~~, certificate of incorporation, or charter, however entitled, bylaws and constitution, or other rules of every such *association* ~~corporation~~ heretofore made or existing are hereby modified, altered, and amended to conform to the provisions of the chapter, with or without the issuance or approval by the department of conformed copies of such documents, and the same are declared void to the extent that the same are inconsistent with the provisions of this chapter; except that the obligations of any such existing *association* ~~corporation~~, whether between such *association* ~~corporation~~ and its members *or stockholders,* or any of them, or any other person or persons, or any valid contract between the members *or stockholders* of any such *association* ~~corporation~~, or between such *association* ~~corporation~~ and any other person or persons, existing on *the effective date of this chapter* ~~June 2, 1969~~, shall not be in any way impaired by the provisions of this chapter, and, with such exception, every such *association* ~~corporation~~ shall possess the rights, powers, privileges, and immunities and shall be subject to the duties, liabilities, disabilities, and restrictions conferred and imposed by this chapter, notwithstanding anything to the contrary in its certificate of incorporation, bylaws, *articles,* constitution, or rules.

Section 54. Section 665.321, Florida Statutes, is renumbered as section 665.104, Florida Statutes, and amended to read:

665.104 ~~665.321~~ Savings accounts as legal investments.—

(1) LEGAL INVESTMENTS.—Administrators, executors, custodians, *personal representatives,* conservators, guardians, trustees and other fiduciaries of every kind and nature, insurance companies, business and manufacturing companies, banks, trust companies, credit unions and other types of similar financial organizations, charitable, educational, eleemosynary and public corporations, funds and organizations, and municipalities and other public corporations and bodies, and public officials hereby are specifically authorized and empowered to invest funds held by them without any order of any court, in savings accounts of savings associations which are under state supervision and in accounts of federal associations organized under the laws of the United States and under federal supervision, and such investments shall be deemed and held to be legal investments for such funds. However, the investment of public funds and the funds of municipalities and other public corporations and bodies and public officials shall be subject to the same requirements relating to the deposit and pledge of securities to secure such investments as may be provided from time to time by law or *rule* ~~regulation~~ with respect to the deposit of such funds in banks, except to the extent that said savings accounts may be insured ~~by the United States or an agency or instrumentality thereof~~.

(2) SECURITY.—Whenever, under the laws of this state or otherwise, a deposit of securities is required for any purpose, the savings accounts and accounts made legal investments by this section shall be acceptable for such deposits to the extent such savings accounts and accounts made legal by this section are insured ~~by the United States or an agency or instrumentality thereof~~, and whenever, under the laws of this state or otherwise, a bond is required with security, such bond may be furnished, and the savings accounts and accounts made legal investments by this section in the amount of such bond, when deposited therewith, shall be acceptable as security without other security.

(3) PROVISIONS SUPPLEMENTAL.—The provisions of this section are supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, fiduciaries, corporations, organizations, *funds, municipalities, bodies* and officials referred to in this section, and the laws relating to the deposit of securities and the making and filing of bonds for any purpose.

Section 55. Subsection (1) of section 18.10, Florida Statutes, is amended to read:

18.10 Deposits and investments of state money.—

(1) The Treasurer, acting with the approval of a majority of the Governor, Comptroller, and Treasurer acting as the State Board of Administration, and hereinafter referred to as "board," shall deposit the money of the state or any money in the State Treasury in such banks of the state as will offer satisfactory collateral security for such deposits, pursuant to s. 18.11. The board may invest such money in savings accounts of savings and loan associations which are under state supervision and in savings accounts of federal savings and loan associations organized and located in this state under federal law and federal supervision. However, the collateral security required for such investments shall be in accordance with the provisions of s. *665.104(1)* ~~665.321(1)~~. It is the duty of the State Treasurer to keep the board advised as to the amounts of such money available at all times, and it is the duty of the board, consistent with the cash requirements of the state, to keep such money fully invested or deposited in interest-bearing time deposits or savings accounts as provided herein in order that the state may realize maximum earnings and benefits to the economy.

Section 56. Sections 665.041, 665.101, 665.121, 665.131, 665.162, 665.181, 665.215, 665.291, 665.431, 665.442, 665.445, 665.481, 665.491, 665.56, 665.702, 665.704, 665.705, 665.707, 665.708, 665.709, 665.711, 665.712, 665.713, 665.714, and 665.717, Florida Statutes, as amended, are hereby repealed.

Section 57. Paragraph (x) of subsection (3) of section 3 of chapter 76-168, Laws of Florida, as created by chapter 77-457, Laws of Florida, is hereby repealed.

Section 58. Chapter 665, Florida Statutes, as amended by this act, shall stand repealed on July 1, 1986, and shall be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended.

Section 59. This act shall take effect January 1, 1981, provided that section 57 shall take effect June 30, 1980, except that if this act becomes a law after such date, said section shall operate retroactively to such date.

Amendment 2—On page 1, line 1, strike the entire title and insert the following:

A bill to be entitled An act relating to savings associations; substantially revising chapter 665, Florida Statutes, relating to savings associations; designating parts of the chapter; amending s. 665.011, Florida Statutes, and amending and renumbering s. 665.021, Florida Statutes, adding and revising definitions; amending and renumbering s. 665.031, Florida Statutes, changing references to "thrift institutions" to "associations"; altering procedures for the incorporation of an association and combining existing application provisions; amending and renumbering s. 665.051, Florida Statutes, deleting provisions relating to change of corporate name and forfeiture of charter for nonuse; creating s. 665.022, Florida Statutes, requiring incorporators to create an organization expense fund and restricting the use of such fund; amending and renumbering s. 665.701, Florida Statutes, changing the minimum permanent capital of an association; amending and renumbering s. 665.706, Florida Statutes, including both mutual and stock associations within general incorporation provisions; removing departmental approval of corporate bylaws; amending and renumbering s. 665.703, Florida Statutes, including both types of associations within provisions relating to directors; removing restrictions upon directors and prohibiting others from serving as directors; amending and renumbering s. 665.061, Florida Statutes, providing for conversions of federal savings associations into state associations and requiring a fee; amending and renumbering s. 665.441, Florida Statutes, designating all offices other than home offices as branches; providing standards for branch office applications; providing restrictions upon home and branch offices; amending and renumbering s. 665.073, Florida Statutes, providing for procedural rules and review standards for merger, reorganization, and consolidation; amending and renumbering s. 665.081, Florida Statutes, relating to dissolutions to conform to the act; amending and renumbering s. 665.710, Florida Statutes, providing review standards for conversion of state and federal mutual associations into stock associations; amending and renumbering s. 665.715, Florida Statutes, providing for rules with respect to acquisition of majority control over an association; amending and renumbering s. 665.716, Florida Statutes, conforming to the act provisions restricting the acquisition of control of capital stock associations; creating s. 665.036, Florida Statutes, providing for the registration of savings and loan holding companies and restricting their acquisition of associations; amending and renumbering s. 665.091, Florida Statutes, merging provisions relating to meetings of members and stockholders of associations; amending and renumbering s. 665.111, Florida Statutes, expanding the applicability of provisions relating to access to corporate records and to communications between members and stockholders; amending and renumbering s. 665.141, Florida Statutes, conforming provisions relating to indemnity bonds to the act; amending and renumbering s. 665.151, Florida Statutes, conforming to the act provisions restricting transactions of officers and directors; amending and renumbering s. 665.171, Florida Statutes, removing departmental approval in provisions relating to the indemnification of officers, directors, and employees; creating s. 665.047, Florida Statutes, providing for the applicability of general corporation laws to associations; amending and renumbering s. 665.191, Florida Statutes, removing restrictions upon recordkeeping and accounting practices; requiring certain stockholder records; providing for real estate records; amending and renumbering ss. 665.55, 665.57, 665.58, 665.59, 665.60, 665.61, 665.62, 665.63, and 665.64, Florida Statutes, merging provisions regulating safedeposit facilities; amending and renumbering ss. 665.214 and 665.241, Florida Statutes, expanding the powers of associations, including borrowing and lending powers; amending and renumbering s. 665.221, Florida Statutes, conforming provisions relating to savings liability to the act; amending and renumbering s. 665.231, Florida Statutes, removing statutory limitations upon savings inducements; amending and renumbering s. 665.262, Florida Statutes, expanding the applicability of provisions relating to married women and minors and providing for the disposition of deceased minors savings; amending and renumbering ss. 665.271, 665.301, 665.311 and 665.272, Florida Statutes, merging provisions relating to and regulating various kinds of accounts; amending and renumbering s. 665.251, Florida Statutes, conforming to the act provisions relating to power of attorney on savings accounts; renumbering s. 665.281, Florida Statutes, relating to savings accounts in joint tenancy; amending and renumbering s. 665.331, Florida Statutes, authorizing an association to refuse to pay interest on negotiable orders of withdrawal; amending and renumbering s. 665.341, Florida Statutes, authorizing negotiable and transferable orders and authorizations unless prohibited by federal law; providing for the applicability of provisions regulating withdrawals to both types of associations; amending and renumbering s. 665.351, Florida Statutes, conforming to the act provisions relating to redemptions of savings accounts; creating s. 665.069, Florida Statutes, restricting the effect upon associations of adverse claims to accounts; amending and renumbering s. 665.361, Florida Statutes, restricting securities investments by associations; amending and renumbering s. 665.381, Florida Statutes, restricting the investment of associations in loans; amending and renumbering s. 665.391, Florida Statutes, providing procedures for real estate loans; providing legislative intent with respect to acceleration clauses in real estate contracts; amending and renumbering s. 665.401, Florida Statutes, providing for the applicability of provisions relating to loan expenses to both types of associations; renumbering ss. 665.411 and 665.421, Florida Statutes, relating to provisions dealing with successors in interest and to the right of an association to act to avoid loss; amending and renumbering s. 665.395, Florida Statutes, providing for the applicability of provisions relating to the collection of fines, interest and premiums on loans; amending and renumbering s. 665.451, Florida Statutes, providing for appraisals by the department; deleting provisions relating to reports, audits, and examinations; amending and renumbering s. 665.032, Florida Statutes, conforming fee and assessment provisions to the act; amending and renumbering ss. 665.201 and 665.371, Florida Statutes, permitting stock associations to designate their capital, surplus, or retained earnings as reserves; creating s. 665.094, Florida Statutes, providing criminal penalties; amending and renumbering s. 665.461, Florida Statutes; providing for conservatorship; amending and renumbering s. 665.471, Florida Statutes; providing for receivership; amending and renumbering s. 665.501, Florida Statutes, permitting

foreign associations to lend real estate mortgages covering property in Florida pursuant to a reciprocal arrangement; amending and renumbering s. 665.511, Florida Statutes, restricting the federal savings associations which are not considered foreign associations; amending and renumbering s. 665.53, Florida Statutes, updating grandfather provisions; amending and renumbering s. 665.54, Florida Statutes, authorizing the department to require associations to insure their accounts; amending and renumbering s. 665.321, Florida Statutes, conforming to the act provisions relating to savings accounts as legal investments; repealing ss. 665.041, 665.101, 665.121, 665.131, 665.162, 665.181, 665.215, 665.291, 665.431, 665.442, 665.445, 665.481, 665.491, 665.56, 665.702, 665.704, 665.705, 665.707, 665.708, 665.709, 665.711, 665.712, 665.713, 665.714, and 665.717, Florida Statutes, as amended, removing various provisions appearing elsewhere in the act and provisions relating to capitalization minimums, membership charges, financial statements, board of directors, competitive equality, supervisory power of the department, association deposits, facilities, correction of wrongdoings, right to declaratory judgment, safe-deposit boxes, stockholder's meetings, minimum capital requirements, savings deposits, conversions to federal associations, publication of statewide record dates, hearings on conversion plans, organization of stock associations, Saturday closing, approval of operating contracts, dividend limitations, and accounts of fiduciaries; amending s. 18.10(1), Florida Statutes, to correct a cross reference; repealing s. 3(3)(x) of chapter 76-168, Laws of Florida, as created by chapter 77-457, Laws of Florida, which repeals chapter 665, Florida Statutes; providing for repeal and legislative review; providing an effective date.

The Committee on Commerce offered the following amendments which were moved by Senator W. D. Childers and adopted:

Amendment 1 to House Amendment 1—On page 18, lines 13-20, strike everything on said lines and insert: nothing

Amendment 2 to House Amendment 1—On pages 18 and 19, lines 24-31, 1-3, strike everything on said lines beginning with "In" and insert: nothing

Amendment 3 to House Amendment 1—On pages 19 and 20, lines 12-31, 1-3, strike everything on said lines and insert: nothing

Amendment 4 to House Amendment 1—On pages 42 and 43, lines 16-31, 1-21, strike everything after "department" on line 16 and remainder of said lines and insert: Each application for approval of the establishment and maintenance of a branch office shall state the proposed location thereof, the need therefor, the functions to be performed therein, the estimated volume of business thereof, the estimated annual expense thereof, and the mode of payment therefor. Each such application shall be accompanied by a budget of the association for the current earnings period and for the next succeeding semi-annual period, which reflects the estimated additional expense of the maintenance of such a branch office.

Amendment 5 to House Amendment 1—On page 132 after line 23 insert: *(4) Loans secured by a wrap-around mortgage inferior to the first mortgage in which the mortgagee is contractually obligated to make the payments required under the first mortgage.*

Amendment 6 to House Amendment 1—On page 152, line 28, after "offer" insert: interest bearing

Amendment 7 to House Amendment 1—On page 152, line 29, strike "January 1, 1981" and insert: December 31, 1980.

Amendment 1 to House Amendment 2—On page 5, line 22, after the word "loans" insert: , providing certain exemptions from the usury law

On motions by Senator W. D. Childers, the Senate concurred in the House Amendments as amended by the Senate amendments and the House was requested to concur in the Senate Amendments.

CS for SB 348 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Anderson	Gordon	Maxwell	Stuart
Barron	Gorman	McClain	Thomas
Beard	Grizzle	McKnight	Tobiassen
Carlucci	Hair	Neal	Trask
Chamberlin	Henderson	Peterson	Vogt
Childers, D.	Hill	Poole	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Jenne	Scott	Winn
Fechtel	Johnston	Skinner	
Frank	MacKay	Steinberg	

Nays—None

Vote after roll call:

Yea—Myers

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Commerce—

CS for SB 349—A bill to be entitled An act relating to credit unions; creating part I of chapter 657, Florida Statutes, providing definitions; providing purposes; providing powers of the Department of Banking and Finance with respect to credit unions; providing procedures for application for authority to organize credit unions; providing for departmental approval of bylaw amendments of credit unions; prohibiting unauthorized use of term "credit union"; providing a penalty; requiring reports and providing for examinations; providing for confidentiality of certain records and restricting certain disclosures; providing for the destruction of certain records; providing a penalty; providing for establishment of fees; providing for cease and desist orders; providing for the removal of directors, committee members, and employees; restricting credit unions in permitting unregulated persons to perform their services; limiting the liability of persons acting pursuant to a departmental order or rule; requiring public hearings; providing for confidential emergency orders and for service of notice; providing for administrative fines; providing for involuntary liquidation of credit unions; authorizing the department to direct the assumption of control of a credit union by certain guarantors or insurers under certain circumstances; specifying the fiscal year for credit unions; providing for credit union membership and for membership meetings; providing for the board of directors of credit unions and providing board duties; providing for executive officers and for a supervisory committee for credit unions; providing duties of the supervisory committee; authorizing the appointment or election of a credit committee or credit manager; prohibiting certain activities by credit union directors, officers, committee members, employees, and agents; providing penalties; prohibiting the carrying of fictitious or fraudulent assets and providing a penalty; specifying credit union powers; providing for competitive equality with federal credit unions; providing regulations with respect to credit union accounts, shares, and dividends; providing for deposits of minors; providing for deposits in two or more names and providing a presumption of vesting at death of one or more of the parties; providing for trust accounts; providing restrictions upon extensions of credit; providing restrictions upon extensions of credit to credit union directors, officers, committee members, and certain employees; authorizing credit unions to obtain certain forms of insurance; providing limitations upon investments by credit unions; providing exemptions; requiring credit unions to maintain certain reserves and restricting the transfer and use of regular, special, and contingency reserves and the allowance for loan losses accounts; providing restrictions upon office facilities and changes of principal offices; providing for office space for credit unions serving public employees; providing procedures for voluntary liquidation; providing for mergers; providing for conversions of credit unions from state to federal and vice versa; authorizing the creation of central credit unions and restricting the membership thereof; providing powers of central credit unions; amending s. 657.251(1)(a), Florida Statutes, relating to membership in the Florida Credit Union Guaranty Corporation; repealing ss. 657.01, 657.02, 657.03, 657.04, 657.05, 657.06, 657.061, 657.07, 657.08, 657.09, 657.10, 657.11, 657.12, 657.13, 657.14, 657.15, 657.16, 657.161, 657.17, 657.18, 657.19, 657.20, 657.21, 657.22, 657.23, 657.24, 657.245, 657.246, and 657.247, Florida Statutes, as amended, relating to credit unions; repealing section 3(2)(r) of chapter 76-168 and section 3(3)(r)

of said chapter as created by chapter 77-457, Laws of Florida, as amended, to delete the scheduled repeal of chapter 657, Florida Statutes; reviving and readopting part II of chapter 657, Florida Statutes, notwithstanding the Regulatory Reform Act of 1976, as amended; providing for repeal and legislative review; providing a retroactive effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, line 3, strike everything after the enacting clause and insert the following:

Section 1. Part I of chapter 657, Florida Statutes, consisting of sections 657.001, 657.002, 657.003, 657.004, 657.005 657.006, 657.007, 657.009, 657.011, 657.014, 657.018, 657.019, 657.021, 657.022, 657.023, 657.024, 657.025, 657.026, 657.027, 657.028, 657.029, 657.031, 657.033, 657.034, 657.035, 657.036, 657.037, 657.038, 657.039, 657.041, 657.042, 657.043, 657.044, 657.045, 657.046, 657.047, and 657.048, is created to read:

PART I

FLORIDA CREDIT UNION ACT

657.001 Short title.—This part may be cited as the "Florida Credit Union Act."

657.002 Definitions.—As used in this part:

(1) "Capital" means shares, deposits, reserves, and undivided earnings.

(2) "Central credit union" means a credit union whose membership includes, but is not limited to, other credit unions, members of credit unions, credit union employees, employees of organizations serving credit unions, and the families of such members.

(3) "Correspondent" means that person designated on an application to organize a credit union as the person to whom all correspondence regarding the application should be sent.

(4) "Corporate credit union" means any central credit union organized pursuant to any state or federal act for the purpose of serving other credit unions.

(5) "The corporation" means the Florida Credit Union Guaranty Corporation, Inc.

(6) "Credit union" means any cooperative society organized pursuant to this part.

(7) "Department" means the Department of Banking and Finance.

(8) "Deposits" means that portion of the capital paid into the credit union by members on which a contractual rate of interest will be paid.

(9) "Immediate family" means parents, children, spouse, or surviving spouse of the member, or any other relative by blood, marriage, or adoption residing in the same household with the member.

(10) "Limited field of membership" means the defined group or persons designated as eligible for membership in the credit union which:

(a) Have a similar profession, occupation, or formal association with an identifiable purpose; or

(b) Reside within an identifiable neighborhood, community, rural district, or county; or

(c) Are employed by a common employer; or

(d) Are employed by the credit union; and

(e) Members of the immediate family of persons within such groups.

(11) "Shares" means that portion of the capital paid into the credit union by members on which dividends may be paid.

(12) "Unimpaired capital" means capital which is not impaired by losses that exceed applicable reserves.

657.003 Purposes.—A credit union is a cooperative, nonprofit association, organized under this chapter, for the purposes of encouraging thrift among its members, creating sources of credit at fair and reasonable rates of interest, and providing an opportunity for its members to use and control their resources on a democratic basis in order to improve their economic and social condition.

657.004 Additional power of the department.—In extraordinary circumstances external to the operations of the credit union which threaten the continued existence and operation of the credit union, the department may restrict withdrawals for a period not to exceed 60 days.

657.005 Notice of intent to organize; investigation by department; application for authority to organize a credit union.—

(1) The proposed organizers of the proposed credit union shall file with the department a notice of intent to organize, upon such form as the department may, by rule, prescribe.

(2) Any five or more residents of this state who represent a limited field of membership may apply to the department for permission to organize a credit union. The fact that individuals within the proposed limited field of membership have credit union services available to them through another limited field of membership, shall not preclude the granting of a certificate of authorization to engage in the business of a credit union.

(3) The application shall be submitted to the department on forms and in the manner prescribed by rules adopted by the department and shall be accompanied by a nonrefundable filing fee of $50. Such application shall include:

(a) The proposed name and the proposed location where the proposed credit union is to have its principal place of business.

(b) Designation of the par value of each share of the credit union.

(c) Designation of at least five persons who agree to serve on the board of directors, and at least three other persons who agree to serve on the supervisory committee, with a signed agreement to serve in these capacities until the first annual meeting or until the election of their successors, whichever is later, executed by those who so agree.

(d) Any information required by the department to be submitted to the corporation.

(e) Bylaws of the credit union, which bylaws shall be consistent with the provisions of this chapter.

(4) The department shall have the power to investigate to the extent necessary to make the finding required under this section.

(5) The application shall be approved if the department determines:

(a) There is a showing of sufficient interest on the part of the proposed limited field of membership;

(b) The qualifications of the proposed board of directors and committee members are such as to indicate a reasonable likelihood that the affairs of the proposed credit union will be administered consistent with sound financial and credit union practices;

(c) The organization of the credit union would benefit its members; and

(d) The limited field of membership is of sufficient financial viability to indicate reasonable promise of successful operation of the proposed credit union. In determining the financial viability of the proposed limited field of membership and chances for reasonable promise of success of the proposed credit union, the department shall consider:

1. The size of the proposed limited field of membership, excluding potential members based upon familial relationships; and

2. Any other evidence that tends to indicate the reasonable promise of success of the proposed credit union.

(6) If the organization of a proposed credit union would result in an overlapping limited field of membership, the department may disapprove the application if it finds that the formation of the proposed credit union will result in a sub-

stantial adverse financial impact to an existing credit union having the same or substantially the same limited field of membership.

(7) Concurrently with submission of the application to the department, the applicant shall apply for membership in the corporation.

(8) The applicant shall not commence business operations as a credit union until the certificate of authorization and the guaranty certificate have been delivered to the credit union.

(9) The department shall perform a pre-opening examination to verify good faith compliance with all the requirements of law. If the department finds that such requirements have been met, it shall issue and deliver the certificate of authorization to transact business. Any credit union which fails to open for business within 6 months after the issuance of such certificate shall forfeit its existence as a credit union and the certificate of authorization shall be revoked. For good cause shown, the department may extend the opening date for an additional 6 months on its own motion or at the request of the credit union. Amounts credited on share accounts, less expenditures authorized by law, shall be returned pro rata to the respective account holders.

(10) The applicant shall file a copy of a certificate of authorization as approved by the department with the Department of State.

(11) The department shall provide a form certificate of authorization and bylaws consistent with this chapter which shall be used by applicants for credit unions.

657.006 Bylaw amendments.—

(1) Bylaws may be amended as provided therein. All bylaw amendments shall be submitted to the department. The department shall approve or disapprove bylaw amendments within 45 days after receipt, except that certain amendments to bylaws as determined by the department by rule shall not require prior approval before they become operative.

(2) The department's action on proposed bylaw amendments shall be based on its finding as to whether or not the proposed amendment:

(a) Is in the best interest of the membership;

(b) Provides means for better service to the membership;

(c) Is accord with sound credit union practices; or

(d) Exposes the member's funds to unnecessary risks.

(3) Any bylaw amendment which changes the name of the credit union, after such amendment is approved by the department, shall be filed with the Department of State.

657.007 Exclusive use of name "credit union"; penalty.—

(1) No person shall use the words "credit union" or represent itself in its advertising or otherwise as holding itself out as a credit union except:

(a) A credit union organized under this part or other federal or state credit union legislation;

(b) The corporation; or

(c) A formal association of credit unions, incorporated or otherwise, subsidiaries or chapters or credit unions.

(2) Any person who violates this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or 775.084, and may be enjoined from using such words or so holding itself out. The department shall have standing to bring action to enforce the provisions of this section.

657.009 Destruction of certain credit union records.—

(1) Credit unions shall preserve the following records, if used, or files or photographic or microphotographic copies thereof, for a period of not less than 5 years next after January 1 of the year following the time of making or filing of such records or files:

(a) Cash-received voucher.

(b) Balance sheet and statement of income and expense.

(c) General ledger.

(d) Individual share and loan ledger.

(e) Journal and cash record.

(f) Bank reconcilement.

(g) Dividend record.

(h) Expense record.

Except that ledger sheets or photographic or microphotographic copies of such ledger sheets shall not be destroyed and shall be retained in an accessible location.

(2) No liability shall accrue against any credit union destroying any such records after the expiration of the period provided in subsection (1), and in any cause or proceedings in which any such records or files may be called in question or be demanded of the credit union or an employee thereof, a showing that such records or files have been destroyed in accordance with the terms of this section shall be a sufficient excuse for the failure to produce them.

(3) Any credit union may photograph, microphotograph, or reproduce on film, in such manner that each page is exposed in its entirety, any of its journals, ledgers, statements, account books, other books, or internal records of every description, made or received in the regular course of its business, and the photographs, microphotographs, or reproductions on film in the form of film, prints, enlarged prints, or any duly certified or authenticated copy or reproduction thereof, duly certified or authenticated by a responsible officer of the credit union under whose supervision the records are kept, shall, in all cases and in all courts and places, be admitted and received as evidence with a like force and effect as the original general ledger, voucher, statement, account book, or other record.

(4) This section shall, so far as applicable, apply to the records of federal credit unions operating in this state.

657.011 Fees.—Each state credit union shall pay to the department a fee based on the total assets of the credit union. Said fee shall be payable semiannually based on the assets of the credit union as of the last business day in December of each year. The semiannual fee shall be computed by using the following schedule and divided in half for each assessment period:

Asset size	*Fee*
Under $25,000	$3.00/$1,000 but not less than $30.00
Over $25,000	$75.00 + $2.75/$1,000 over $25,000
Over $50,000	$143.75 + $2.40/$1,000 over $50,000
Over $100,000	$263.75 + $1.50/$1,000 over $100,000
Over $250,000	$488.75 + $1.20/$1,000 over $250,000
Over $500,000	$788.75 + $ .70/$1,000 over $500,000
Over $1,000,000	$1,138.75 + $ .55/$1,000 over $1,000,000
Over $2,000,000	$1,688.75 + $ .48/$1,000 over $2,000,000
Over $5,000,000	$3,128.75 + $ .24/$1,000 over $5,000,000
Over $20,000,000	$6,728.75 + $ .23/$1,000 over $20,000,000
Over $50,000,000	$13,628.75 + $ .22/$1,000 over $50,000,000
Over $100,000,000	$24,628.75 + $ .21/$1,000 over $100,000,000

Each semiannual fee shall be due and payable on or before January 31 and July 31 of each year.

657.014 Retention of supervision by department.—No credit union may cause to be performed, by contract or otherwise, any credit union services on its behalf, whether at or away from its principal place of business, unless assurances satisfactory to the department are furnished by both the credit union and the person performing such services that the performance

thereof will be subject to rule and examination by the department to the same extent as if such services were being performed by the credit union itself on its own premises.

657.018 Involuntary liquidation.—

(1) If the department finds that any credit union is bankrupt, insolvent, or is transacting its business in an unsound, unsafe, or unauthorized manner such that it is threatened with imminent insolvency, and liquidation is in the best interest of the members, the department may, in its discretion, order the credit union placed in involuntary liquidation and designate and appoint a liquidator to take charge of the assets and affairs of the credit union. The order shall set forth the specific findings and reasons for the action taken.

(2) The liquidator to be appointed by the department shall be the corporation or the National Credit Union Administration, whichever is applicable.

(3) Upon appointment and in accordance with the directions of the department, the liquidator shall take possession and charge of all of the assets, books, and records of the credit union and shall take charge of the affairs, business, and operations of the credit union and shall have all of the powers of the board of directors, credit committee, credit manager, and supervisory committee of the credit union. The liquidator shall continue the business operation of the credit union for a period not to exceed 180 days, subject to the direction of the department. The liquidator shall have full authority to make loans and investments and to permit deposits to or withdrawals from accounts by members, except that during the period of such operation by the liquidator, no withdrawal from any account or accounts which are not fully insured or guaranteed shall be permitted. The liquidator shall proceed with a liquidation of assets by sale or transfer of assets and conversion of assets into cash or liquid investments in preparation for distribution to members on account of shares and deposits. The liquidator shall have specific authority to sell loan assets.

(4) On the completion of the liquidation and certification by the liquidator that the distribution of the assets of the credit union has been completed, the department shall cancel the certificate of authorization of the credit union.

(5) The notice of cancellation of the certificate of authorization shall be filed by the department with the Department of State.

657.019 Assumption of control by guarantor or insurer.—

(1) The department may direct the corporation or the National Credit Union Administration, whichever is applicable, to assume control of the property, assets, and business of its member credit union and to operate it in accordance with the recommendations of the department:

(a) Whenever the department finds that a credit union:

1. Is engaging or has engaged in an unsafe or unsound practice;

2. Is violating or has violated any provision of this chapter; or

3. Is violating or has violated any department rule, department order, or any written agreement entered into with the department,

in such a manner that the credit union is threatened with insolvency.

(b) Whenever a majority of the members of the board of directors of the credit union have been removed by the department or shall have resigned.

(2) In the event of assumption of control, the guarantor or insurer shall have authority to elect the board of directors and the operating committees. The authority of the guarantor or insurer to continue operation of a credit union shall continue for a period not to exceed 180 days, unless involuntary liquidation proceedings have been initiated by the department. In the event the guarantor or insurer does assume control pursuant to the direction of the department, a meeting of the credit union shall be called within 180 days for the specific purpose of electing a new board of directors, who shall take office when the guarantor or insurer surrenders control, or considering such other recommendations as the guarantor or insurer and the department may make.

657.021 Fiscal year.—The fiscal year of the credit union shall end on the last day of December.

657.022 Membership.—

(1) Upon payment of any required entrance or membership fee, payment for one or more shares, and compliance with the bylaws, any person within the limited field of membership of a credit union may be admitted to its membership.

(2) Members of the credit union shall not be personally or individually liable for payment of the credit union's debts.

(3) A credit union may not classify members or otherwise restrict any member's rights, except that the credit union may close the account of any member whose actions have resulted in any financial loss to the credit union.

(4) Denial of membership hereunder shall not be considered to be a denial of credit.

657.023 Membership meetings.—

(1) The members shall receive timely notice of the annual meeting and any special meetings of the members which shall be held at the time, place, and in the manner provided in the bylaws.

(2) Each member shall have one vote. Mail ballots may be distributed in advance to the entire membership as prescribed in the bylaws. No person shall exercise the vote of any other member.

(3) Any organization, association, or corporation having membership may be represented and have its vote cast by its delegated agent.

(4) The members shall elect the board of directors and other committees prescribed in the bylaws, and transact such other business as the bylaws permit.

657.024 Board of directors.—

(1) The credit union shall have a board of directors consisting of not less than five directors to be elected from the members in the manner prescribed in the bylaws.

(2) Directors shall hold office for such terms as the bylaws provide.

(3) No person shall serve as an officer, director, or committee member of a credit union who:

(a) Has been convicted of an offense involving dishonesty, a breach of trust, a violation of this chapter, or fraud, except with the prior approval of the department upon a showing of rehabilitation;

(b) Has been adjudicated bankrupt within the previous 3 years; or

(c) Has been removed by the department as a credit union director, officer, committee member, or employee within the previous 3 years.

(4) The board of directors shall fill any vacancies on the board by appointment until successors are elected as provided in the bylaws.

(5) The board of directors and the executive committee shall meet as often as required in the bylaws.

(6) It shall be the duty of the board of directors to:

(a) Act on applications for membership, or to appoint one or more membership officers to approve or deny applications for membership under such conditions as may be prescribed in the bylaws. A record of a membership officer's approval or denial of membership shall be available to the board of directors for inspection. A person denied membership by a membership officer may appeal the denial to the board.

(b) Require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board of directors in compliance with rules adopted by the department.

(c) Determine from time to time the interest rate or rates which shall be charged on extensions of credit and to authorize interest refunds, if any, to members from income earned and received in proportion to the interest paid by them on such classes of credit and under such conditions as the board prescribes.

(d) Establish the maximum amount of credit which may be extended to a member and establish written credit policy, including, but not limited to, security requirements and terms of repayment.

(e) Establish written loan, investment, personnel, and collection policies.

(f) Declare dividends, if any, on shares and determine the interest rate or rates which will be paid on deposits and the manner of calculation.

(g) Invest funds, except that the board of directors may designate an investment committee or any qualified individual to have charge of making investments pursuant to written policies established by the board of directors.

(h) Make adequate provision for reserves as required by this part, rules or order of the department, or as otherwise deemed necessary by the board.

(i) Employ a chief operating officer whose title shall be either president or general manager, as the case may require; or in lieu thereof, the board of directors shall designate the treasurer to act as the chief operating officer and be in active charge of the affairs of the credit union.

(7) The board of directors shall have the authority to:

(a) Limit the number of shares and the amount of deposits which may be owned by a member, such limitations to apply alike to all members.

(b) Authorize the employment of such persons necessary to carry on the business of the credit union.

(c) Authorize the purchase, lease, rental, or sale of personal property necessary to carry on the business of the credit union.

(d) Borrow or lend money to carry on the functions of the credit union.

(e) Designate a depository or depositories for the funds of the credit union.

(f) Suspend and remove any or all members of any committee, except the supervisory committee, for failure to perform their duties or for other just cause.

(g) By a two-thirds vote, suspend any member of the supervisory committee for failure to perform their duties or for other just cause and to report such action within 7 days to the department for appropriate action.

(h) Establish any committees deemed necessary and appoint the membership thereof.

(i) Call special meetings of the members.

(j) Delegate to the officers, employees, and committees such tasks as they may deem appropriate.

(k) Establish policies and procedures for the conduct of officers, employees, and committees.

(l) Perform such duties as the members from time to time direct, and perform or authorize an action authorized by this chapter not specifically reserved in the bylaws for the members.

(8) The board of directors may appoint an executive committee which may be authorized to act for the board in all respects, subject to such conditions and limitations as are prescribed by the board in writing. The executive committee shall be composed of the executive officers as defined in s. 657.025.

657.025 Executive officers.—

(1) At the organizational meeting and within 7 days following each annual meeting of the members, the directors shall hold the annual meeting of the board of directors and elect from their own number a presiding officer, who may be designated as chairman of the board or president; one or more vice chairmen or one or more vice presidents as the case may be; a treasurer; and a secretary. The treasurer and the secretary may be the same individual. The persons so elected shall be the executive officers of the organization.

(2) The terms of the executive officers shall be 1 year, or until their successors are chosen and have duly qualified.

(3) The duties of the executive officers shall be prescribed in the bylaws.

657.026 Supervisory committee.—

(1) A supervisory committee of not less than three members shall be elected by, and serve at the pleasure of, the membership in the manner prescribed in the bylaws.

(2) It shall be the duty of the supervisory committee to:

(a) Make or cause to be made a comprehensive annual audit of the credit union, in accordance with the rules of the department.

(b) Make or cause to be made supplementary audits or examinations as it deems necessary or as requested by the board of directors or the department.

(c) Make or cause to be made a verification of members' accounts from time to time and not less than once in any 24-month period.

(d) Submit a report of every required audit or examination within a reasonable time to the board of directors with a copy to the department.

(e) Make a summary report to the membership at the annual meeting of any audits or examinations conducted during the preceding year.

(3) The supervisory committee may:

(a) By a two-thirds vote, suspend any member of the credit committee for cause and report such action to the board of directors for appropriate action.

(b) By a two-thirds vote, suspend any member of the board of directors for cause until the next members' meeting, which, in the event of such suspension, shall be held no less than 7 nor more than 21 days after such suspension. At such meeting, the suspension shall be acted upon by the members.

(c) By a majority vote, call a special meeting of the members to consider any violation of this part, or violation of the credit union's certificate of authorization or bylaws, or any practice of the credit union deemed by the supervisory committee to be unsafe, unsound, or unauthorized.

(d) For the purposes of this subsection, two-thirds of the members of the supervisory committee shall constitute a quorum.

657.027 Credit committee and credit manager.—

(1) The board of directors may appoint or the members may elect, as provided in the bylaws, a credit committee composed of not less than three members, for such terms as the bylaws provide.

(a) The credit committee shall have the general supervision of all applications for credit by members, pursuant to written policies established by the board of directors.

(b) The credit committee shall meet as often as the business of the credit union requires and not less frequently than once a month to consider applications for credit. No credit shall be extended unless it is approved by a majority of the committee who are present at the meeting at which the application is considered.

(c) The credit committee may appoint one or more loan officers and delegate the power to approve credit subject to such limitations or conditions as the credit committee prescribes. Credit applications not acted upon by a loan officer shall be reviewed and acted upon by the credit committee.

(2) In lieu of a credit committee, the board of directors may provide for a credit manager to approve or disapprove credit under written conditions prescribed by the board. The board of directors may designate and empower the chief oper-

ating officer as the credit manager, or may authorize the chief operating officer to employ a credit manager, as provided in the bylaws. In the event a credit manager is designated or employed, the procedures prescribed in subsection (1) do not apply, and no credit shall be extended unless approved by the credit manager; except the credit manager may appoint one or more loan officers with the power to approve credit, subject to such limitations or conditions prescribed by the chief operating officer.

657.028 Activities of directors, officers and committee members, employees, and agents; criminal penalties.—

(1) No individual shall have the authority to disburse funds of the credit union for any extension of credit approved by him.

(2) No elected officer, director, or any committee member may be compensated for his service as such, except the treasurer while serving as the chief operating officer.

(3) No director, committee member, officer, agent, or employee of the credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his pecuniary interest or the pecuniary interest of any corporation, partnership, or association, other than the credit union, in which he or a member of his immediate family is directly or indirectly interested.

(4) Within 10 days after election or appointment, a record of the names and addresses of the members of the board, committees, and all officers of the credit union shall be filed with the department on forms prescribed by the department.

(5) It is unlawful for any official, director, or employee of a credit union to ask for, receive, or consent to receive any commission, emolument, gratuity, money, property, or thing of value for:

(a) Procuring or endeavoring to procure for any person a loan or extension of credit, from such credit union; or

(b) Procuring or endeavoring to procure the purchase or discount of any note, draft, check, bill of exchange, or other obligation by such credit union.

(6) It is unlawful for any official, director, agent, or employee of a credit union to:

(a) Knowingly receive or possess himself of any credit union property, other than in payment of a just demand, and, with intent to deceive or defraud, to omit to make or cause to be made a full and true entry thereof in its books and accounts, or concur in omitting to make any material entry thereof;

(b) Embezzle, abstract, or misapply any money, property, or thing of value of the credit union with intent to deceive or defraud such credit union;

(c) Knowingly make, draw, issue, put forth, or assign any share, certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, mortgage, judgment, or decree without authority from the board of directors of such credit union;

(d) Make any false entry in any book, report, or statement of such credit union, with intent to deceive or defraud such credit union or any other person, or with intent to deceive any members or officials of such credit union, or with intent to deceive the department or any authorized representative appointed to examine the affairs of such credit union; or

(e) Deliver or disclose to the department or any of its employees any examination report, report of condition, report of income and dividends, internal audit, account, statement, or document known by him to be fraudulent or false as to any material matter.

(7) Whoever violates any of the provisions of subsection (5) or subsection (6) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

657.029 Fictitious or fraudulent assets; past due paper; criminal penalties.—

(1) A credit union shall not carry as an asset any note, obligation, or security which it does not own or which is known by the credit union to be fraudulent or otherwise worthless, and no credit union shall carry as an asset in any report to the department or in any published report any note or other obligation which is past due for 1 year or longer or upon which no interest has been paid for 1 year or longer, except that such past due paper may be carried to the extent of the reasonable value of any lien or other collateral given to secure such obligation; and except that if the obligation is in the process of collection, it may be carried at its reasonable value as determined by the board of directors. The department may, after investigation, order the revision of any value so determined hereunder.

(2) Any officer or employee of a credit union who knowingly places among the assets of said credit union any note, obligation, or security which it does not own or which to his knowledge is fraudulent or otherwise worthless, or who represents to the department or an examiner that any note, obligation, or security carried as an asset of such credit union is the property of the credit union and is genuine when it is known to such officer or employee that such representation is false or that such note, obligation, or security is fraudulent or otherwise worthless, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

657.031 Powers.—A credit union shall have the power to:

(1) Make contracts.

(2) Sue and be sued.

(3) Acquire, lease, hold, and dispose of real and personal property necessary or incidental to its operations.

(4) Incur and pay necessary and incidental operating expenses.

(5) Require an entrance or membership fee.

(6) Receive shares and deposits from its members.

(7) Allow withdrawal of shares and deposits, as requested by a member orally, in writing, or through any other means of communication, including but not limited to drafts drawn on the credit union for payment to, the member or any third party.

(8) Charge fees for its services.

(9) Extend credit to its members.

(10) Borrow money and issue evidences of indebtedness for a loan or loans for temporary purposes in the usual course of its business. Aggregate borrowings shall not exceed 50 percent of the credit union's unimpaired capital. However, this percentage limitation shall not apply to loans from the corporation or National Credit Union Administration.

(11) Discount and sell notes and obligations.

(12) Sell all or any portion of its assets to another credit union or purchase all or any portion of the assets of another credit union.

(13) Invest funds, as provided in this part.

(14) Maintain deposits in insured financial depository institutions.

(15) Assess charges to its members.

(16) Hold membership in central or corporate credit unions organized under this part or under any other state or federal acts, and in associations and organizations of credit unions.

(17) Declare and pay dividends on shares, contract for and pay interest on deposits, and pay refunds of interest on loans.

(18) Collect, receive, and disburse funds in connection with the sale of negotiable and nonnegotiable instruments, and for such other purposes as may provide benefits or conveniences to its members.

(19) Perform tasks and render any services requested by the Federal Government or by this state or any agency, political subdivision, or municipality thereof, if approved by the department.

(20) Participate in, hold membership in, and pay dues to, any organization the services of which will benefit the credit union or its membership.

(21) Make donations for the members' welfare or for civic, charitable, scientific, or educational purposes as authorized by the board of directors.

(22) Contract for the provision of trust services to its members with a trust company or other financial depository institution with trust powers authorized to do business in this state, with representatives of the trust company or other financial depository institution with trust powers being authorized to serve members from credit union facilities on a full-time or part-time basis.

(23) Act as trustee of funds permitted by federal law to be deposited in a credit union as a deferred compensation or tax-deferral device, including, but not limited to, Individual Retirement Accounts as defined by section 408, Internal Revenue Code.

(24) Purchase reasonable disability insurance, including accidental death benefits, for directors and committee members through insurance companies licensed to do business in this state.

(25) Reimburse directors and committee members for reasonable and necessary expenses incurred in the performance of their duties.

(26) Participate in systems which allow the transfer, withdrawal, or deposit of funds of credit unions or credit union members by automated or electronic means, and hold membership in entities established to promote and effectuate these systems; provided that such participation is not inconsistent with the rules of the department, those rules being adopted to further service to the members and to protect members' funds against unreasonable risks; and further provided that any credit union participating in any system shall notify the department as provided by law.

(27) Issue credit cards and debit cards to allow members to obtain access to their shares, deposits, and extensions of credit, provided that such issuance is not inconsistent with the rules of the department. The department, may, by rule, allow the use of devices similar to credit cards and debit cards to allow members to obtain access to their shares, deposits, and extensions of credit.

(28) Perform any act necessary to obtain and maintain membership in the corporation.

(29) Exercise such incidental powers as are necessary or requisite to effectively carry out the purposes for which it is organized, provided such exercise is approved by rule or order of the department.

657.033 Accounts.—

(1) Shares may be paid for and transferred in such manner as the bylaws prescribe. At such intervals and for such periods as the board of directors may authorize, and after provisions for the required reserves, the board of directors may declare dividends, to be paid from the undivided earnings at such rates and upon such classes of shares as are determined by the board.

(2) The credit union may require not more than 60 days' notice of members' intention to withdraw shares and deposits.

(3) A credit union may receive deposits from its members and contract to pay interest thereon, subject to conditions the board of directors establishes and subject to rules of the department.

(4) The credit union shall have a lien and right of setoff on the shares, deposits, and accumulated dividends or interest in any member's individual, joint, or trust account, for any sum due the credit union from said member.

(5) At such time as the location of the member, beneficiary, or other person named on the account is unknown to the credit union and there has not been any activity generated by the member on the account for 12 months or longer, such account shall be considered a dormant account, and shall be placed in a separate grouping under a control system which will adequately identify such accounts.

(6) Adequate controls shall be established to determine the validity of significant activity on dormant accounts.

657.034 Deposits of minors.—Shares and deposits by a minor or made in his name, other than by a court-appointed guardian, may be withdrawn by the minor in the absence of an agreement to the contrary made between the credit union and the depositor at the time the account is opened, and in case of any such agreement, such moneys, until the minor's disabilities are removed, may be added to, withdrawn, or pledged as collateral by the person or persons designated in such agreement.

657.035 Deposits in two or more names.—

(1) Credit union shares and deposits, or any part thereof, or any interest therein made in the names of two or more persons, payable to either, or payable to either or the survivor, and shares or deposits made to an account standing in the names of two or more persons payable to either, or payable to either or the survivor, may be paid to, or pursuant to the order of, either or any of said persons or to, or pursuant to the order of, the guardian of the property of such person who is incompetent, whether the other or others be living or not, and whether the other or others be competent or not; and the order for payment of any such person, or the receipt or acquittance of the person so paid, shall be a valid and sufficient release and discharge to the credit union for any payment so made.

(2) A member may designate any person or persons to hold shares and deposits with him in joint tenancy with the right of survivorship, but no joint tenant, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office or be required to pay an entrance or membership fee.

657.036 Deposits and accounts in two or more names; presumption as to vesting on death.—

(1) Unless otherwise expressly provided in the signature contract card or other similar instrument delivered to and accepted by a credit union in connection with the opening or maintenance of an account in the names of two or more persons, whether minor or adult, payable to or on the order of one or more of them and the survivors or survivor of them, all such persons and each person depositing funds in any such account shall be presumed to have intended that upon the death of any such person all rights, title, interest and claim in, to, and in respect of, said deposits and account and the additions thereto, less all proper setoffs and charges in favor of the credit union, shall vest in the survivors or survivor of such person.

(2) The presumption herein created may be overcome only by proof of fraud, undue influence, or clear and convincing proof of a contrary intent. In the absence of such proof, all rights, title, interest and claims in, to, and in respect of, said deposits and account and the additions thereto, and the obligation of the credit union created thereby, less all proper setoffs and charges in favor of the credit union against any one or more such persons, shall, upon the death of any such person, vest in the survivors or survivor of such person notwithstanding the absence of proof of any donative intent or delivery, possession, dominion, control, or acceptance on the part of any person, and notwithstanding the provisions hereof may constitute or cause a vesting or disposition of property or rights or interests therein, testamentary in nature, which, except for the provisions of this section, would or might otherwise be void or voidable.

(3) Nothing herein shall abridge, impair, or affect the validity, effectiveness, or operation of any of the provisions of s. 657.035, or the rights of credit unions to make payments as therein provided.

657.037 Trust accounts.—

(1) Shares and deposits may be held in the name of a member in trust for a beneficiary, including a minor, but no beneficiary unless a member in his own right, shall be permitted to vote, obtain extensions of credit, or hold office or be required to pay an entrance or membership fee.

(2) Payment of part or all of such shares or deposits to such member shall, to the extent of such payment, discharge the liability of the credit union to the member and the beneficiary and the credit union shall be under no obligation to see to the application of such payment.

(3) In the event of the death of the member, and if the shares or deposits are so issued or held and the credit union has been given no other written notice of the existence or

terms of any trust, such shares or deposits and any dividends or interest thereon shall be paid to the beneficiary, or in the case where there is no surviving beneficiary, then such shares or deposits and dividends or interest thereon shall be paid to the estate of the last trustee to die.

657.038 Loan powers.—

(1) A credit union may extend credit to members for such purpose and upon such security and terms as the credit committee, credit manager, or loan officer approves, pursuant to written loan policies established by the board of directors at rates of interest not exceeding 18 percent per annum simple interest, or as may otherwise be provided by law.

(2) The total unsecured obligations outstanding from any member shall not exceed the greater of $200 or 2 percent of the unimpaired capital of the credit union.

(3) The total secured obligations outstanding from any member shall not exceed the greater of $500 or 10 percent of the unimpaired capital of the credit union.

(4) A member may receive credit in installments, or in one sum, and may pay the whole or any part of his indebtedness on any day on which the office of the credit union is open for business.

(5) The credit committee or credit manager may approve in advance upon request of a member, a line of credit, and disbursements may be granted to such member within the limit of such line of credit. Where a line of credit has been approved, no additional credit applications are required as long as the aggregate obligation does not exceed the limit of such line of credit; provided that no additional disbursements shall be made to any member whose financial information has not been reviewed and updated within the previous 36-month period, and no additional disbursements shall be made to any member whose existing extensions of credit are in default or are subject to adverse classification without receiving current financial information.

(6) Loans secured by first or second mortgages on real property shall be made in accordance with written policies of the board of directors, and rules of the department.

(7) No director, officer, committee member, or person authorized to approve credit may become an endorser or guarantor of any loan while holding such position in the lending credit union.

(8) In computing the aggregate liability of a member for the purpose of the limitations herein and any other limitation prescribed by rules of the department and the credit union's bylaws, there shall be included:

(a) Loans to a member corporation in which the member holds an equity interest of 25 percent or more.

(b) Loans to any member partnership in which the member is a general partner or is a limited partner with a 50 percent interest or more.

(c) Loans made, endorsed, or guaranteed by the member.

(9) No loan shall be made to any corporation, except the Florida Credit Union Guaranty Corporation, in which the credit union holds an equity interest.

(10) The loan limitations stated in this section shall not be enlarged by the provision of any other section of this chapter.

(11) Any approval of extension of credit requiring approval of the board of directors shall be recorded in the minutes of the board including the borrower's account number or other code, amount of loan, maturity of loan, and general type of security.

(12) The department may adopt rules to provide for minimum documentation and safe lending procedures necessary to protect the members' funds.

(13) A credit union may participate in extensions of credit to its members jointly with other credit unions, corporations, or financial institutions.

(14) A credit union may participate in guaranteed loan programs of the federal and state government, provided that the borrower is a member of the credit union.

(15) If approved by the board of directors, a credit union may extend credit to other credit unions, or to the corporation, in an amount not greater than 25 percent of the unimpaired capital of the lending credit union.

(16) A credit union may purchase the conditional sales contracts, notes, and similar instruments of its members, provided that the credit union could have originally made the loan to the member.

(17) For the purposes of this part, the existence of an indorser, comaker, or guarantor shall not constitute security.

657.039 Loan powers; extension of credit to directors, officers, committee members, and certain employees.—

(1) A credit union may extend credit to its directors, credit manager, to members of its supervisory and credit committees, and to any other person authorized to approve extensions of credit, provided that:

(a) The extension of credit complies with all requirements under this part with respect to credit extended to other borrowers and is not on terms more favorable than those extended to other borrowers.

(b) The aggregate of credit, except share-secured or deposit-secured credit, extended to those persons set forth in subsection (1) does not exceed 10 percent of the unimpaired capital of the credit union.

(c) The application for extension of credit, except share-secured or deposit-secured credit, is approved by the credit committee or credit manager and the board of directors, without said director, loan officer, credit manager, or credit committee member having a vote on his loan. Approved lines of credit, such as open-end loans, may be funded without further approval by the board, provided that all extensions of credit to such persons shall be reviewed at least annually by the board of directors. Closed-end loans which have been fully funded shall not require annual review.

(2) In computing the aggregate liabilities of the directors, officers, committee members, and employees subject to the 10 percent limitations, there shall be included:

(a) Loans to any member corporation in which any one or more directors, officers, committee members, or employees hold an equity interest of 25 percent or more.

(b) Loans to any member partnership in which any one or more directors, officers, committee members, or employees is a general partner or a limited partner with a 50 percent interest or more.

(c) Loans comade by the directors, officers, committee members, and employees prior to election, appointment, and employment.

(3) The requirements of this section concerning approval of extensions of credit by the board of directors shall have been met only when those approvals have been recorded in the formal minutes of the board including the borrower's name, amount of loan, maturity of loan, and general type of security.

(4) The limitations stated in this section shall not be enlarged by the provision of any other section of this chapter.

657.041 Insurance.—

(1) A credit union may purchase for or make available to its members, credit life insurance, credit disability insurance, life savings or depositors life insurance, or any other insurance coverage which may be directly related to the extension of credit or to the receipt of shares or deposits in amounts related to the members' respective ages, shares, deposits, or credit balances, or to any combination thereof.

(2) A credit union may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the credit union, or who is or was serving at the request of the credit union as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability arising out of such person's capacity or status with the credit union, whether or not the credit union would have the power to indemnify such person against the asserted liability.

657.042 Investment powers and limitations.—A credit union may invest its funds subject to the following definitions, restrictions, and limitations:

(1) INVESTMENTS NOT SUBJECT TO LIMITATIONS.—There is no limitation with respect to the capital of the investing credit union on the following investments:

(a) Direct obligations of the United States government.

(b) Obligations of agencies created by the United States Congress and authorized thereby to issue securities or evidences of indebtedness, regardless of guarantee of repayment by the United States Government.

(c) Public Housing Authority obligations.

(d) General obligations of the states of the United States and of the political subdivisions and municipalities 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) The assets of liquidating credit unions in this state, provided that such assets are otherwise eligible for investment by the acquiring credit union.

(h) The shares and deposit accounts of corporate credit unions and any other fund established by this state or by the federal government for the purpose of maintaining liquidity in credit unions.

(i) Stock of the Federal National Mortgage Association or any other similar entity designated by the department, designed to promote investment in residential mortgages, which may be purchased and retained as required in connection with mortgage transactions with the association or entity.

(j) Shares and deposits of insured financial depository institutions.

(2) INVESTMENT SUBJECT TO LIMITATION OF 2 PERCENT OF CAPITAL OF THE CREDIT UNION.—Up to 2 percent of the capital of the credit union may be invested in the capital shares, obligations, or preferred stock issues of any agency or association, or membership association, provided the membership or stockholdings, as the case may be, of such agency or association are primarily confined or restricted to credit unions or organizations of credit unions, and provided the purposes for which such agency or association is organized are designed primarily to service or otherwise assist credit union operations.

(3) INVESTMENT SUBJECT TO LIMITATION OF 1 PERCENT OF CAPITAL OF THE CREDIT UNION.—Up to 1 percent of the capital of the credit union or $15,000, whichever is greater, may be invested in any of the following:

(a) Corporate obligations of any one corporation which is an affiliate or subsidiary of the credit union, provided that the total investment in all such corporate obligations shall not exceed 10 percent of the capital of the credit union.

(b) With the approval of the department, corporate bonds with a fixed maturity of any corporation within the United States, provided that the total investment in all such corporate bonds shall not exceed 10 percent of the capital of the credit union.

(4) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE CREDIT UNION.—

(a) Up to 5 percent of the capital of the credit union may be invested in real estate and improvements thereon, furniture, fixtures, and equipment utilized by the credit union for the transaction of business.

(b) The limitations provided by this subsection may be exceeded with the prior written approval of the department. The department shall grant such approval if it is satisfied that:

1. The proposed investment is necessary.

2. The amount thereof is commensurate with the size and needs of the credit union.

3. The investment will be beneficial to the members.

(5) INVESTMENTS SUBJECT TO DEPARTMENT APPROVAL.—A credit union may invest its funds in such other investments as the department approves by rule.

(6) SPECIAL PROVISIONS.—

(a) None of the bonds or securities described in this section shall be eligible for investment by credit unions in any amount unless current as to all payments of principal and interest and unless rated at least baa or BAA or higher, or any comparable rating as determined by the department, by a recognized rating service, or otherwise supported as to investment quality and marketability by a credit rating file compiled and maintained in current status by the purchasing credit union.

(b) Any investment permitted in this section may also be made indirectly by investment in a trust, the investments of which are limited as set forth herein, provided that the trust is approved by the department.

657.043 Reserves.—

(1) TRANSFERS TO REGULAR RESERVES.—Immediately before payment of each dividend, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside sums as a regular reserve in accordance with the following schedule:

(a) A credit union shall set aside:

1. Five percent of the gross income until the regular reserve shall equal 4 percent of the total outstanding loans and risk assets, then,

2. Two percent of gross income until the regular reserve shall equal 6 percent of the total outstanding loans and risk assets.

(b) Whenever the regular reserves fall below the stated percent of the total outstanding loans and risk assets, it shall be replenished by regular contributions in such amounts as may be needed to maintain the stated reserve goals.

(c) The department may decrease the reserve requirements set forth in this subsection when in its opinion such a decrease is necessary to preserve the fiscal soundness of the credit union.

(2) ALLOWANCE FOR LOAN LOSSES ACCOUNT.—A portion of the regular reserve will be transferred to an account to be known as Allowance for Loan Losses in an amount equal to the board's estimate of losses in the portfolio and consistent with rules of the department.

(3) USE OF REGULAR RESERVE.—The regular reserve shall belong to the credit union and shall be used to meet losses on extensions of credit and such other losses as may be specified in rules promulgated by the department.

(4) RISK ASSETS DEFINED.—For the purpose of establishing the reserves required by subsection (1) the following assets shall not be considered risk assets:

(a) Cash on hand.

(b) Deposits and shares in insured or guaranteed financial depository institutions.

(c) Assets which are fully insured or fully guaranteed as to principal and interest by, or due from the United States Government, its agencies, or associations.

(d) Loans to other credit unions.

(e) Loans to students insured under the provisions of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. s. 1703) by the Federal Housing Administration or similarly insured loans.

(f) Shares or deposits in central credit unions organized under this part or any other state act or the Federal Credit Union Act.

(g) Common trust investments which deal in investments authorized by this part.

(h) Accrued interest on nonrisk investments.

(i) Furniture and equipment.

(j) Land and buildings.

(k) Investments in or loans to the corporation.

(l) Loans fully secured by a pledge of shares or deposits in the lending credit union, equal to and maintained to at least the amount of the loan outstanding.

(m) Loans which are purchased from liquidating credit unions and guaranteed by the corporation or insured by the National Credit Union Administration or other insuring agencies.

(5) SPECIAL RESERVES.—In addition to such regular reserves, special reserves shall be established:

(a) To protect members against losses resulting from credit extended or from risk assets when required by rule, or when found by the department, in any special case, to be necessary for that purpose; or

(b) As authorized by the board of directors.

(6) RESERVE FOR CONTINGENCIES.—The board of directors may after the regular reserve required by this section and rules of the department have been set aside, transfer a portion of undivided earnings to an auxiliary reserve account to provide for additional possible losses and expenses. The purpose for the reserve shall be specific and the amount of the possible loss reasonably estimable.

657.044 Place of doing business.—

(1) Every credit union authorized to transact business pursuant to the laws of this state shall have one principal place of doing business as designated in its bylaws.

(2) With the prior written approval of the department, a credit union may maintain branches at locations other than its main office if the maintenance of such branches is determined by the board of directors to be reasonably necessary to furnish service to its members.

(3) A credit union may share office space with one or more credit unions and contract with any person or corporation to provide facilities or personnel.

(4) Any credit union organized under this state or federal law, the members of which are presently, or were, at the time of admission into the credit union, employees of the state or a political subdivision or municipality thereof, or members of the immediate families of such employees, may apply for space in any building owned or leased by the state or respective political subdivision or municipality in the community or district in which the credit union does business. The application shall be addressed to the officer charged with the allottment of space is such building. If space is available, the officer may allot space to the credit union at a reasonable charge for rent or services. If the governing body having jurisdiction over the building determines that the services rendered by the credit union to the employees of the governing body are equivalent to a reasonable charge for rent or services, available space may be allotted to the credit union without charge for rent or services. The officer charged with the allottment of space in such building shall report annually the terms and conditions of such use of space to the Auditor General.

(5) A credit union may change its principal place of business within this state upon approval by the department.

(6) All records of a credit union shall be maintained at the principal place of business described in the bylaws.

657.045 Voluntary liquidation.—A credit union may elect to dissolve voluntarily and liquidate its affairs in the following manner:

(1) Any action by the board of directors pursuant to this section shall be by resolution recommending to the membership that the credit union be dissolved and state the board's reasons for said recommendation.

(2) Within 10 days after adoption by the board of directors of the resolution proposing voluntary liquidation, a copy of said resolution shall be mailed to each member, giving notice of the time, location, and purpose of a special membership meeting which shall be held no less than 10 nor more than 20 days following the mailing of said resolution. Included in this notice shall be a mail ballot, allowing each member to vote in favor or against the proposed voluntary liquidation. All ballots which are received by the credit union prior to the time set for the special membership meeting, shall be counted together with the ballots cast at the meeting to determine whether the membership approves of the voluntary liquidation. Adequate procedures shall be established to provide that each member shall have but one vote. A majority of the votes cast by the members must be in favor of voluntary liquidation for the credit union to be voluntarily liquidated.

(3) Prior to consideration of any resolution pertaining to voluntary liquidation by the board of directors, the credit union shall inform the department and the corporation or the National Credit Union Administration, whichever is applicable, of the time and place of the meeting of the board of directors. Said notification shall be transmitted not less than 5 days prior to the meeting of the board of directors.

(4) Upon adoption by the board of directors of a resolution recommending that the credit union be voluntarily liquidated, the corporation or the National Credit Union Administration, whichever is applicable, may restrict control or give directions with respect to the continued business of the credit union pending consideration of the voluntary liquidation by the members. During such period, no member shall withdraw an aggregate amount in excess of the insurance or guaranty covered by the credit union. No new extensions of credit shall be funded during the period of time of the board of directors' adoption of the resolution recommending the voluntary liquidation and the membership meeting called to consider the voluntary liquidation.

(5) The notice required by subsection (2) shall also be mailed to the department within 5 days after the action of the board of directors. Within 10 days after the meeting of the membership, the board of directors shall notify the department and the corporation or the National Credit Union Administration, whichever is applicable, in writing of the action taken by the members.

(6) If the voluntary liquidation is approved by the membership, the board of directors shall appoint a liquidator to proceed with the liquidation. All reasonable and necessary expenses of operation during the period of liquidation shall continue to be paid as authorizable by the board of directors.

(7) The corporation or the National Credit Union Administration, whichever is applicable, shall have the right of first refusal to be appointed as liquidator of any liquidating credit union which they guarantee or insure. The liquidator shall have all of the powers provided in s. 657.018 regarding involuntary liquidation. If the corporation or the National Credit Union Administration shall decline to serve as liquidator, the board of directors shall appoint a reasonable person as liquidator and specifying the extent of responsibilities and authority delegated to the liquidator.

(8) Whenever the board of directors or liquidator determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed to the members, a certificate of dissolution on forms prescribed by the department shall be prepared and filed with the department together with all pertinent books and records of the credit union, and thereupon the credit union shall be dissolved and its certificate of authorization canceled.

(9) The liquidator shall file a copy of the certificate of dissolution with the Department of State and provide proof of such filing to the department.

657.046 Merger.—

(1) Any credit union may, with the approval of the department, merge with another credit union under the existing certificate of authorization of the other credit union, pursuant to any plan agreed upon by the majority of each board of directors of each credit union joining in the merger if:

(a) The merger is approved by the affirmative vote of a majority of the members of the merging credit union present at a meeting of its members duly called for such purpose;

(b) The merger is approved by an affirmative vote of a majority of the members of the surviving credit union present at a meeting of its members duly called for such purpose; provided, however, that no such vote or meeting is required unless requested in writing by 5 percent or more of the membership of the surviving credit union within 20 days of being

given notice of intent to merge which notice shall inform the members of their right to request a vote and meeting as provided in this paragraph; and

(c) The merger is consented to by the corporation or the National Credit Union Administration, whichever is applicable.

(2) The department shall approve a merger as provided in this section if it finds upon the written and verified application filed by each board of directors that:

(a) Notice of intent to merge was given to the members of the surviving credit union;

(b) Notice of the meeting called to consider the merger was given to the members entitled to vote upon the question;

(c) Such notice disclosed the purpose of the meeting and properly informed the membership that approval of a merger was under consideration;

(d) A majority of the votes cast upon the question were in favor of the merger; and

(e) The merger will not seriously impair the ongoing viability of the surviving credit union.

(3) After agreement by the boards of directors and approval by the members of the merging credit union and surviving credit union, if applicable, the president and secretary of the surviving credit union shall execute a certificate of merger, which shall set forth all of the following:

(a) The time and place of the meeting of each board of directors at which the plan was agreed upon;

(b) The vote in favor of the adoption of the plan;

(c) A copy of the resolution or other action by which the plan was agreed upon;

(d) The time and place of the meeting or meetings of the members, if applicable, at which the plan agreed upon was approved; and

(e) The vote by which the plan was approved by the members.

(4) The certificate and plan of merger shall be transmitted to the department for its approval.

(5) Upon return of the certificate from the department, all property, property rights, and members' interests of the merged credit union shall vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union under whose certificate of authorization the merger was effected. All members of the surviving credit union shall have the same rights, privileges, and responsibilities after the merger is completed.

(6) The certificate of merger shall be filed with the Department of State.

(7) Notwithstanding any other provisions of this chapter or of chapter 120, a credit union may merge without a vote of the membership when the department determines that the credit union is in danger of insolvency and the merger will enable the credit union to avoid liquidation.

657.047 Conversion of credit unions from state to federal and vice versa.—Any credit union organized under this part may convert into a federal credit union and any federal credit union may convert into a credit union organized pursuant to this part upon approval of the authority under whose supervision the converted credit union will operate and upon compliance with applicable laws.

(1) Any action by the board of directors proposing conversions shall be by resolution and shall require the affirmative vote of an absolute majority of the board of directors. Upon adoption of a resolution relating to conversion, a copy of the resolution shall be mailed to each member, together with a notice setting forth the time, location, and purpose of a meeting of the membership which shall be held not less than 10 nor more than 30 days following the mailing of the notice.

(2) Also mailed to each member shall be a ballot allowing an affirmative or negative vote on the proposed conversion. Any ballot received by the credit union prior to the meeting called to consider the conversion shall be counted along with the votes cast at the meeting. Each member shall have but one vote. A majority of the votes cast by the members shall be required to approve the conversion.

(3) Within 10 days after the approval of the membership, the board of directors shall cause to be transmitted to the authority under whose supervision the converted credit union will operate a copy of the resolution adopted by the board of directors and approved by the membership.

(4) Upon the written approval of the authority under whose supervision the converting credit union is to operate, the converting credit union shall become a credit union under this chapter or under the laws of the United States, as the case may be, and thereupon all assets shall become the property of the converted credit union, subject to all existing liabilities against the credit union. All shares and deposits shall remain intact.

(5) Every conversion must be completed within 90 days after the approval of the authority under whose supervision the converted credit union will operate. Upon receiving its certificate of authorization or charter from the authority under whose supervision the converted credit union will operate, the old certificate of authorization or charter shall be returned to the proper authority and shall be canceled.

(6) In consummation of the conversion, the old credit union may execute, acknowledge, and deliver to the newly chartered credit union, instruments of transfer necessary to accomplish the transfer of any property and all right, title, and interest therein.

657.048 Central credit unions.—

(1) Any directors of seven credit unions organized pursuant to this chapter or organized pursuant to federal law and operating in the State of Florida, may, with the authorization of their boards of directors, apply for a certificate to operate as a central credit union in the manner provided by s. 657.005, and shall operate as a credit union in accordance with this chapter. Such credit union shall use the name "central" in its name.

(2) Membership in a central credit union shall be limited to:

(a) Credit unions organized and operating under this part or any other credit union act.

(b) Officers, directors, committee members, and employees of such credit unions, and officials and employees of any association of credit unions.

(c) Organizations and associations of those persons or organizations set forth in subsection (a) or (b).

(d) Residents of this state having a limited field of membership who have applied to the department to organize a credit union and have been denied on grounds other than those set forth in s. 657.005(6) of this part.

(e) Residents of this state having a limited field of membership, if their application for membership is approved by the board of directors of the central credit union. The applicant group must demonstrate to the board of directors of the central credit union that the circumstances of their group are such as to clearly demonstrate that there is no reasonable chance that said group could successfully organize a credit union. The burden of proof shall be on the applicant group. The department shall promulgate forms to be used by applicant groups applying for membership in central credit unions. If the applicant group is approved for membership by the board of directors of the central credit union, the central credit union shall submit to the department a copy of the application for approval by the department.

(f) Persons in the field of membership of liquidated credit unions or of credit unions which have entered into or are about to enter into voluntary or involuntary liquidation proceedings; and

(g) Members of the immediate families of all members qualified above.

(3) Each credit union or other organization becoming a member of a central credit union may designate one person to be its voting representative in any membership meeting. That person shall be designated by the board of directors of the member credit union or other organization. Such voting representatives shall be eligible to hold office in the central credit union as if such person were himself a member of the central credit union.

(4) A central credit union shall have all the powers of any credit union organized under this part and the following powers, notwithstanding any limitations or restrictions herein:

(a) A central credit union may make loans to other credit unions, purchase shares of and make deposits in other credit unions, and obtain or acquire the assets and liabilities of any credit union operating in this state which liquidates, provided that such assets are otherwise eligible for investment by the acquiring credit union.

(b) A central credit union may invest in and grant loans to associations of credit unions, central funds of credit unions, or organizations chartered to provide services to credit unions.

(5) Nothing in this section shall operate to remove any person or organization from membership who is presently a member of any central credit union.

Section 2. Paragraph (a) of subsection (1) of section 657.257, Florida Statutes, is amended to read:

657.257 Membership and eligibility provision.—

(1) Every member credit union shall maintain membership in the corporation and shall maintain a guaranty certificate issued by the corporation. All state-chartered credit unions, which are organized or converted to a state-chartered credit union after the effective date of this act, and those state-chartered credit unions presently exempt who terminate the maintenance of the share-insurance through the National Credit Union Administration, shall apply for membership in the corporation on forms prescribed by the corporation.

(a) With respect to applications from newly organized credit unions, the corporation shall review the application and within 30 days after receiving the application, notify the department of the recommendation by the corporation with respect to conformity of the application with the requirements of part 1 of this chapter, adoption of lending, savings, investment, and management policies and practices consistent with this act and establishment of qualified management and operation personnel. Such action by the corporation will be advisory to the department. *Upon issuance of a certificate of organization by the department, the corporation shall issue a provisional guaranty certificate to the newly-organized credit union.*

Section 3. In order to effectuate the filing change for credit unions from the respective circuit courts of the counties in which the credit unions are located to the Department of State, the Department of Banking and Finance shall provide to the Department of State a list of all credit unions, with such information as shall be required for all filings after the effective date of this act, which shall be accepted and filed at no charge by the Department of State.

Section 4. Paragraph (r) of subsection (2) of section 3 of chapter 76-168, Laws of Florida, and paragraph (r) of subsection (3) of said section as created by chapter 77-457, Laws of Florida, are hereby repealed.

Section 5. Part I of chapter 657, Florida Statutes, consisting of sections 657.01, 657.02, 657.03, 657.04, 657.05, 657.06, 657.061, 657.07, 657.08, 657.09, 657.10, 657.11, 657.12, 657.13, 657.14, 657.15, 657.16, 657.161, 657.17, 657.18, 657.19, 657.20, 657.21, 657.22, 657.23, 657.24, 657.245, 657.246, and 657.247, Florida Statutes, as amended, is hereby repealed.

Section 6. Chapter 657, Florida Statutes, shall stand repealed on July 1, 1986, and shall be reviewed by the Legislature pursuant to the Regulatory Reform Act of 1976, as amended.

Section 7. This act shall take effect January 1, 1981, provided that section 4 shall take effect June 30, 1980, except that if this act becomes a law after such date, said section shall operate retroactively to such date.

Amendment 2—On page 1, in title, line 1, strike the entire title and insert the following:

A bill to be entitled An act relating to credit unions; creating part I of chapter 657, Florida Statutes, providing definitions; providing purposes; providing power of the Department of Banking and Finance with respect to credit unions; providing procedures for application for authority to organize credit unions; providing for departmental approval of bylaw amendments of credit unions; prohibiting unauthorized use of term "credit union"; providing a penalty; providing for the destruction of certain records; providing for fees; restricting credit unions in permitting unregulated persons to perform their services; providing for involuntary liquidation of credit unions; authorizing the department to direct the assumption of control of a credit union by certain guarantors or insurers under certain circumstances; specifying the fiscal year for credit unions; providing for credit union membership and for membership meetings; providing for the board of directors of credit unions and providing board duties; providing for executive officers and for a supervisory committee for credit unions; providing duties of the supervisory committee; authorizing the appointment or election of a credit committee or credit manager; prohibiting certain activities by credit union directors, officers, committee members, employees, and agents; providing penalties; prohibiting the carrying of fictitious or fraudulent assets and providing a penalty; specifying credit union powers; providing regulations with respect to credit union accounts, shares, and dividends; providing for deposits of minors; providing for deposits in two or more names and providing a presumption of vesting at death of one or more of the parties; providing for trust accounts; providing loan powers; providing restrictions upon extensions of credit to credit union directors, officers, committee members, and certain employees; authorizing credit unions to obtain certain forms of insurance; providing limitations upon investments by credit unions; providing exemptions; requiring credit unions to maintain certain reserves and restricting the transfer and use of regular, special, and contingency reserves and the allowance for loan losses accounts; providing restrictions upon place of doing business; providing for office space for credit unions serving public employees; providing procedures for voluntary liquidation; providing for mergers; providing for conversions of credit unions from state to federal and vice versa; authorizing the creation of central credit unions and restricting the membership thereof; providing powers of central credit unions; amending s. 657.251(1)(a), Florida Statutes, relating to membership in the Florida Credit Union Guaranty Corporation; repealing section 3(2)(r) of chapter 76-168 and section 3(3)(r) of said chapter as created by chapter 77-457, Laws of Florida, as amended, to delete the scheduled repeal of chapter 657, Florida Statutes; repealing ss. 657.01, 657.02, 657.03, 657.04, 657.05, 657.06, 657.061, 657.07, 657.08, 657.09, 657.10, 657.11, 657.12, 657.13, 657.14, 657.15, 657.16, 657.161, 657.17, 657.18, 657.19, 657.20, 657.21, 657.22, 657.23, 657.24, 657.245, 657.246, and 657.247, Florida Statutes, as amended, relating to credit unions; providing for repeal and legislative review; providing an effective date.

On motions by Senator W. D. Childers, the Senate concurred in the House Amendments.

CS for SB 349 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Grizzle	McClain	Steinberg
Anderson	Hair	McKnight	Stuart
Barron	Henderson	Myers	Thomas
Beard	Hill	Neal	Tobiassen
Childers, D.	Holloway	Peterson	Trask
Childers, W. D.	Jenne	Poole	Vogt
Fechtel	Johnston	Scarborough	Ware
Frank	MacKay	Scott	Williamson
Gorman	Maxwell	Skinner	Winn

Nays—None

The bill was ordered engrossed and then enrolled.

SPECIAL ORDER, continued

HB 1773—A bill to be entitled An act relating to financial institutions; creating a new chapter 658, Florida Statutes; providing purpose and application of chapter; providing definitions; providing general supervisory powers of the Department of Banking and Finance; providing liability; providing for investigations by the department of violations; providing for hearings; providing for the issuance of complaints and cease

and desist orders; providing for the removal of certain employees of financial institutions; requiring periodic departmental examination of institutions; requiring internal audits and reports and providing a penalty; providing for the Financial Institution's Regulatory Trust Fund and deposit of fees into such fund; requiring a department annual report on state financial institutions; limiting public access to certain department records; allowing disclosure under certain circumstances; providing a penalty for disclosure of confidential information; providing competitive equality of institutions with federally organized or chartered financial institutions; amending ss. 119.07(3)(b) and 680.104(2)(f) and (j), Florida Statutes, correcting cross references; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator W. D. Childers and adopted:

Amendment 1—On page 3, line 17, after "issue" insert: and publish

Amendment 2—On page 3, line 18, after "statements" insert: disseminate information;

On motion by Senator W. D. Childers, by two-thirds vote HB 1773 as amended was read the third time by title, passed, and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gorman	McClain	Thomas
Anderson	Grizzle	McKnight	Tobiassen
Barron	Hair	Neal	Trask
Beard	Henderson	Peterson	Vogt
Carlucci	Hill	Poole	Ware
Chamberlin	Holloway	Scarborough	Williamson
Childers, D.	Jenne	Scott	Winn
Childers, W. D.	Johnston	Skinner	
Fechtel	MacKay	Steinberg	
Frank	Maxwell	Stuart	

Nays—None

Vote after roll call:

Yea—Myers

CS for HB 1733—A bill to be entitled An act relating to regulation of railroads and the Florida Public Service Commission; creating part I of chapter 351, Florida Statutes, providing intent; providing definitions; providing powers of the commission with respect to such regulation; providing for rate approval; providing for interim rates and for experimental and transitional rates; requiring commission approval for discontinuance of certain service; providing requirements with respect to freight receipts; providing for fees; designating existing provisions of chapter 351, Florida Statutes, as part II of said chapter; creating part III of chapter 351, Florida Statutes, defining "regulated company"; establishing the Florida Public Service Commission Trust Fund; providing regulatory fees and for the collection of fees, penalties, and taxes imposed upon companies regulated by the commission; authorizing the commission to seek immunity for witnesses; providing the commission with certain judicial powers; authorizing the commission to establish uniform systems and classifications of accounts and depreciation rates or charges; authorizing the commission to require reports of regulated companies; authorizing the commission to perform certain audits; providing for the confidentiality of business materials; authorizing the commission to impose certain penalties against regulated companies and to adopt rules; providing for the execution of contracts; providing for judicial review; providing for the use of certain administrative hearing officers; amending s. 120.57(1)(a), Florida Statutes, removing the authority of the commission to use its examiners to conduct formal hearings; providing for legislative review and prospective repeal of provisions of the act relating to railroads and chapters 351 through 360, Florida Statutes, which also relate to railroads; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote CS for HB 1733 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gorman	McClain	Stuart
Anderson	Grizzle	McKnight	Thomas
Barron	Hair	Myers	Tobiassen
Beard	Henderson	Neal	Trask
Carlucci	Hill	Peterson	Vogt
Childers, D.	Holloway	Poole	Ware
Childers, W. D.	Jenne	Scarborough	Williamson
Fechtel	Johnston	Scott	Winn
Frank	MacKay	Skinner	
Gordon	Maxwell	Steinberg	

Nays—None

HB 1127—A bill to be entitled An act relating to theft; amending ss. 812.049(3) and 812.051(1) and (3), Florida Statutes, and adding subsection (5) thereto including gold and silver among those metals with respect to which, when purchased by certain dealers and other persons, certain records are required to be kept and forwarded to the county sheriff; providing an exception; creating s. 812.062, Florida Statutes, requiring notification to certain persons upon recovery of a stolen motor vehicle; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 1127 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gorman	McClain	Stuart
Anderson	Grizzle	McKnight	Thomas
Barron	Hair	Myers	Tobiassen
Beard	Henderson	Neal	Trask
Childers, D.	Hill	Peterson	Vogt
Childers, W. D.	Holloway	Poole	Ware
Dunn	Jenne	Scarborough	Williamson
Fechtel	Johnston	Scott	Winn
Frank	MacKay	Skinner	
Gordon	Maxwell	Steinberg	

Nays—None

On motions by Senator W. D. Childers, by two-thirds vote HB 1751 was withdrawn from the Committee on Ways and Means and by two-thirds vote placed on the special order calendar.

HB 1751—A bill to be entitled An act relating to alcoholic beverage licenses; adding subsections (12) and (13) to s. 561.01, Florida Statutes, defining the terms "special airport license" and "airport terminal"; adding subsection (4) to s. 561.15, Florida Statutes, prohibiting the issuance of a special alcoholic beverage license with respect to certain restaurants; amending s. 561.17(2), Florida Statutes, and adding subsection (3) thereto, requiring compliance with sanitary and safety standards for applications for certain alcoholic beverage licenses; providing for license application fees; amending s. 561.18, Florida Statutes, providing that applicants for certain alcoholic beverage licenses shall be fully investigated if selected in a public drawing; amending s. 561.19(2), Florida Statutes, and adding new subsections (3), (4) and (5) thereto; providing a drawing selection process for alcoholic beverage license applicants with respect to licenses made available by population increases; providing an initial license fee; amending s. 561.20(1), (2), (3), (6), and (7)(b) and (c), Florida Statutes, providing for use of state population estimates to determine number of allotted licenses; establishing a formula to stagger the issuance of newly allotted licenses in counties; providing qualifications and restrictions for special restaurant licenses; providing qualifications for and eliminating transferability restriction for bowling alley licenses; exempting certain alcoholic beverage vendors operating in publicly owned or leased airports from the quota alcoholic beverage license limitations; providing for the issuance of special airport licenses; permitting current licensees to apply for one additional allotted license; providing for maximum number of licenses that may be held within a county; providing a grandfather clause; providing qualifications for golf club licenses; providing qualifications for tennis and racquetball club licenses; amending s. 561.26, Florida Statutes, providing for an annual license term on a staggered schedule as fixed by the Division of Alcoholic Beverages and Tobacco; amending s. 561.27, Florida Statutes, providing for alcoholic beverage license renewal; amending s. 561.29(1)(d), Florida Statutes, and adding paragraphs (f) and (g) thereto, requiring compliance with sanitary standards for alcoholic beverage license premises; providing for the revocation of special restaurant licenses upon entry of the third violation of special restaurant laws and rules and provid-

ing for the application of the act to existing licenses; requiring minimum utilization of allotted licenses and exceptions; amending s. 561.32, Florida Statutes; providing restrictions on transferring of newly allotted licenses for 5 years; establishing license tax transfer fee; amending s. 561.33(1), Florida Statutes, and adding subsection (3) thereto, providing for change of locations with respect to alcoholic beverage licensees; amending s. 561.351, Florida Statutes, providing annual terms of certain licenses; amending s. 561.58, Florida Statutes, providing for license renewal of previously revoked licenses; adding subsections (4), (5) and (6) to s. 561.65, Florida Statutes, providing a procedure for foreclosure by lenders against alcoholic beverage license holders; providing for notification to the Division of Alcoholic Beverages and Tobacco of any lien against an alcoholic beverage license before such lien can be enforced; amending s. 565.02(1)(g), (3)(a) and (4), Florida Statutes, providing license tax fee for vendors operating more than three permanent rooms and locations; providing for the sale of alcoholic beverages in certain airline passenger waiting lounges; providing exemptions for tennis and racquetball club licensees with respect to certain rules governing clubs; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator W. D. Childers and adopted:

Amendment 1—On page 3, line 29, strike everything after the enacting clause and insert: Section 1. Subsections (12) and (13) are added to section 561.01, Florida Statutes, to read:

561.01 Definitions.—As used in the Beverage Law:

(12) "Special airport license" means a vendor license to sell certain alcoholic beverages only on those airport premises which have been designated in the United States National Airport System Plan, 49 U. S. C. 1711, as air carrier airports, commuter airports, and reliever airports.

(13) "Airport terminal" means the airport passenger handling facilities or premises publicly owned or leased by a county or municipality or public authority at airports which have been designated in the United States National Airport System Plan, 49 U. S. C. 1711, as air carrier airports, commuter airports and reliever airports.

Section 2. Subsection (4) is added to section 561.15, Florida Statutes, to read:

561.15 Licenses; qualifications required.—

(4) No special restaurant license shall be issued to any person, firm or corporation who has had a special restaurant license heretofore or hereafter issued pursuant to general or special law, revoked or reduced in series within the last 5 years because of division final action taken pursuant to s. 561.29(1)(f), or to any corporation, an officer of which has had his special restaurant license revoked or reduced in series within the last 5 years because of division final action taken pursuant to s. 561.29(1)(f), or to any person, who is or has been an officer of a corporation whose license has been revoked or reduced in series within the last 5 years because of division final action taken pursuant to s. 561.29(1)(f). Any special restaurant license issued to any person, firm or corporation prohibited under this subsection from obtaining such license shall be revoked by the division.

Section 3. Subsection (2) of section 561.17, Florida Statutes, is amended, and subsection (3) is added to said section to read:

561.17 License applications; approved person.—

(2) All applications for alcoholic beverage licenses for consumption on the premises shall be accompanied by a *statement of the appropriate health inspection authority* ~~certificate of the Department of Health and Rehabilitative Services or the county health department~~ that the *premises* ~~place of business wherein the business is to be conducted meets all of~~ *comply with* the sanitary *standards* ~~requirements of the state~~ *set by the Department of Health and Rehabilitative Services and the safety standards set by the Division of Hotels and Restaurants.*

(3) All applicants for licenses shall pay to the division an application fee, which shall be set by rule by the division, which fee shall not exceed $50.

Section 4. Section 561.18, Florida Statutes, is amended to read:

561.18 License investigation.—After the application has been filed with the *local* district *office* supervisor, *the district supervisor* ~~he~~ shall cause the application to be fully investigated, both as to qualifications of the applicants and a manager or person to be in charge and the premises and location sought to be licensed, *except that in the event of any licenses issued pursuant to s. 561.19(2), the division shall cause only those applications selected by public drawing in the order selected to be fully investigated.*

Section 5. Subsection (2) of section 561.19, Florida Statutes, is amended, present subsection (3) is renumbered as subsection (6) and new subsections (3), (4), and (5) are added to said section to read:

561.19 License issuance upon approval of division.—

(2) When beverage licenses which are available by reason of an increase in population of a county or are available by reason of a county permitting the sale of intoxicating beverages when the same is prohibited, the division shall include all applications which are complete and do not facially disclose any matter rendering the applicant ineligible to hold a beverage license in a public drawing to be conducted by rule to establish the priority of applications to be considered by the division in the granting of said license. The applications shall be considered by the division in the order drawn but selection in the drawing shall not insure the issuance of a license to the applicant. In the granting of the license, the division shall consider:

(a) The qualifications of persons as provided in ss. 561.15 and 561.17.

(b) The license investigation conducted pursuant to s. 561.18.

(c) The location of the licensed premises within the demographical and geographical areas of the county consistent with local zoning requirements so as to prevent any undue concentration of licensed premises within any area of the county.

(d) Such other matters as will insure the fair and equitable granting of the licenses.

~~If the division finds that the applicant and premises have such qualifications as required by the Beverage Law, it shall approve the application. If the application is disapproved, any applicant may at any time within 30 days after such disapproval and notice thereof file with the division a request in writing for a review of such disapproval by the Department of Business Regulation. The division shall thereupon certify its findings on which the disapproval was based to the said department which shall review the same and order the application to be granted or denied as justice shall require.~~

(3) In the event that the number of applications does not exceed the number of licenses available, the drawing provided in section (2) shall not be held but any licenses shall be issued in accordance with the provisions of subsection (2).

(4) The granting of licenses pursuant to subsection (2) or (3) shall not be governed by the provisions of s. 120.60. The granting of any such license shall occur no later than 180 days after a drawing is held pursuant to notice published in the Florida Administrative Weekly or in the event no drawing is held, within 180 days of the final date for filing applications. Any applicant who is not included in the pool for drawing to determine priority shall file, within 30 days of the date of mailing of notice to such applicant, a challenge to such action pursuant to s. 120.57 or the right to file any action as to such matter shall be forever lost. Any applicant whose name is included in the pool for drawing to determine priority but who is not granted a license shall be entitled to request a hearing on the denial pursuant to s. 120.57 only on the grounds that the selection process was not conducted in accordance with law or that the licensee selected does not possess the qualifications required by law.

(5) A fee of $10,000 shall be collected from each person, firm, or corporation who is issued a liquor license as provided in this section. This initial license fee shall not be imposed on license renewals, and shall be in addition to the license fees imposed by ss. 563.02, 564.02 and 565.02, Florida Statutes. The revenues collected from the initial license fee imposed by this subsection shall be deposited in the state general revenue fund.

Section 6. Subsections (1), (2), (3), and (6) and paragraphs (b) and (c) of subsection (7) of section 561.20, Florida Statutes, are amended to read:

561.20 Limitation of number of licenses issued.—

(1) No license under s. 565.02(1)(a)-(f), inclusive, shall be issued so that the number of such licenses within the limits of the territory of any county shall exceed one such license to each 2500 residents, or major fraction thereof, within such county, as shown by the last regular statewide census, either federal or state of such county.

(a) Where licenses become available according to the last regular statewide census, either federal or state, for any county, the division shall be authorized to issue said licenses during the 5 successive odd-numbered years commencing in 1981 at the rate of one-fifth of such available licenses during each issuing year with any fraction carried over and calculated in the fifth issuing year. In any county wherein the number of such new licenses is less than five, the division may issue one license in each issuing year commencing in 1981.

(b) The limitation of this section shall not prohibit the issuance of at least three licenses in any county that may approve the sale of intoxicating liquors where the same are prohibited. ~~However, such limitation shall not prohibit the issuance of at least three licenses in any county that may approve the sale of intoxicating liquors in such county.~~

(2)(a) No such limitation of the number of licenses as herein provided shall henceforth prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not less than 100 guest rooms;

2. Any condominium accommodation of which no less than 100 condominium units are wholly rentable to transients and which is licensed under the provisions of chapter 509, except that the license shall be issued only to the person or corporation which operates the hotel or motel operation and not to the association of condominium owners; or

3. Any restaurant having 2,500 square feet of service area and equipped to serve 150 persons full-course meals *at tables* at one time, and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages, *provided that any restaurant heretofore or hereafter granted a special license pursuant to general or special law shall be prohibited from operating as a package store nor shall intoxicating beverages be sold under such license after the hours of serving food have ceased.* However, any license heretofore issued to any such hotel, motel, motor court, or restaurant or hereafter issued to any such hotel, motel, or motor court, including a condominium accommodation, under the general law shall not be moved to a new location, such licenses being valid only on the premises of such hotel, motel, motor court, or restaurant. Licenses issued to hotels, motels, motor courts, or restaurants under the general law and held by such hotels, motels, motor courts, or restaurants on May 24, 1947, shall be counted in the quota limitation contained in subsection (1). Any license issued for any hotel, motel, or motor court under the provisions of this law shall be issued only to the owner of said hotel, motel, or motor court or, in the event the hotel, motel, or motor court is leased, to the lessee of the hotel, motel, or motor court, and the license shall remain in the name of said owner or lessee so long as the license is in existence. Any special license now in existence heretofore issued under the provisions of this law cannot be renewed except in the name of the owner of the hotel, motel, motor court, or restaurant or, in the event the hotel, motel, motor court, or restaurant is leased, in the name of the lessee of the hotel, motel, motor court, or restaurant in which the license is located and must remain in the name of said owner or lessee so long as the license is in existence. Any license issued under this section shall be marked "Special," and nothing herein provided shall limit, restrict, or prevent the issuance of a special license for any restaurant or motel which shall hereafter meet the requirements of the law existing immediately prior to the effective date of this act, if construction of such restaurant has commenced prior to the effective date of this act and is completed within 30 days thereafter, or if an application is on file for such special license at the time this act takes effect; and any such licenses issued under this proviso may be annually renewed as now provided by law. Nothing herein shall prevent an application for transfer of a license to a bona fide purchaser of any hotel, motel, motor court, or restaurant by the purchaser of such facility or the transfer of such license pursuant to law. ~~Restaurants that are a part of, or serve, publicly owned or leased airports are exempt from the provisions of this paragraph regarding minimum size and seating capacity.~~

(b) Any county in which special licenses were issued under the provisions of s. 561.20(2)(b) in effect prior to the effective date of this act shall continue to qualify for such licenses pursuant to those provisions in effect prior to the effective date of this act, and shall not be affected by the provisions of paragraph (a) of this subsection.

(c) In addition to any special licenses that may be issued under the provisions of paragraph (a), the division is hereby authorized to issue special licenses to qualified applicants who own or lease bowling establishments having *8* ~~12~~ or more lanes and all necessary equipment to operate same. Any license issued for any bowling establishment under the provisions of this paragraph shall be issued only to the owner of said bowling establishment or, in the event the bowling establishment is leased, to the lessee of the bowling establishment, and the license shall remain in the name of said owner or lessee so long as the license is in existence. Any such license issued under this paragraph shall not be moved to a new location ~~and shall not be transferred in any manner whatsoever~~. No license issued pursuant to this paragraph shall permit the licensee to sell alcoholic beverages by the package for off-the-premises consumption. The provisions of this paragraph shall not preclude any bowling establishment from holding a beverage license issued pursuant to any other provision of this section.

(d) Any board of county commissioners may be issued a special license which shall be issued in the name of the county and be applicable only in and for facilities owned and operated by the county and in which the sale and consumption of alcoholic beverages is not otherwise prohibited. The license may be transferred from one qualified county facility to another upon written notification to the department.

(e) The owner of a hotel, motel, or motor court may lease his restaurant operation to another corporation, individual, or business association that, upon meeting the requirements for a restaurant license set forth in this chapter, may operate independently of the hotel, motel, or motor court and be permitted to provide room service for alcoholic and intoxicating beverages within such hotel, motel, or motor court in which the restaurant is located.

(f) In addition to exceptions set forth in this subsection, no such limitation of the number of licenses as herein provided shall prohibit the issuance of special airport licenses as defined in s. 561.01(12) to restaurants that are a part of, or serve, publicly owned or leased airports. The special airport license provided for herein shall allow for consumption within designated areas of the airport terminal as defined in s. 561.01(13). Any holder of such special license located at a publicly owned and operated airport may sell and serve alcoholic beverages for consumption on the premises to the general public under said license in not more than four places or locations in control of the holder of such license. Any license so issued may not be transferred to a new location, except that a vendor operating a place of business under such special license may transfer such license when the publicly owned or leased airport at which said vendor operates a place of business under such special license moves its terminal facilities on the same airport premises, or when said airport is required by law to move its entire operation to a new location. Any license so issued shall entitle the vendor operating a place of business under such a license to sell vinous beverages and distilled spirits to airlines in sealed miniature containers and other alcoholic beverages for consumption on the aircraft using the facility and only for consumption by the aircraft's passengers when such aircraft is airborne.

(3) The limitation upon the number of such licenses to be issued as herein provided shall not apply to existing licenses or to the renewal or transfer of such licenses, but upon the revocation of any existing license no renewal thereof or new license therefore shall be issued contrary to the limitation herein prescribed. However, the beverage director may reissue a license under s. 565.02(1)(b) to any qualified applicant within any municipality in which there is only one license, which formerly had an additional license which has heretofore been revoked, and which has sufficient population as shown by the last regular statewide federal census to warrant the additional

license. The transfer permitted herein shall not include the change in location of any licensed premises as provided in s. 561.33 of the Beverage Law when such change of location will increase the number of licenses contrary to the limitation upon the number of such licenses as herein provided.

(6) When additional licenses are available by reason of an increase in population, *or by reason of a county permitting the sale of intoxicating beverages when the same is prohibited,* no person, firm, or corporation *shall be entitled to apply for and, if selected as provided by law, receive more than one license in addition to any liquor license presently issued to such person, firm or corporation. The division may issue up to 50 percent of the number of new licenses that become available by reason of the 1980 federal dicennial census to persons and locations having alcoholic beverage licenses not included in the limitation as herein provided, provided that there are sufficient applicants and provided that more than one such license is authorized for a county* ~~already holding a liquor license shall be permitted to own or have any interest, directly or indirectly, in any such additional licenses, or when additional licenses are available by reason of a county permitting the sale of intoxicating beverages when the same is prohibited, no person, firm, or corporation will be permitted to own or have any interest, directly or indirectly, in more than one license~~. This limitation is enacted pursuant to the police power of the state, for the express purpose of promoting the public health, morals, and welfare. This limitation shall only apply when a license is originally issued ~~after first becoming available~~ and shall not apply to subsequent transfers of such licenses *as are authorized by law, from the original purchaser thereof, or to renewals of such licenses, provided, however, in no event shall any person, firm or corporation licensed as a vendor under subsection (1) have an interest, directly or indirectly, in more than 25 percent of the number of licenses authorized for issuance in any county authorized eight or more licenses. Notwithstanding the foregoing limitation, any licensed vendor having an interest, directly or indirectly, in more than 25 percent of the licenses authorized for issuance in any one county on July 1, 1980, may continue to qualify for such licenses* ~~from the original purchaser thereof, or to renewals of such licenses~~.

~~(7)~~

(b) Any chartered or incorporated club owning or leasing and maintaining any bona fide regular, standard golf course consisting of at least nine holes, with clubhouse, locker rooms, and attendant golf facilities and comprising in all at least *35* ~~70~~ acres of land owned or leased by such club may be issued a license under s. 565.02(4), but failure of such club to maintain golf course and golf facilities shall be grounds for revocation of license.

(c) Any chartered or incorporated club owning or leasing and maintaining any bona fide tennis club or 4-wall indoor racquetball club consisting of not less than 10 regulation-size tennis courts or 10 regulation-size 4-wall indoor racquetball courts, *or a combination of such courts totaling, in the aggregate, not less than 10 courts,* with clubhouse facilities, pro shop, locker rooms, and attendant tennis or racquetball facilities, all located on a contiguous tract of land owned or leased by such club, may be issued a license under s. 565.02(4), but failure of such club to maintain such courts and facilities shall be grounds for revocation of any such license so issued.

Section 7. Section 561.26, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 561.26, F.S., for present text.)

561.26 Term of licenses.—

(1) Except as otherwise provided herein, no license shall be issued except annual licenses. Licenses shall be renewed annually, and the division shall adopt an appropriate rule establishing a staggered schedule for license renewals which will avoid the necessity of all licenses being renewed in the same period of the year and establishing a pro rata fee schedule and date schedule for initial implementation of a staggered system.

(2) Establishments that apply for licenses at times other than the annual renewal date fixed by the division for such establishments shall be required to pay the full annual fee if license issuance occurs more than 6 months before the next renewal date fixed by the division; if such issuance occurs less than 6 months before the next renewal date fixed by the division, the license fee shall be one-half of the annual fee.

(3) Nothing herein shall be construed to permit the issuance of licenses contrary to the limitation on the number of such licenses as provided in s. 561.20, nor to amend the provisions of this law pertaining to the renewal or transfer of licenses.

Section 8. Section 561.27, Florida Statutes, is amended to read:

561.27 Renewing license.—

(1) A licensee under the Beverage Law shall be entitled to a renewal of his annual license from year to year, as a matter of course, *in accordance with a schedule of license renewals as established by the division,* ~~on or before September 30 by presenting the license for the previous year or satisfactory evidence of its loss or destruction to the division~~ and by paying the annual license tax and giving any bond required of such licensee under the Beverage Law.

(2) A license may be renewed subsequent to *expiration of license* ~~September 30 of~~ each year only upon making to the division a delinquent application for approval, accompanied by an affidavit stating that no sales of alcoholic beverages have been made subsequent to *expiration of license* ~~September 30~~, and upon payment of a penalty of $5 for each month or fraction of a month of delinquency, or upon payment of a penalty of 5 percent of the license fee, whichever amount is the greater. All licenses not renewed within 60 days of *expiration* ~~September 30~~ will be canceled by the division unless such license is involved in litigation; however, the division may allow a licensee to renew the license subsequent to the 60-day period after good and sufficient cause for the delinquency has been shown to the division by the licensee.

Section 9. Paragraph (d) of subsection (1) of section 561.29, Florida Statutes, is amended, and paragraphs (f) and (g) are added to said subsection to read:

561.29 Revocation and suspension of license; power to subpoena.—

(1) The division is given full power and authority to revoke or suspend the license of any person holding a license under the Beverage Law, when it is determined or found by the division upon sufficient cause appearing of:

(d) Maintaining licensed premises that are unsanitary *and unsafe,* or are not approved as sanitary *and safe* by the county board of health, ~~or~~ the Department of Health and Rehabilitative Services, *or the Division of Hotels and Restaurants* whichever has *inspection* jurisdiction thereof.

(f) Special restaurant license violations. The division shall revoke or reduce in series a special restaurant license which has been issued pursuant to general or special law as an exception to the limitation of the number of licenses authorized under s. 561.20(1) if the division finds the licensee of record shall have violated the conditions of the license imposed by the general or special law authorizing the issuance of the license or the rules of the division implementing said general or special law on more than two occasions. Upon the third such violation the special restaurant license shall be revoked or reduced in series, in the sole discretion of the division; however, if the third violation occurs during the first year under a new licensee of record, then the mandatory penalties of this paragraph shall apply to the next violation after the end of the first year. This paragraph shall apply to all special restaurant licenses heretofore or hereafter issued by the division. If a licensee of record shall have had three or more special restaurant violations prior to July 1, 1980, then the next violation under this paragraph shall result in the revocation or reduction in series of the subject license. Nothing herein shall be construed to limit the discretionary penalties authorized under this section for any violation of the Beverage Law not specifically covered by this paragraph.

(g) Failure by the holder of any license under s. 561.20(1) to maintain the licensed premises in an active manner in which the licensed premises are open for the bonafide sale of all authorized alcoholic beverages during regular business hours of at least 6 hours per day for a period of 120 days or more during any 12-month period commencing 9 months after the

acquisition of the license by the licensee, regardless of the date the license was originally issued. The division may waive or extend the requirement of this section upon the finding of a hardship including the purchasing of the license in order to transfer it to a newly constructed or remodeled location. However, during such closed period the licensee shall make reasonable efforts toward restoring the license to active status. This paragraph shall apply to all annual license periods commencing on or after July 1, 1980.

Section 10. Section 561.32, Florida Statutes, is amended to read:

561.32 Transfer of licenses.—

(1) Licenses issued under the provisions of the Beverage Law, *except as otherwise provided in subsection (2) hereof,* shall not be transferable except as follows: When a licensee shall have made a bona fide sale of the business which he is so licensed to conduct he may obtain a transfer of such license to the purchaser of said business, provided the application of the purchaser shall be approved by the division in accord with the same procedure provided for in ss. 561.17, 561.18, and 561.19, in the case of issuance of new licenses. However, no one shall be entitled as a matter of right to a transfer of a license when revocation or suspension proceedings have been instituted against a licensee, and transfer of license in any such case shall be within the discretion of the division. Before the issuance of any transfer of license herein provided, the transferee shall pay a transfer fee of 10 percent of the annual license tax to the division, except for those licenses issued pursuant to ss. 561.20*(1)* and 565.02(1)~~(a) (f), inclusive~~, for which the transfer fee shall be *$1000* ~~$100 or 10 percent of the annual license tax, whichever is greater~~.

(2) Any license issued under s. 561.20(1) shall not be transferable in any manner either directly or indirectly, including any change in stock, partnership shares or other form of ownership of any entity holding any said license, except by probate or guardianship proceedings, for a period of 5 years from the date of original issuance. Any attempted assignment, sale or transfer of interest in such license either directly or indirectly in violation of this provision is hereby declared void and said license shall be deemed abandoned and shall revert to the state to be issued as provided by law for new licenses.

(3)~~(2)~~ Licensed manufacturers~~,~~ *and* distributors~~, and exporters~~ shall pay a transfer license fee equal to 10 percent of the total state, county, and city, if any, annual license fee.

Section 11. Subsection (1) of section 561.33, Florida Statutes, is amended and subsection (3) is added to said section to read:

561.33 Licensee moving to new location; changing name of business.—

(1) Any licensee may move his place of business and sell at his new place of business upon approval by the division of the licensee's application for such change of location. Upon approval of the application, there shall be issued to such licensee a license for the new location without the payment of any further fee or tax. *However, if the new place of business is in a county having a different license tax year from the county where the original license was issued, an additional appropriate license tax shall be paid by the licensee before the issuance of the license applied for if the new location is in an area which effects an extension of the licensing period for the licensee.*

(3) Nothing herein shall be construed to permit the issuance of licenses contrary to the county by county limitation on the number of such licenses as provided in s. 561.20, nor to amend the provisions of this law pertaining to the renewal or transfer of licenses.

Section 12. Section 561.351, Florida Statutes, is amended to read:

561.351 Manufacturers, distributors, *passenger common carriers* ~~exporters~~; term of license.—All licenses of manufacturers, distributors, and *passenger common carriers, as provided for under s. 565.02,* ~~exporters~~ shall be issued annually and shall run from *October 1* ~~September 30~~ to the succeeding September 30, except that when a manufacturer, distributor, or *passenger common carrier* ~~exporter~~ begins business after April 1 in any year he may obtain a license expiring on the succeeding September 30 upon the payment of one-half the tax for such annual license.

Section 13. Section 561.58, Florida Statutes, is amended to read:

561.58 Issuance of license for a prior license revoked.—When a license is revoked by the division, it may prohibit or permit a license to be issued for the location of the place of business formerly operated under such revoked license. The maximum period of time that any such license shall be prohibited by the division from any such place of business shall be 2 years from the succeeding *license renewal date as fixed by the division* ~~October 1~~ following such revocation.

Section 14. Subsections (4), (5) and (6) are added to section 561.65, Florida Statutes, to read:

561.65 Mortgagee's interest in license.—

(4) Foreclosure pursuant to this chapter may be instituted by the lender after receiving from the division a written acknowledgment that no administrative charges are pending against said license. Said acknowledgment may be requested by the lender at any time after the proposed securing of a mortgage or lien. A copy of the security agreement shall be filed with the division prior to the commencement of foreclosure. Foreclosure shall be in circuit court and the division joined as an indispensable party. The division may object to the foreclosure by raising defenses including, but not limited to, the lack of bona fides of the mortgage or lien. However, a previous acknowledgment from the division, including, but not limited to, an acknowledgment at the time of creating the lien, that there are no pending administrative charges against the license shall preclude the division from objecting to the foreclosure upon grounds other than the bona fides of the mortgage or lien. The division may defeat a foreclosure claim by a showing that charges are pending against the license and that the lender failed to previously obtain written acknowledgment from the division. The division may also defeat the foreclosure based upon a previous acknowledgment to the lender to the effect that administrative charges were pending against the license.

(5) The filing of a lien against an alcoholic beverage license by any person with intent to prevent the enforcement of the penalties of the Beverage Law shall be a violation of the Beverage Law and punishable as therein provided.

(6) Other provisions of this section to the contrary notwithstanding, no lien against a beverage license shall be enforceable unless there shall have been filed with the division, by certified mail, a copy of same by the party seeking to enforce the lien, setting forth the terms of any loan, or other type of transaction which would give rise to a lien,

The division shall record on the division's records the lien and all related information. This subsection shall not apply to liens existing prior to January 1, 1981.

Section 15. Paragraph (g) of subsection (1), paragraph (a) of subsection (3) and subsection (4) of section 565.02, Florida Statutes, are amended to read:

565.02 License fees; vendors; clubs; caterers and others.—

(1) The following state license taxes shall apply to vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content:

(g) Vendors operating places of business where consumption on the premises is permitted and which have more than three permanent separate *rooms and* locations serving alcoholic beverages for consumption on the licensed premises shall pay in addition to the license tax imposed in paragraphs (b), (c), (d), (e), and (f), $1,000. However, such permanent separate *rooms and* locations shall not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event. Golf club license holders may operate service bars or portable or temporary bars on the grounds contiguous to their licensed premises and shall pay $100 for a certified copy of the club license, which shall be posted on the bar. The area contiguous to the licensed premises shall be considered an extension of the licensed premises upon payment of the fee, posting of the certified copy of the license, and

notation of such extension upon the sketch accompanying the original license application.

(3)(a) Operators of steamships and steamship lines, buses and bus lines, airplanes and airlines engaged in interstate and foreign commerce or plying between fixed terminals and upon fixed schedules in this state may obtain licenses to sell the beverages mentioned in the Beverage Law on steamships, buses, and airplanes operated by such operators on payment of an annual license tax of $1,100, *and in no more than one passenger waiting lounge licensed by the division and operated by an airline licensed herein at each of their terminals in the state for ticketed passengers whose flights are scheduled to depart within 24 hours of service and guests in the company of such ticket-holders, provided further such licensed airline shall have first obtained an appropriate space lease or permit providing for payment of non-discriminatory rental and concession fees, and filed a tariff for such lounge with the Civil Aeronautics Board, and on payment of an additional license tax of $1,100 per lounge. All of the aforesaid license* ~~said~~ tax to be paid to the division. Such licenses shall authorize the holders thereof to keep for sale and sell all beverages mentioned in the Beverage Law upon any steamship, bus, or airplane *or in any such airline passenger waiting lounge* operated by such operators in this state, but said beverages may be sold only to passengers upon such steamships, buses and airplanes *and to ticketed passengers and their guests in such airline passenger waiting lounges* and may be served only for consumption *on such steamships, buses, and airplanes, or in such airline passenger waiting lounges* ~~thereon~~. It is unlawful for such licensees to purchase for resale any liquor except in miniature bottles of not more than 2 ounces or liquor in individual containers of not less than one-fifth of 1 gallon. Such sales shall be permitted only while said steamships, buses, and airplanes are in transit and shall not be permitted while such steamships are moored at docks or wharves in ports of this state, while said buses are at stations, or while airplanes are in airports. Every such license shall be good throughout the state. No license shall be required or tax levied by any municipality or county for the privilege of selling such beverages for consumption on such steamships, buses, or airplanes *or in such airline passenger waiting lounges.* Such beverages shall be sold only on steamships, buses, and airplanes in which are posted certified copies of the license issued to their operators. Certified copies of such license shall be issued by the division upon payment of a fee of $25 for each certified copy. However, this paragraph shall not apply to operators of pleasure or excursion boats not having regular round trip runs of more than 100 miles in each direction, but operators of such pleasure or excursion boats may obtain a license, with such boats being designated as their place of business, upon compliance with all the laws relating to vendors operating places of business where consumption on the premises is permitted. Also, no license to sell the beverages herein defined shall be issued to the operator of any boat which plies upon or is anchored upon the waters of any lake within this state.

(4) Persons associated together as a chartered or incorporated club, including social clubs incorporated by orders of circuit judges after their charters have been found to be for objects authorized by law and approved by said judges as organized for lawful purposes and not for the purpose of evading license taxes on dealers in beverages defined herein, which such organizations are bona fide clubs, and at the time of application for license hereunder shall have been in continuous active existence and operation for a period of not less than 2 years in the county where they exist, shall before serving or distributing to their members or nonresident guests the beverages defined herein, whether such service or distribution be made upon contribution to the club of money or by check or other device, pay an annual state license tax of $400. However, any golf club, *tennis club, or indoor racquetball club, municipally or privately owned* ~~operated by or on behalf of any incorporated municipality in this state~~, and any veterans' or fraternal organization of national scope, need not have been, or need not be, in continuous active existence or operation for any required period of time prior to an application for license hereunder. The payment of such club license tax shall authorize the service and distribution to members and nonresident guests of the club only, and such service and distribution to said members and nonresident guests shall not be deemed sales within the meaning of the law in this state, but any service or distribution to anyone other than a member or nonresident guest of such licensed club shall be deemed a sale, and any officer, member, or employee of any such licensed club who shall sell or distribute or serve any such beverages to any person other than a member or nonresident guest of such club for money or other value shall be deemed guilty of selling such beverages without a license and shall be punished as provided by law. The holders of golf, *tennis and racquetball* club licenses may sell alcoholic beverages to those other than members and their nonresident guests on days when the club is open to the public. For each such day of service to nonmembers, the club shall obtain from the division for a fee of $50 an extension of its license to permit such sales. Such license extensions shall be limited to one event per year, not to exceed *7* ~~five~~ consecutive days. Any officer of any such club which has not paid such license who shall knowingly permit such service or distribution by such club of the beverages herein defined to members or nonresident guests of such club shall, upon conviction thereof, be punished as herein provided. However, this paragraph shall not apply to clubs organized or used for the purpose of evading the payment of the license tax on vendors of such beverages, but such club shall be subject to the payment of the license tax imposed by the Beverage Law upon vendors. The president, vice president, secretary, or treasurer, or officers of corresponding duties by any name they may be called, of any club required by this section to pay a license tax, shall be required to see that such license tax shall be paid and in default thereof shall each be personally liable to the punishment provided by the Beverage Law for nonpayment of the license hereby required. Clubs not authorized to obtain licenses under this subsection or which do not obtain licenses under this subsection may, if they comply with this provision of the Beverage Law, obtain licenses as vendors. Clubs obtaining such club licenses shall not purchase any beverage herein defined from anyone other than a distributor or vendor licensed under the Beverage Law, nor shall such clubs dispense or serve any beverages defined herein unless such beverages shall have been purchased by such club from such licensed distributor or vendor; nor shall they dispense or serve any such beverage on which a tax is required by the Beverage Law unless such beverage tax has been paid as required by said law. Such club license cannot be transferred in any manner whatsoever.

Section 16. Section 564.07, Florida Statutes, is created to read:

564.07 Price affirmation and filing of price schedule.—

(1)(a) Each primary American source, as defined in s. 564.045(1), authorized to sell wine to the licensed distributors in this state shall file with the division, semiannually, by January 15 for the 6-month period commencing February 1 and by July 15 for the 6-month period commencing August 1, or within 30 days after the time such primary American source first becomes eligible to sell such wine in the state, a verified affirmation that the bottle and case price of all wine which such primary American source shall offer for sale to a Florida distributor shall be sold to that distributor at a price which is no higher than the lowest price at which such items will be offered for sale at any time during such 6-month period by such primary American source to any distributor in any other state or the District of Columbia or to any state or state agency which owns or operates retail stores for the sale of wine.

(b) At the conclusion of the initial 6-month filing period, and for every subsequent filing, each newly filed affirmation shall contain as a part thereof a listing of all the licensed distributors in Florida to whom wine was sold during the previous 6-month period and the net price, by brand, by bottle or case, charged to such distributors.

(c) The reporting requirements of this section shall not apply to transactions between distributors licensed in Florida.

(2) In determining the lowest price for which any item of wine is sold in any other state or in the District of Columbia or to any state or state agency which owns or operates retail stores for the sale of wine, appropriate reductions shall be made to reflect all discounts and all rebates, free goods, allowances, and other inducements in any kind whatsoever offered or given to any out-of-state distributor, other state, or state agency purchasing such items in such other states or in the District of Columbia.

(3)(a) Such primary American source shall also file at the same time and in addition to the affirmation required in subsection (1), a written schedule, in the number of copies and on the form required by the division, which shall contain the following information as to each item it is offering for

sale in Florida during the 6 months covered by the affirmation, by brand or trade name:

1. The capacity of each package thereof so offered for sale;

2. The nature of the contents thereof;

3. The age and percentage of alcohol thereof where stated on the container label;

4. The number of bottles thereof contained in a case of said item; and

5. The bottle and case price to the Florida distributor, which price in each such instance shall be individual for each item and not in combination with any other item.

(b) Any such primary American source may amend such schedule by the 15th day of any month, such amended schedule to take effect on the first of the following month.

(4) Notwithstanding the provisions of subsections (1) and (3), if the effect of any discounts, rebates, free goods, allowances, or other inducements offered or given in any other state or the District of Columbia with respect to any item set forth on a schedule filed pursuant to subsection (3) is to reduce the price of such item elsewhere below that in which it is being sold in this state during the same period, the primary American source filing such schedule shall indicate thereon the date, location, and amount of discounts, rebates, free goods, allowances, and other inducements, per case, to the extent that the price elsewhere for the same item of wine is less than at which it is sold in this state. Such discounts, rebates, free goods, allowances, and other inducements shall be offered in this state with respect to such item within a 12-month period, including the month in which they are given elsewhere.

(5) The penalty for any violation of this section shall be as provided in ss. 561.29 and 564.05. In addition, the division may bring suit for injunction in the courts of this state to enjoin a violation of any of the provisions of this section.

(6) The first report due under this section shall not be required until January 15, 1981.

Section 17. If any provision of this act, or the application thereof to any person or circumstances 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 18. This act shall take effect upon becoming a law.

Amendment 2—On page 1, strike the title and insert: A bill to be entitled An act relating to alcoholic beverage licenses; adding subsections (12) and (13) to s. 561.01, Florida Statutes, defining the terms "special airport license" and "airport terminal"; adding subsection (4) to s. 561.15, Florida Statutes, prohibiting the issuance of a special alcoholic beverage license with respect to certain restaurants; amending s. 561.17(2), Florida Statutes, and adding subsection (3) thereto, requiring compliance with sanitary and safety standards for applications for certain alcoholic beverage licenses; providing for license application fees; amending s. 561.18, Florida Statutes, providing that applicants for certain alcoholic beverage licenses shall be fully investigated if selected in a public drawing; amending s. 561.19(2), Florida Statutes, and adding new subsections (4) and (5) thereto, providing a drawing selection process for alcoholic beverage license applicants with respect to licenses made available by population increases; amending s. 561.20(1), (2), (6), and (7)(b) and (c), Florida Statutes, establishing a formula to stagger the issuance of newly allotted licenses in counties; providing qualifications and restrictions for special restaurant licenses; providing qualifications for and eliminating transferability restriction for bowling alley licenses; exempting certain alcoholic beverage vendors operating in publicly owned or leased airports from the quota alcoholic beverage license limitations; providing for the issuance of special airport licenses; permitting current licensees to apply for one additional allotted license; providing for maximum number of licenses that may be held within a county; providing a grandfather clause; providing qualifications for golf club licenses; providing qualifications for tennis and racquetball club licenses; amending s. 561.26, Florida Statutes, providing for an annual license term on a staggered schedule as fixed by the Division of Alcoholic Beverages and Tobacco; amending s. 561.27, Florida Statutes, providing for alcoholic beverage license renewal; amending s. 561.29(1)(d), Florida Statutes, and adding paragraphs (f) and (g) thereto, requiring compliance with sanitary standards for alcoholic beverage license premises; providing for the revocation of special restaurant licenses upon entry of the third violation of special restaurant laws and rules and providing for the application of the act to existing licenses; requiring minimum utilization of allotted licenses and exceptions; amending s. 561.32, Florida Statutes; providing restrictions on transferring of newly allotted licenses for 5 years; establishing license tax transfer fee; amending s. 561.33(1), Florida Statutes, and adding subsection (3) thereto, providing for change of locations with respect to alcoholic beverage licensees; amending s. 561.351, Florida Statutes, providing annual terms of certain licenses; amending s. 561.58, Florida Statutes, providing for license renewal of previously revoked licenses; adding subsections (4), (5) and (6) to s. 561.65, Florida Statutes, providing a procedure for foreclosure by lenders against alcoholic beverage license holders; amending s. 565.02(1)(g), (3)(a) and (4), Florida Statutes, providing license tax fee for vendors operating more than three permanent rooms and locations; providing for the sale of alcoholic beverages in certain airline passenger waiting lounges; providing exemptions for tennis and racquetball club licensees with respect to certain rules governing clubs; providing for severability; creating s. 564.07, Florida Statutes; requiring a price affirmation and a price schedule for wine sold to Florida distributors by manufacturers or other authorized persons providing penalties; providing for injunction; providing for severability; providing an effective date.

On motion by Senator W. D. Childers, by two-thirds vote HB 1751 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Maxwell	Steinberg
Anderson	Gorman	McClain	Stuart
Barron	Grizzle	McKnight	Thomas
Beard	Hair	Neal	Tobiassen
Childers, D.	Henderson	Peterson	Trask
Childers, W. D.	Hill	Poole	Vogt
Dunn	Jenne	Scarborough	Winn
Fechtel	Johnston	Scott	

Nays—1

Gordon

Votes after roll call:

Yea—Myers

Nay—MacKay

SB 1049—A bill to be entitled An act relating to alcoholic beverages; creating s. 564.07, Florida Statutes; requiring a price affirmation and a price schedule for wine sold to Florida distributors by manufacturers or other authorized persons; providing penalties; providing for injunction; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote SB 1049 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Barron	Henderson	Neal	Stuart
Beard	Hill	Peterson	Trask
Childers, W. D.	Jenne	Scarborough	Vogt
Frank	Johnston	Scott	Ware
Gorman	McClain	Skinner	Williamson
Hair	Myers	Steinberg	Winn

Nays—10

Anderson	Childers, D.	Grizzle	McKnight
Carlucci	Dunn	MacKay	
Chamberlin	Fechtel	Maxwell	

On motion by Senator Scott, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By the Committee on Commerce—

SB 310—A bill to be entitled An act relating to regulation of radio common carriers; amending s. 364.41, Florida Statutes; providing definitions; providing for deposit of fees; amending s. 364.44, Florida Statutes; deleting provisions relating to gross revenue tax; providing for audit of reports of intrastate gross revenues; creating s. 364.45, Florida Statutes; providing for adjustment of rates; authorizing orders affecting equipment, facilities, and services; providing a rule of construction; reviving and readopting, notwithstanding the Regulatory Reform Act of 1976, as amended, ss. 364.41, 364.42, and 364.44, Florida Statutes, as amended; repealing s. 364.43, Florida Statutes, relating to penalties for violations; providing a retroactive effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 6, lines 16 through 29, strike all of said lines and insert: 364.45 Rates; adjustment.—The rates and charges of every radio common carrier shall be just, reasonable, compensatory, and not unfairly discriminatory. The commission shall establish by rule zones of reasonableness in which rates or other charges may be increased, decreased, or modified without commission approval, provided that notice of rate changes within said zone is provided to the commission and affected persons at least 30 days prior to such change. All rate changes which fall outside the previously approved zone shall require commission approval prior to becoming effective

Amendment 2—On page 4, lines 9-16, strike all of said lines and insert: (5) In determining whether a certificate shall be granted as provided in subsection (4), the commission must find, based upon competent, substantial evidence pursuant to chapter 120, that the service proposed by the applicant would be consistent with the public convenience and necessity, and that existing service is inadequate to meet the reasonable need of the public.

Senator Johnston moved the following amendment which was adopted:

Amendment 1 to House Amendment 2—On page 1, strike all of lines 2 through 8 and insert: *(5)* ~~(6)~~ *In determining whether a certificate shall be granted as provided in subsection (4), the commission must find, based upon competent, substantial evidence pursuant to chapter 120, that the service proposed by the applicant would be consistent with the public convenience and necessity, and that existing service is inadequate to meet the reasonable need of the public.* ~~The commission shall not grant a certificate for a proposed radio common carrier operation or extension thereof which will be in competition with or duplication of any other radio common carrier unless it shall first determine that the existing service is inadequate to meet the reasonable needs of the public or that the person operating the same is unable to or refuses or neglects to provide reasonably adequate service.~~

On motions by Senator Scott, the Senate concurred in House Amendment 1 and House Amendment 2 as amended, and the House was requested to concur in the Senate amendment to House Amendment 2.

SB 310 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Maxwell	Stuart
Anderson	Gordon	McClain	Trask
Barron	Gorman	McKnight	Vogt
Beard	Grizzle	Myers	Ware
Carlucci	Hair	Peterson	Williamson
Childers, D.	Henderson	Scarborough	Winn
Childers, W. D.	Hill	Scott	
Dunn	Jenne	Skinner	
Fechtel	MacKay	Steinberg	

Nays—2

Johnston	Neal

Votes after roll call:

Yea—Thomas, Tobiassen

SPECIAL ORDER, continued

HB 1638—A bill to be entitled An act relating to bookmaking; amending s. 550.361(3), Florida Statutes, providing for the reduction of a suspension from pari-mutuel facilities to a period of 2 years; providing for reinstatement by the Florida Pari-mutuel Commission; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendments which were moved by Senator Winn and adopted:

Amendment 1—On page 1, line 23, strike "Commission" and insert: Director

Amendment 2—On page 1 in title, line 7, strike "Commission" and insert: Director

Senator Barron presiding

On motion by Senator Winn, by two-thirds vote HB 1638 as amended was read the third time by title and failed to pass. The vote was:

Yeas—9

Anderson	Henderson	Skinner	Winn
Childers, W. D.	Scarborough	Stuart	
Hair	Scott		

Nays—18

Beard	Frank	Maxwell	Steinberg
Chamberlin	Gorman	McClain	Trask
Childers, D.	Grizzle	McKnight	Vogt
Dunn	Johnston	Neal	
Fechtel	MacKay	Peterson	

Votes after roll call:

Nay—Carlucci

Yea to Nay—W. D. Childers, Hair, Scott, Skinner

Senator Trask presiding

CS for HB 595—A bill to be entitled An act relating to pari-mutuel wagering; providing legislative intent; creating s. 551.18, Florida, Statutes, providing for a summer jai alai season with respect to certain permittees; providing for conversion of a dog-racing permit to a jai alai permit by the Division of Pari-mutuel Wagering of the Department of Business Regulation; amending s. 550.39, Florida Statutes, permitting certain harness racing permitholders to apply for and receive a license to conduct dog-race meetings in lieu of harness racing at harness tracks; providing an effective date.

—was read the second time by title.

The Committee on Commerce offererd the following amendment which was moved by Senator W. D. Childers:

Amendment 1—On page 1, line 17, strike everything after the enacting clause and insert: Section 1. (1) The owners or operators of pari-mutuel permits which are authorized by the Division of Pari-mutuel Wagering of the Department of Business Regulation to conduct pari-mutuel pools on exhibition sports in any county having five or more such pari-mutuel permits, whose mutuel play from the operation of such pari-mutuel pools for the 2 consecutive years next prior to filing an application under this section, has had the smallest play or total pool within the county, may apply to the Division to convert its permit to a permit to conduct a summer jai alai fronton in such county during the summer season commencing on May 1 and ending on November 30 of each year on such dates as may be selected by such permittee for the same number of days and performances as are allowed and granted to winter jai alai frontons within such county; providing that no existing quarterhorse permit may be used to convert a permit under this section and providing that if a quarterhorse permit is used for conversion, then no jai alai game conducted under such conversion shall begin before 6:30 p.m. Such permittee shall pay the same taxes as are fixed and required to be paid from the pari-mutuel pools of winter jai alai permittees and shall be bound by all of the regulations and provisions of chapters 550 and 551, Florida Statutes, which are applicable to the operation of winter jai alai frontons. Such permittee shall only be permitted to operate a jai alai fronton after its application has been submitted to the division and its license has been issued pursuant to the application. The license shall be renewable from year to year as provided by law.

(2) Such permittee shall be entitled to the issuance of a license for the operation of a jai alai fronton during the summer season as fixed in this section. Such license shall authorize the permittee to operate at any jai alai permittee's plant it may lease or build within such county.

(3) Such license for the operation of a jai alai fronton shall never be permitted to be operated during the jai alai winter season and neither the jai alai winter licensee nor the jai alai summer licensee shall be permitted to operate on the same days or in competition to each other. Nothing in this section shall prevent the summer jai alai permittee from leasing the facilities of the winter jai alai permittee for the operation of the summer meet.

(4) The provisions of chapters 550 and 551, Florida Statutes, which prohibit the location and operation of jai alai frontons within a specified distance from the location of another jai alai fronton or other permittee and which prohibit the division from granting any permit at a location within a certain designated area shall not be applicable to the provisions of this section and shall not prevent the issuance of a license under this section. A permittee granted a license under this section shall not conduct pari-mutuel pools during the summer season except at a jai alai fronton as provided in this section.

Section 2. For the calendar year 1980, the summer season to which section 1 applies commences on or after the effective date of this act and ends on November 30, 1980.

Section 3. Subsection (13) of Section 550.37, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 550.37(13), F.S., for present text.)

550.37 Operation of certain harness tracks.—

(13)(a) Any holder of a ratified permit to conduct harness racing under the laws of this state, which permit has not been revoked in a referendum election, is hereby entitled to apply to the Division of Pari-mutuel Wagering of the Department of Business Regulation for a license to conduct dograce meetings at such track, in lieu of harness racing, for the same number of racing days each season to which dog racetracks in counties having more than one dogracing track are entitled by law, subject to all of the provisions of the law concerning pari-mutuel taxes paid by tracks conducting dogracing, provided the following conditions are met:

1. The average daily pari-mutuel handle in any racing meet conducted by the harness track during the 10 years preceding application to the Division of Pari-mutuel Wagering, as herein provided, has not exceeded $125,000.

2. The gross revenue to the state for the operation of the harness track for the 10 years immediately preceding application to the Division of Pari-mutuel Wagering, as herein provided, does not exceed the sum of $350,000 per year.

(b) The Division of Pari-mutuel Wagering, upon application of the holder of a ratified permit which meets the requirements of subsection (a), shall convert the permit and shall issue to the holder of such permit a license to conduct dograce meetings as set forth above, provided the conditions stated herein are met at the time of the application to conduct dogracing, any provisions of any law or rule in conflict herewith or to the contrary notwithstanding.

(c) On and after the effective date of this act and upon application of the holder of a ratified permit which meets the requirements of subsection (a), the Division of Pari-mutuel Wagering shall issue to the holder of such permit a license to conduct a dograce meeting, which shall end on September 1st, during the 1980-1981 racing season and each meeting year thereafter, the division shall renew, as provided by law, such license for the period starting May 3rd through and ending on September 1st,

Section 4. Paragraph (h) is added to subsection (2) of section 550.16, Florida Statutes, as amended by Chapter 80-57, Laws of Florida, to read:

550.16 Pari-mutuel pool authorized within track enclosures; commissions; breaks, etc.—

(2)(h) Capital improvements made by a permitholder licensed under Chapter 550, Florida Statutes, shall be exempted from the provisions of any municipal ordinances, resolutions, or regulations which require the qualification or approval of such capital improvement project by the municipality wherein the permitholder conducts its business operations.

Section 5. Severability.—If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared severable.

Section 6. This act shall take effect upon becoming a law.

Senators Barron, W. D. Childers, Peterson and Thomas offered the following amendment to Amendment 1 which was moved by Senator Barron and adopted:

Amendment 1A—On page 4, between lines 14 and 15, insert new Section 5:

Section 5. Subsection (12) of section 550.37, Florida Statutes, is amended to read:

550.37 Operation of certain harness tracks.—

(12) A harness racing permitholder is authorized to conduct no more than 12 races per racing day. *Any harness track licensed to operate under the provisions of this section may make an application for, and shall be issued by the Division of Pari-mutuel Wagering, a license to operate not more than fifty (50) quarterhorse racing days during the summer season which shall extend from June 1st until September 1st of each year, provided, however, that this license to operate quarterhorse racing for 50 days shall be in addition to the racing days and dates provided in this section for harness racing during the winter season and it shall not affect the right of such licensee to operate harness racing at said track as provided herein during the winter season. All provisions of Chapter 550 governing quarterhorse racing not in conflict herewith shall apply to the operation of quarterhorse meetings authorized hereunder except all quarterhorse racing permitted hereunder shall be conducted at night.*

(Renumber subsequent sections.)

Senators Barron, W. D. Childers, Peterson, Thomas, Tobiassen and Williamson offered the following amendment to Amendment 1 which was moved by Senator W. D. Childers:

Amendment 1B—On page 1, lines 10-15, strike "providing that no existing quarterhorse permit may be used to convert a

permit under this section and providing that if a quarterhorse permit is used for conversion, then no jai alai game conducted under such conversion shall begin before 6:00 P.M." and insert: providing that if a permittee who is eligible under this section to convert a permit declines to convert, then a new permit is hereby made available in that permittee's county to conduct summer jai alai games as provided by this section, notwithstanding mileage and permit ratification requirements and providing that in the event that a permittee converts a quarterhorse permit pursuant to this section, nothing herein shall prohibit the permittee from obtaining another quarterhorse permit; no permit which is converted to a jai alai permit may be authorized to conduct afternoon or matinee performances unless the permit, as it existed prior to the conversion, had conducted afternoon or matinee performances prior to the conversion of the permit.

Senator Anderson moved the following substitute amendment for Amendment 1B:

Amendment 1C—On page 1, lines 10-15, strike "providing that no existing quarterhorse permit may be used to convert a permit under this section and providing that if a quarterhorse permit is used for conversion, then no jai alai game conducted under such conversion shall begin before 6:00 P.M." and insert: Providing that if a permittee authorized to conduct quarterhorse racing pursuant to the provisions of chapter 550, F.S. does elect to convert the quarterhorse permit to a permit to conduct jai alai, then the permittee who held the quarterhorse permit shall be authorized to apply for and be granted another quarterhorse permit. Provided, however, that no conversion of a quarterhorse permit shall be made which will interrupt a presently authorized quarterhorse meet. No permit which is converted to a jai alai permit may be authorized to conduct afternoon matinee performances unless the permit, as it existed prior to the conversion, had conducted matinee performances prior to the conversion of the permit.

Point of Order

Senator Barron raised a point of order that the substitute amendment for Amendment 1B was out of order.

The Presiding Officer ruled the point well taken and the amendment out of order.

The question recurred on Amendment 1B which was adopted.

Senator Anderson moved the following amendment to Amendment 1 which failed:

Amendment 1D—On page 1, lines 10-15, strike "providing that no existing quarterhorse permit may be used to convert a permit under this section and providing that if a quarterhorse permit is used for conversion, than no jai alai game conducted under such conversion shall begin before 6:00 P.M." and insert: Providing that if a permittee authorized to conduct quarterhorse racing pursuant to the provisions of chapter 550, F.S. does elect to convert the quarterhorse permit to a permit to conduct jai alai, then the permittee who held the quarterhorse permit shall be authorized to apply for and be granted another quarterhorse permit. Provided, however, that no conversion of a quarterhorse permit shall be made which will interrupt a presently authorized quarterhorse meet. No permit which is converted to a jai alai permit may be authorized to conduct afternoon matinee performances unless the permit, as it existed prior to the conversion, had conducted matinee performances prior to the conversion of the permit.

Senators Vogt, Fechtel and Maxwell offered the following amendment to Amendment 1 which was moved by Senator Fechtel and failed:

Amendment 1E—On page 4, between lines 14 and 15, insert: Section 5. (1) At any track in the City of Casselberry at which summer dograce meetings are authorized pursuant to s. 550.39, Florida Statutes, as amended by this act, there shall be collected an additional admission charge of 25 cents from each person who attends any dogracing performance at such track. For the first five years after such authorization Such additional admission charge shall be deposited in the Municipal Aid Trust Fund.

(2) There is hereby created in the State Treasury a Municipal Aid Trust Fund. All additional admission fees collected pursuant to this section shall be deposited in the trust fund. Moneys in the trust fund shall be used by municipalities in which summer dogracing is authorized only for the purpose of road construction or improvement and related capital outlay.

(3) All moneys in the Municipal Aid Trust Fund are hereby appropriated to the City of Casselberry for the purposes specified in subsection (2).

(renumber subsequent sections)

The vote was:

Yeas—15

Anderson	Henderson	Scarborough	Trask
Chamberlin	Johnston	Scott	Vogt
Fechtel	Maxwell	Steinberg	Ware
Grizzle	Neal	Stuart	

Nays—16

Barron	Dunn	Holloway	Skinner
Beard	Frank	MacKay	Thomas
Carlucci	Gorman	Myers	Tobiassen
Childers, W. D.	Hill	Peterson	Winn

Vote after roll call:

Yea—McKnight

Senator Scarborough moved the following amendment to Amendment 1 which failed:

Amendment 1F—On page 4, line 4, strike Sec. and insert: New Sec. 5—

Sec. 5. Whereas, it is the finding of the Legislature that the operation by pari-mutuel permittees substantially add to the economic well being of the state.

Whereas, it is the further finding of the Legislature that the Division of Pari-Mutual Wagering shall be authorized to issue to any dog track permittee north of latitude 30° up to an additional 100 days of racing so long as there is no overlapping of racing performances.

Whereas, it is the further finding of the Legislature that these additional days shall provide substantial economic benefits to the state.

Sec. 4. This act shall take effect upon becoming a law.

The vote was:

Yeas—12

Anderson	Hill	Myers	Skinner
Chamberlin	Holloway	Neal	Williamson
Henderson	Johnston	Scarborough	Winn

Nays—19

Barron	Frank	Maxwell	Stuart
Carlucci	Gorman	McClain	Thomas
Childers, W. D.	Grizzle	McKnight	Tobiassen
Dunn	Hair	Scott	Ware
Fechtel	MacKay	Steinberg	

Amendment 1 as amended was adopted.

The Committee on Commerce offered the following amendment which was moved by Senator W. D. Childers:

Amendment 2—On page 1 in title, line 15, strike everything before the enacting clause and insert: A bill to be entitled An act relating to pari-mutuel wagering; providing for a summer jai alai season with respect to certain permittees; providing for conversion of a permit to a jai alai permit by the Division of Pari-mutuel Wagering of the Department of Business Regulation; amending s. 550.37(13), Florida Statutes, permitting certain harness racing permitholders to apply for and receive a license to conduct dograce meetings in lieu of harness racing at harness tracks; adding paragraph (h) to s.

550.16, Florida Statutes, as amended by ch. 80-57, Laws of Florida, affecting capital improvements; providing an effective date.

WHEREAS, it is the finding of the Legislature that the operation by permittees of legalized pari-mutuel betting has become a substantial business compatible with the best interests of the state, and

WHEREAS, it is the further finding of the Legislature that the operations of such permittees do attract a large tourist business to the state and do afford entertainment to such tourists, and

WHEREAS, it is the further finding of the Legislature of the state that in counties where there are five or more permittees engaged in the operation of pari-mutuel pools, as provided by law, on exhibition sports, this state fails to get the full benefit of such attractions in encouraging the tourist trade, for there is a lack of jai alai entertainment on which pari-mutuel betting is permitted during the summer tourist season, and it would be to the best interests of the state to permit summer jai alai so long as there is no increase in the number of permittees authorized to operate within any specified county, and

WHEREAS, it is the further finding of the Legislature that the Division of Pari-mutuel Wagering should be empowered to receive and to grant the application of a permittee in such county whose pari-mutuel play for 2 consecutive years next prior to such application has had the smallest mutuel play of any pari-mutuel permittee within said county to conduct without further elections a jai alai fronton during the summer season as herein fixed and determined at a location within such county during the summer tourist season commencing May 1 and ending on November 30 of each year, and that this may greatly enhance the tax revenue derived by the state and counties and will not endanger the general welfare of the public, and

WHEREAS, it is the further finding of the Legislature that in those counties in which harness horse racing has not provided a major source of local entertainment, has added little to tourism, has failed to generate local interest, and has provided a relatively small amount of pari-mutuel tax revenue; the permitholder and the state would probably gain in revenues if such harness horse racing permit were converted into a permit to conduct dog racing, NOW THEREFORE,

Senators Barron, W. D. Childers, Peterson and Thomas offered the following amendment to Amendment 2 which was moved by Senator W. D. Childers and adopted:

Amendment 2A—On page 1, between lines 9 and 10, after "improvements;" insert: amending s. 550.37(12), Florida Statutes, relating to quarterhorse days and dates at harness tracks;

Amendment 2 as amended was adopted.

On motion by Senator W. D. Childers, by two-thirds vote CS for HB 595 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Anderson	Hair	McKnight	Steinberg
Barron	Henderson	Myers	Stuart
Beard	Hill	Neal	Thomas
Carlucci	Holloway	Peterson	Tobiassen
Childers, W. D.	Jenne	Scarborough	Vogt
Frank	Johnston	Scott	Ware
Gorman	MacKay	Skinner	Winn

Nays—6

Chamberlin	Fechtel	McClain	Trask
Dunn	Grizzle		

By the Committee on Ways and Means and Senators MacKay, Stuart and Johnston—

CS for SB's 796 and 914—A bill to be entitled An act relating to retirement; amending s. 112.362(1)(a), (4)(a) and 5(a), Florida Statutes, providing that the $9.50 minimum benefit factor and the $14.50 minimum benefit factor are increased to $10.50 and $16.50, respectively, with regard to the supplemental retirement act for retired members of state retirement systems; amending s. 121.051(2)(a), Florida Statutes, reopening the Florida Retirement System to members of certain existing retirement systems and extending survivor benefits for members transferring from the Teachers' Retirement System of Florida to the Florida Retirement System; amending s. 121.091(4)(a), Florida Statutes, providing that any member with less than 5 years of creditable service on July 1, 1980, or any person who becomes a member after such date, must have completed 10 years of creditable service in order to receive other than in-the-line-of-duty disability retirement benefits; providing an exception; amending s. 121.101, Florida Statutes; providing that on July 1, 1980, and every July 1 thereafter, the benefit received by all retirees and annuitants shall be adjusted by a cost-of-living factor, regardless of age; providing a cost-of-living adjustment formula; providing an appropriation; providing an effective date.

—was read the first time by title and Senate Bills 796 and 914 were laid on the table.

On motion by Senator MacKay, by two-thirds vote CS for SB's 796 and 914 was read the second time by title.

Senators MacKay and Stuart offered the following amendment which was moved by Senator MacKay and adopted:

Amendment 1—On page 14, line 11, after the period insert:

Section 5. On September 1, 1980, the division shall provide a retirement bonus to all retired members of state-sponsored retirement systems with 15 or more years of creditable service, excluding those members who receive a regular monthly benefit in excess of $1,000 as of June 30, 1980, or to the annuitants or beneficiaries of such members. The amount of the retirement bonus shall be equal to $300. This bonus shall be provided on a one-time basis, and shall be payable over and above any other retirement benefits to which a member may be entitled. There is hereby appropriated from the General Revenue Fund an amount sufficient to carry out the provisions of this section.

(Renumber subsequent sections accordingly.)

Senator Stuart moved the following amendment which was adopted:

Amendment 2—On page 14, line 12, insert: (a new section 6)

Section 6. Subsection (3) is added to section 215.50, Florida Statutes, to read:

215.50 Custody of securities purchased; interest, etc.—

(3) The State Treasurer, as custodian of securities owned by the Florida Retirement System Trust Fund and the Florida Survivor Benefit Trust Fund, shall collect the interest, dividends, prepayments, maturities, proceeds from sales and other income accruing from such assets. As such income is collected by the State Treasurer, it shall be deposited directly in a commercial bank to the credit of the State Board of Administration. Such bank accounts, as may be required for this purpose, shall offer satisfactory collateral security as provided by s. 18.11. In the event funds so deposited according to the provisions of this section are required for the purpose of paying benefits of other operational needs, the State Board of Administration shall remit to the Florida Retirement System Trust Fund in the State Treasury such amounts as may be requested by the director of the Division of Retirement.

Senators McClain and Johnston offered the following amendment which was moved by Senator Johnston and adopted:

Amendment 3—On page 14, between lines 11 and 12, insert: Section 7.

Paragraph (e) of subsection (1) of Section 121.081, Florida Statutes, is amended to read:

121.081 Past Service; prior service; contributions.—Conditions under which past service or prior service may be claimed and credited are:

(1)

(e) Past service, as defined in s. 121.021(18), may be claimed as creditable service by a member of the Florida Retirement System who formerly was an officer or employee of a city or special district, notwithstanding the status or form of the

retirement system, if any, of said city or special district and irrespective of whether officers or employees of said city or special district now or hereafter become a covered group under the Florida Retirement System. Such member may claim creditable service and be entitled to the benefits accruing to the regular class of members as provided for the past service claimed under this paragraph by paying into the retirement trust fund an amount equal to the ~~total actuarial cost of providing the additional benefit resulting from such past service credit, discounted by the applicable actuarial factors to date of retirement.~~ *member's gross annual salary during the period of past service claimed multiplied by 9.1 per cent, plus 6.5 percent compound interest. However, such past service as is provided for in this paragraph may be granted only if the necessary contributions required for such credit are paid prior to July 1, 1981.*

(Renumber subsequent section.)

Senator Maxwell moved the following amendment which was adopted:

Amendment 4—On page 14, after line 12, insert: Section 4.—Paragraph (a) of subsection (29) of section 121.021, Florida Statutes is amended to read:

(29) "Normal retirement date" means the first day of any month following the date a member attains one of the following statuses:

(a) Completes 10 or more years of creditable service and attains age 62; *except that any elected officer of a county whose office is provided for in the Florida Constitution, including school boards, shall be eligible for normal retirement upon the completion of eight (8) or more years of creditable service upon attainment of age 62.*

Senator Stuart moved the following amendment which was adopted:

Amendment 5—On page 1 in title, line 29, after the semicolon insert: adding s. 215.50(3), Florida Statutes; requiring the State Treasurer to collect the interest, dividends, prepayments, maturities, proceeds from sales and other income accruing from assets of the Florida Retirement System Trust Fund and the Florida Survivor Benefit Trust Fund and deposit the same directly in a commercial bank to the credit of the State Board of Administration;

Senators MacKay and Stuart offered the following amendment which was moved by Senator MacKay and adopted:

Amendment 6—On page 1, line 29, after the semicolon insert: providing a one-time bonus to certain retired members of state sponsored retirement systems during fiscal year 1980-81;

Senator Maxwell moved the following amendment which was adopted:

Amendment 7—On page 1, in title, line 29, after "appropriation;" insert: amending s. 121.021(29)(a), Florida Statutes, to provide that elected county constitutional officers shall be eligible for normal retirement with 8 years of creditable service;

Senators McClain and Johnston offered the following amendment which was moved by Senator Johnston and adopted:

Amendment 8—On page 1, line 29, after the word "appropriation;" insert: amending s. 121.081(1)(e), Florida Statutes; providing for contributions for past service or prior service;

On motion by Senator MacKay, by two-thirds vote CS for SB's 796 and 914 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

Anderson	Chamberlin	Frank	Hill
Barron	Childers, D.	Grizzle	Holloway
Beard	Childers, W. D.	Hair	Jenne
Carlucci	Dunn	Henderson	Johnston
MacKay	Myers	Steinberg	Ware
Maxwell	Neal	Stuart	Williamson
McClain	Peterson	Thomas	Winn
McKnight	Scott	Trask	

Nays—None

Votes after roll call:

Yea—Fechtel, Skinner

On motion by Senator Myers the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has refused to recede from House Amendments 1 and 2, amended House Amendments 1 and 2 to SB 287, and requests the Senate to concur, as amended.

Allen Morris, Clerk

By the Committee on Judiciary-Criminal—

SB 287—A bill to be entitled An act relating to public defenders; amending s. 27.50, Florida Statutes; prescribing qualifications for public defenders; amending s. 27.51, Florida Statutes; prescribing duties of public defenders; specifying the persons whom a public defender is required or permitted to represent; requiring the appointment of a public defender or private counsel to represent certain persons; requiring specified public defenders to handle certain appeals at the request of other specified public defenders; prescribing conditions of service of public defenders and assistant public defenders; amending s. 27.52, Florida Statutes; prescribing standards for the determination of indigency; providing that the parents of certain minors are liable for certain costs of representation and providing for liens against the property of such parents; providing that any funds recovered with respect to represented defendants who are not indigent be remitted to the county fine and forfeiture fund to defray certain costs; amending s. 27.53, Florida Statutes; providing that assistant public defenders shall serve at the pleasure of the public defender; authorizing investigators to serve witness subpoenas and court orders under certain conditions; providing for appointment and payment of a member of The Florida Bar to represent an indigent defendant; requiring such appointment and payment in certain circumstances; providing method of making appropriations for the office of public defender; amending s. 27.5301, Florida Statutes; providing for the salaries of public defenders; amending s. 27.54, Florida Statutes; authorizing a county or municipality to contribute funds to a public defender's office for certain purposes; specifying the extent of services to be provided the public defender by counties; amending s. 27.55, Florida Statutes; providing for compensation of a public defender of a newly created circuit and for expenditures for his office; amending s. 27.56, Florida Statutes; authorizing the court to assess, against a defendant, attorney's fees and certain costs; providing for imposition of liens against property of certain persons receiving certain services and against the property of parents of certain minors; amending s. 27.561, Florida Statutes; providing remedies against parents in default in paying attorney's fees or costs; amending s. 27.59, Florida Statutes; granting public defenders and assistant public defenders access to certain prisoners; providing an effective date.

House Amendment 1—On page 17 between lines 15 and 16, insert: Section 11 925.036 Appointed counsel; compensation.—An attorney appointed pursuant to s. 925.035 or s. 27.53 shall, at the conclusion of the representation, be compensated at an hourly rate fixed by the chief judge or senior judge of the circuit in an amount not to exceed the prevailing hourly rate for similar representation rendered in the circuit. Such attorney shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the court. The compensation for representation shall not exceed the following per case per defendant:

(1) For misdemeanors and juveniles represented at the trial level: $500*; provided that the maximum amount specified in*

subsections (2), (3), and (4) shall apply to the representation at the trial level of a juvenile charged with an offense which would constitute a felony if committed by an adult.

(2) For noncapital, nonlife felonies represented at the trial level: $1,500.

(3) For life felonies represented at the trial level: $2,000.

(4) For capital cases represented at the trial level: $2,500.

(5) For representation on appeal: $1,000.

and renumber subsequent sections.

House Amendment 1 to House Amendment 1—Strike all of Amendment 1 and insert: Section 11. Subsection (1) of section 925.036, Florida Statutes, is amended to read:

925.036 Appointed counsel; compensation.—An attorney appointed pursuant to s. 925.035 or s. 27.53 shall, at the conclusion of the representation, be compensated at an hourly rate fixed by the chief judge or senior judge of the circuit in an amount not to exceed the prevailing hourly rate for similar representation rendered in the circuit. Such attorney shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the court. The compensation for representation shall not exceed the following per case per defendant:

(1) For misdemeanors and juveniles represented at the trial level: *$1,000* ~~$500~~.

Renumber subsequent sections.

Amendment 2—On page 2, line 26 in the title, after the semicolon ";" insert: amending s. 295.036, Florida Statutes, relating to the maximum compensation for attorneys appointed to represent juveniles charged with felonies;

House Amendment 1 to House Amendment 2—Strike all of Amendment 2 and insert: amending s. 925.036(1), Florida Statutes, relating to the maximum compensation for attorneys appointed to represent juveniles charged with felonies;

On motions by Senator Myers, the Senate concurred in the House Amendments.

SB 287 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—23

Anderson	Frank	Myers	Thomas
Barron	Hair	Neal	Tobiassen
Beard	Hill	Peterson	Trask
Carlucci	MacKay	Scarborough	Ware
Childers, W. D.	Maxwell	Scott	Williamson
Fechtel	McKnight	Stuart	

Nays—1

Grizzle

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Maxwell—

SB 264—A bill to be entitled An act relating to teacher certification and preservice education; amending s. 231.15, Florida Statutes; specifying types of certificates to be issued by the Department of Education; amending s. 231.17(2), (7), Florida Statutes; requiring only initial applicants for regular certificates to demonstrate mastery of certain competencies and allowing the State Board of Education to specify the methods by which such competencies are demonstrated; providing that the examination shall be developed by the commissioner; providing that the state board shall establish a minimum examination score required for the issuance of a certificate; providing that a person failing to achieve such score may review his completed examination; providing for the confidentiality of test materials; providing that all rules necessary to implement such testing program be effective immediately; amending s. 240.529(1), Florida Statutes; providing that the state board shall by rule provide for a waiver of minimum college entrance examination scores for up to 10 percent of those admitted to teacher education programs; amending s. 231.36(3)(b), Florida Statutes; extending date at which a continuing contract shall be effective for certain persons; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 4, line 17, After the "." insert: Section 3. Section 231.481, Florida Statutes, is created to read:

231.481 Terminal pay for accrued vacation leave.—A district school board may establish policies to provide for a lump sum payment for accrued vacation leave to an employee of the school board upon termination of employment or upon retirement, or to the employee's beneficiary if service is terminated by death.

Renumber subsequent sections.

Amendment 2—On page 1, line 21 in title, After "immediately" insert: creating s. 231.481, Florida Statutes, authorizing district school boards to provide terminal pay for accrued vacation leave;

Senator Fechtel moved the following amendment to House Amendment 1 which was adopted:

Amendment 1—On page 1, line 12, insert: Section 4. Subsection (3) of section 236.02, Florida Statutes, as amended by Committee Substitute for Senate Bill 822, is amended to read:

236.02 Minimum requirements of the Florida Education Finance Program.—Each district which participates in the state appropriations for the Florida Education Finance Program shall provide evidence of its effort to maintain an adequate school program throughout the district and shall meet at least the following requirements:

(3) EMPLOYMENT POLICIES ~~FOR INSTRUCTIONAL PERSONNEL~~.—*Adopt rules relating to the appointment, promotion, transfer, suspension, and dismissal of personnel.* ~~Notify in writing all instructional personnel concerning reemployment by the times prescribed by law; provide written continuing contracts for all personnel entitled to such contracts as prescribed by law; provide each other member of the instructional staff, at least 1 month before schools begin, or before assuming his position if he is not employed until after that date, with a written contract providing for the payment of a definite salary as prescribed by law; require 12 calendar months of service for such principals and other special instructional personnel as prescribed by regulations of the state board, and 10 months to include not less than 196 days of service, excluding Sundays and other holidays, for all other members of the instructional staff, any such service on a 12 month basis to include reasonable allowance for vacation or further study as prescribed by the school board in accordance with regulations of the state board; and pay all instructional personnel according to a schedule adopted by the school board to include:~~

(a) Such rules shall conform to applicable law and state board rules and shall include the duties and responsibilities of the superintendent and school board pertaining to these and other personnel matters.

(b) ~~(a)~~ All personnel shall be paid in accordance with payroll period schedules adopted by the school board and included in the official salary schedule.

(c) ~~(b)~~ No salary payment shall be paid to any employee in advance of service being rendered.

(d) District school boards may authorize ~~by policy~~ a maximum of six paid legal holidays which shall apply to the 196 days of service.

(e) Such rules may include reasonable time for vacation and absences for further professional studies for personnel employed on a 12-month basis.

(f) Such rules shall require 12 calendar months of service for such principals as prescribed by regulations of the state board, and 10 months to include not less than 196 days of service, excluding Sundays and other holidays, for all members of the instructional staff, any such service on a 12-month basis to include reasonable allowance for vacation or further study as prescribed by the school board in accordance with regulations of the state board.

Senators Steinberg and MacKay offered the following amendment to House Amendment 1 which was moved by Senator MacKay and adopted:

Amendment 2—On page 1, line 12, insert: Section 4. Unlawful to sell dissertations, etc.—

(1) It shall be unlawful for any person or business entity to sell, offer to sell, or advertise for sale, any term paper, thesis, dissertation, essay, report or other written, recorded, pictorial, artistic, or other assignment which the seller or advertiser knew or reasonably should have known was intended for submission by a student, unaltered to any substantial degree, in fulfillment of the requirements for a degree, diploma, certificate or course of study at a university, college, academy, school or other educational institution in the state.

(2) This section shall not prevent any person or educational institution from providing tutorial assistance, research material, information, or courses in research or writing unless this service includes the preparation, research or writing of a report or paper as outlined in subsection (1). No person shall be prevented by this section from selling or offering to sell services which include the typing, assembling, transcription, reproduction, or editing of a manuscript or other assignment prepared by the purchaser.

(3) Any person violating the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(and renumber subsequent sections.)

Senator Anderson moved the following amendment to House Amendment 1 which was adopted:

Amendment 3—On page 1, line 12, insert: Section 4. Paragraph (b) of subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement, etc.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who sells or receives anything of value, by way of admissions. For the exercise of said privilege a tax is levied as follows:

(2)

(b)1. No tax shall be levied on admissions to athletic or other events held by elementary schools, junior high schools, middle schools, high schools, community colleges, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized.

2. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations or community or recreational facilities. To receive this exemption, the sponsoring organization or facility must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.

3. No tax shall be levied on an admission paid by a student, or on his 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 said attendance is as a participant and not as a spectator.

(Renumber subsequent sections.)

Senator Steinberg moved the following amendments to House Amendment 1 which were adopted:

Amendment 4—On page 1, line 12, insert: Section 4. Section 229.8041, Florida Statutes, is created to read:

229.8041 Educational computing.—

(1) STATE POLICY.—It is the policy of the state to use computers and related technology to make instruction and learning more effective and efficient and to make educational programs more relevant to contemporary society.

(2) IMPLEMENTATION OF POLICY.—The department is authorized and encouraged to assist school districts, community colleges and state universities to make appropriate use of computing. Department actions for this purpose may include, but need not be limited to:

(a) Providing information and consultation on computing for education.

(b) Establishing agreements with vendors of computing hardware and software which allow districts and institutions to purchase such commodities under favorable terms.

(c) Surveying districts and institutions to determine how available resources for educational computing can be used most effectively.

(d) Conducting evaluations of available equipment or programs to determine their effectiveness or cost effectiveness.

Amendment 5—On page 5, line 3, insert: new section 4 and renumber subsequent section

Section 4. Section 229.8041, Florida Statutes, is created to read:

229.8041 Educational Computing.—

(1) STATE POLICY.—It is the policy of the state to use computers and related technology to make instruction and learning more effective and efficient and to make educational programs more relevant to contemporary society.

(2) IMPLEMENTATION OF POLICY.—The department is authorized and encouraged to assist school districts, community colleges and state universities to make appropriate use of computing. Department actions for this purpose may include, but need not be limited to:

(a) Providing information and consultation on computing for education.

(b) Establishing agreements with vendors of computing hardware and software which allow districts and institutions to purchase such commodities under favorable terms.

(c) Surveying districts and institutions to determine how available resources for educational computing can be used most effectively.

(d) Conducting evaluations of available equipment or programs to determine their effectiveness or cost effectiveness.

Senator Maxwell moved the following amendment to House Amendment 1 which was adopted:

Amendment 6—On page 1, strike all of lines 4-11 and insert:

Section 3. Section 16 of chapter 79-385, Laws of Florida, is amended to read:

Section 16. If chapter 231, Florida Statutes, is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that *sections 231.40 and 231.57, Florida Statutes, as amended by sections 15 and 17 of this act, respectively,* ~~this act~~ shall also be repealed on the same date as is therein provided. *If chapter 246, Florida Statutes, is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that sections 246.011, 246.021, 246.091, and 246.095,* Florida Statutes, as amended by sections 6, 7, 8, and 9 of this act, respectively, shall also be repealed on the same date as is therein provided.

And renumber subsequent sections.

Senator Maxwell moved the following amendment to House Amendment 2 which was adopted:

Amendment 1—On page 1 in title, strike all of lines 4-6 and insert: amending section 16 of chapter 79-385, Laws of Florida, to clarify the intent of the Legislature with respect to the effect of said section upon the repeal of sections in chapters 231 and 246, Florida Statutes, relating to education, scheduled by the Regulatory Reform Act of 1976;

Senator Steinberg moved the following amendment to House Amendment 2 which was adopted:

Amendment 2—On page 1, line 7, after the semicolon insert: creating s. 229.8041, Florida Statutes, providing a state policy for instructional computing and technology; authorizing the Department of Education to assist school districts, community colleges and state universities to make appropriate use of computing;

Senator Anderson moved the following amendment to House Amendment 2 which was adopted:

Amendment 3—On page 1, line 7, insert: amending s. 212.04 (2)(b), Florida Statutes; exempting from the tax an admission paid by a student to a recreational or sports facility if the student's participation in the sports activity is required by the student's educational institution;

Senator Steinberg moved the following amendment to House Amendment 2 which was adopted:

Amendment 4—On page 1 in title, line 21, after "preservice education" insert: and education; After the semicolon on line 26 insert: creating s. 229.8041, Florida Statutes, providing a state policy for instructional computing and technology; authorizing the Department of Education to assist school districts, community colleges and state universities to make appropriate use of computing;

Senator Fechtel moved the following amendment to House Amendment 2 which was adopted:

Amendment 5—On page 1 in title, line 7, after the semicolon ";" insert: amending s. 236.02(3), Florida Statutes, as amended by Committee Substitute for Senate Bill 822; providing certain employment policies for districts participating in the Florida Education Finance Program;

Senators Steinberg and MacKay offered the following amendment to House Amendment 2 which was moved by Senator MacKay and adopted:

Amendment 6—On page 1 in title, line 6, after the semicolon (;) insert: prohibiting the sale or advertisement of any dissertation, report, or other assignment intended for submission by a student in fulfillment of requirements for a degree or course of study; providing a penalty;

On motions by Senator Maxwell, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 264 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Anderson	Gorman	Maxwell	Steinberg
Barron	Grizzle	McClain	Stuart
Beard	Hair	McKnight	Thomas
Carlucci	Henderson	Myers	Tobiassen
Childers, D.	Hill	Neal	Trask
Childers, W. D.	Holloway	Peterson	Vogt
Dunn	Jenne	Scarborough	Ware
Fechtel	Johnston	Scott	Williamson
Frank	MacKay	Skinner	Winn

Nays—None

On motion by Senator Barron, the Senate recessed at 6:16 p.m. to reconvene at 8:00 p.m.

The Senate was called to order by the President at 8:00 p.m. A quorum present—38:

Mr. President	Gordon	McClain	Stuart
Anderson	Gorman	McKnight	Thomas
Barron	Grizzle	Myers	Tobiassen
Beard	Hair	Neal	Trask
Carlucci	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Jenne	Scott	Winn
Fechtel	Johnston	Skinner	
Frank	Maxwell	Steinberg	

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate amendments 1, 2 and 4 to HB 1623; has reconsidered and concurred in Senate amendments 2 and 4; has passed as amended and requests the Senate to recede from Senate amendment 1 to—

By the Committee on Finance & Taxation—

HB 1623—A bill to be entitled An act relating to the county discretionary tax on motor fuels and special fuels; amending s. 336.021(1) and (2), Florida Statutes; providing that said tax shall be returned by the Department of Revenue on a monthly basis to the county in which collected; providing that refunds shall be paid by the county from the tax returned to it; authorizing the Department of Revenue to prescribe and publish forms and promulgate rules necessary for the proper administration and collection of the tax; providing dates for filing of reports and remitting the tax; providing for application of provisions of chapter 206, Florida Statutes; providing that by joint agreement with municipalities, the governing body of a county may provide for transportation purposes and distribution of the proceeds of said tax in the incorporated and unincorporated areas; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

On motion by Senator Myers, the Senate receded from Amendment 1.

HB 1623 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Grizzle	Myers	Tobiassen
Anderson	Hair	Neal	Trask
Beard	Henderson	Peterson	Vogt
Carlucci	Hill	Scott	Ware
Childers, W. D.	Holloway	Skinner	Williamson
Dunn	Jenne	Steinberg	Winn
Frank	McClain	Stuart	
Gorman	McKnight	Thomas	

Nays—None

Vote after roll call:

Yea—Fechtel

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Holloway—

SB 864—A bill to be entitled An act relating to the State Road Arbitration Board; amending s. 337.32(3), Florida Statutes; granting the board jurisdiction to hear matters concerning $50,000 or less; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 8, after the colon ":" insert and renumber the subsequent section:

Section 1. The Attorney General is hereby authorized to retain private counsel to assist in the defense or prosecution of all actions or claims by or against the State of Florida or any of its agencies arising out of the collision with and collapse of the Sunshine Skyway Bridge.

Section 2. There is hereby appropriated from the General Revenue Fund to the Department of Legal Affairs, Legal Affairs Revolving Trust Fund created by s. 16.53, Florida Statutes, the sum of $500,000 for contracting with private counsel and for related expenses and fees for the purposes set forth in section 1.

No contract for construction or reconstruction of the Sunshine Skyway Bridge shall commence or be entered into by the Department of Transportation prior to December 1, 1980; provided, however, that such construction or reconstruction may commence prior to said date if such construction or reconstruction has been authorized by the cabinet subsequent to a public hearing conducted in Pinellas County on such proposed construction or reconstruction.

Amendment 2—On page 1, line 3 of the title, after the semicolon, insert: prohibiting the construction or reconstruction of the Sunshine Skyway Bridge prior to December 1, 1980; providing an exception;

On motions by Senator Holloway, the Senate concurred in the House Amendments.

SB 864 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Gordon	McKnight	Stuart
Anderson	Gorman	Myers	Thomas
Barron	Grizzle	Neal	Tobiassen
Beard	Hair	Peterson	Trask
Carlucci	Henderson	Scarborough	Vogt
Childers, W. D.	Hill	Scott	Ware
Dunn	Holloway	Skinner	Williamson
Frank	McClain	Steinberg	Winn

Nays—None

Vote after roll call:

Yea—Fechtel

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 6, 7 and 8 and has refused to concur in Senate Amendments 1, 2, 3, 4, 5 and 9 to CS for HB 1422 and requests the Senate to recede, and passed the bill as amended.

Allen Morris, Clerk

By the Committee on Natural Resources and Representative J. W. Lewis—

CS for HB 1422—A bill to be entitled An act relating to land and water management; adding subsection (19) to s. 380.031, Florida Statutes, defining the term "downtown development authority"; amending s. 380.032(2), Florida Statutes, providing for review of rules adopted by the state land planning agency; amending s. 380.06, Florida Statutes, substantially revising Florida law concerning developments of regional impact in an effort to incorporate certain administrative procedures into the law; providing for legislative review of certain rules; providing procedures with respect to developments of regional impact; requiring developers to submit certain reports; repealing s. 380.10, Florida Statutes, relating to the adoption of standards and guidelines by the Administration Commission, since, under the act, this function is now assumed by the Legislature; providing an effective date.

Amendment 1—On page 9, between lines 20 and 21, add a subsection (f) to read as follows:

(f) If a local governmental license or permit is required before undertaking any phase of development within an approved development of regional impact, a presumption is hereby created in favor of the issuance of such license or permit if the agency having jurisdiction over such issuance participated in the original development of regional impact review process without objecting to the entry of the development order.

Amendment 2—On page 16, lines 29 and 30, and on page 17, lines 1 and 2, strike all of said lines and insert: *2. May establish a schedule of dates in the development order, including a deadline for commencing physical development, and for compliance with conditions of approval or phasing requirements.*

Amendment 3—On page 18, line 10, before the period (.) on line 10 insert: *; provided, however, that any land use regulation enacted by a local government after the entry of a development order shall not apply to any land included in the development order if such regulation is more restrictive than that in effect at the time that the development order was enacted.*

Amendment 4—On page 19, line 9, strike the local government or state land planning agency to

Amendment 5—On page 20, between lines 19 and 20, add a subsection (17)(d) to read as follows: *(d) If a multifamily development has previously been approved as part of a development of regional impact under this chapter without specifying the density or total number of units to be allowed, the density limits applicable to the multifamily classification of the local zoning ordinance in effect at the time the development order was entered shall apply to and control the maximum number of units to be allowed within such multifamily development.*

Amendment 9—On page 1, line 15 in title, after the word "reports;" insert: providing standards for interpreting existing development of regional impact orders

On motions by Senator Vogt, the Senate receded from Senate Amendments 1, 2, 3, 4, 5 and 9.

CS for HB 1422 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Mr. President	Gorman	McClain	Stuart
Anderson	Grizzle	McKnight	Thomas
Barron	Hair	Peterson	Tobiassen
Carlucci	Henderson	Poole	Trask
Childers, D.	Hill	Scarborough	Vogt
Childers, W. D.	Holloway	Scott	Ware
Dunn	Jenne	Skinner	Williamson
Frank	Johnston	Steinberg	Winn

Nays—None

Vote after roll call:

Yea—Fechtel

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Vogt—

SB 772—A bill to be entitled An act relating to publicly owned buildings; adding s. 255.249(4), Florida Statutes; requiring the Division of Building Construction and Property Management of the Department of General Services to prepare and update annually a comprehensive space inventory of all state-owned office buildings; amending s. 255.25(4), Florida Statutes; providing for lease of space in publicly owned buildings by state agencies; directing state agencies to cooperate with local governmental units by using suitable existing publicly owned facilities; authorizing uses for funds appropriated for this purpose; providing rule making authority; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 1 & 2, strike everything after the enacting clause and insert: Section 1. Subsection (4) of section 255.25, Florida Statutes, is amended to read:

255.25 Approval of the Division of Building Construction and Property Management prior to construction or lease of buildings.—

(4)*(a)* The division shall not authorize any state agency to enter into a lease agreement for space in a privately owned building when suitable space is available in a state-owned *or other publicly owned* building located in the same geographic region, except upon presentation to the division of sufficient written justification, acceptable to the division, that a separate space is required in order to fulfill the statutory duties of the agency making such request. The term "state-owned *or other publicly owned* building" as used in this subsection means any state-owned *or other publicly owned* facility regardless of use or control.

(b) State agencies shall cooperate with local governmental units by using suitable existing publicly owned facilities. Agencies may utilize unexpended funds appropriated for lease payments to:

1. Pay their proportion of operating costs.

2. Renovate applicable spaces.

(c) There is hereby created a Public Facilities Conversion Revolving Trust Fund in the State Treasury to be administered by the Department of General Services. Legislative appropriations made for the purpose of renovating publicly owned facilities shall be transferred to this fund and are hereby appropriated for such uses authorized by law. Amounts from this fund may be transferred to state agencies as authorized by the Executive Office of the Governor. With the approval of the Executive Office of the Governor, agencies may utilize allocations from the Public Facilities Conversion Revolving Trust Fund to renovate spaces which they will occupy, provided:

1. That the project is shown to be cost effective.

2. The applicable agency makes annual payments in the amount of the savings to the Public Facilities Conversion Revolving Trust Fund until the cost of renovation is recovered.

Section 2. This act shall take effect July 1, 1980.

Amendment 2—On page 1, lines 1-14 in title, strike the entire title and insert: A bill to be entitled An act relating to publicly owned buildings; amending s. 255.25(4), Florida Statutes; providing for lease of space in publicly owned buildings by state agencies; directing state agencies to cooperate with local governmental units by using suitable existing publicly owned facilities; authorizing uses for unexpended funds appropriated for lease payments; creating the Public Facilities Conversion Revolving Trust Fund; providing for transfer of appropriations for renovating publicly owned buildings to the fund; providing for use of funds by agencies; providing an effective date.

On motions by Senator Vogt, the Senate concurred in the House Amendments.

SB 772 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Anderson	Frank	McClain	Thomas
Beard	Gorman	McKnight	Tobiassen
Carlucci	Grizzle	Neal	Trask
Chamberlin	Hair	Poole	Vogt
Childers, D.	Henderson	Scarborough	Ware
Childers, W. D.	Holloway	Skinner	Williamson
Dunn	Jenne	Steinberg	Winn
Fechtel	Johnston	Stuart	

Nays—None

Votes after roll call:

Yea—Myers, Peterson

The bill was ordered engrossed and then enrolled.

On motions by Senator Barron, the rules were waived and by two-thirds vote House Bills 1869, 1870, 1871, 1872, 1875 and 1878, in messages, were set as a special order for 30 minutes at 8:30 p.m.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 3 and 4; has refused to recede from House Amendments 1 and 2, amended House Amendment 1 to CS for SB 1188, requests the Senate to concur, as amended and has passed the bill as amended.

Allen Morris, Clerk

By the Committee on Health and Rehabilitative Services and Senator Tobiassen—

CS for SB 1188—A bill to be entitled An act relating to public health; encouraging philanthropic support of hospitals; providing that funds derived from specified types of gifts or grants shall not be deducted from the operating costs of a hospital; amending s. 395.12, Florida Statutes; requiring hospitals to maintain inspection reports as public information, post summaries of such reports and make available such reports on request at a reasonable charge; adding subsection (4) to s. 381.031, Florida Statutes, and amending s. 386.03(2)(c), Florida Statutes, and adding a paragraph thereto, authorizing the Department of Health and Rehabilitative Services to impose administrative fines to enforce the Sanitary Code of Florida and to deter sanitary nuisances; amending s. 513.10, Florida Statutes, correcting and updating a cross-reference; providing severability; providing an effective date.

House Amendment 1—On page 2, line 4, insert new section:

Section 5. Section 381.601, Florida Statutes, is amended to read:

381.601 Blood *transfusions* ~~labeling~~.—

(1) SHORT TITLE.—This section shall be known and may be cited as "The Florida Blood *Transfusion* ~~Labeling~~ Act ~~of 1977~~."

(2) DEFINITIONS.—As used in this section, unless the context clearly requires otherwise:

(a) "Blood" means whole human blood or components of human blood, including plasma, which components are prepared from whole human blood by physical rather than chemical processes, but does not include blood derivatives manufactured or processed for industrial use.

(b) "Donation" means any transaction involving the person from whom blood is withdrawn, whether he presents himself for the withdrawal of blood on his own initiative or on the initiative of another person, in which he receives no consideration other than credit through blood assurance programs or other intangible benefits.

(c) "Purchase" means any transaction involving the person from whom blood is withdrawn, whether he presents himself for the withdrawal of blood on his own initiative or on the initiative of another person, in which he receives a monetary consideration.

(d) "Industrial use" means a use of blood in which the blood is modified by physical or chemical means to produce derivatives for therapeutic or pharmaceutic biologicals and laboratory reagents or controls.

(e) "Processing fee" means a fee charged to recipients of blood or blood products to recapture all or part of a blood bank's cost of providing the service.

(f) "Administration fee" means a fee charged by hospitals to blood recipients to recapture the hospital's cost of administering blood or blood products to them.

(g) "Nonreplacement fee" means a fee charged by blood banks for failure to redeposit or replace blood units received by patients, also known as "recruitment deposit fee," "discount fee," "penalty fee," "assurance fee," etc.

(h) "Paid donor" means a person who donates blood and who receives payment in return.

(i) "Payment" means the transfer by a blood bank, to any person of money or any other valuable consideration which can be converted to money by the recipient except that payment does not include the following:

1. Cancellation or refund of nonreplacement fees or related blood transfusion charges.

2. Time away from employment granted by an employer to an employee in order to donate blood.

(j) "Person" means any indivadual, blood bank, hospital, firm, corporation, or any other entity.

(k) "Transfusion" means a use of blood in which the blood is administered to a human being for treatment of sickness or injury.

(l) "Department" means the Department of Health and Rehabilitative Services.

(3) LABEL; PURCHASE OR DONATION TO BE INDICATED.—

(a) Every person who withdraws blood from an individual, or separates blood into components by physical processes, shall affix to each container of such blood or components a label in a form specified by the Department of Health and Rehabilitative Services, which form shall include an indication of whether the blood was obtained by purchase or donation.

(b) Any person who receives blood in this state from a blood bank in another state shall label such blood as donated blood only if he has a certificate, in a form approved by the Department of Health and Rehabilitative Services, from such blood bank that the particular shipment of blood was acquired by donation or that all blood processed by that blood bank is acquired by donation. If there is no such certificate, such blood shall be labeled as blood acquired by purchase.

(c) After January 1, 1983, no blood obtained from a paid donor shall be used in any transfusion unless other blood of a type compatible with the blood type of the patient cannot be otained for the transfusion.

(4) ~~TRANSFER OF~~ BLOOD AND BLOOD COMPONENTS ~~FOR INDUSTRIAL USE~~.—*It is the policy of the state to encourage the maintenance of an adequate supply of voluntarily donated blood of the highest quality accessible to all in need of blood. The state seeks with this policy to assure for its residents and visitors a system of blood supply, transfer, and replacement that can supply all of the requirements for blood without unduly burdening persons who due to age, illness or other circumstances are unable to replace or arrange for blood replacement.* ~~Blood and blood components, including salvage plasma, may be used and transferred for industrial use without regard to whether the original acquisition thereof was by purchase or donation.~~

(5) RECIPROCAL EXCHANGE OF BLOOD.—All blood banks as well as hospitals, clinics, nursing homes, and other users of blood and blood products operating within the state will make reciprocal exchange of blood as required by the blood needs of the transfusing bank. Reimbursement shall be based upon the fee of the transfusing blood bank or the schedules determined by the exchange or cooperative system serving the majority of blood banks, hospitals, and clinics. Geographical location or blood bank affiliation shall not be considered in determining the rate of reimbursement.

(7) UNIFORM SYSTEM OF FINANCIAL REPORTING.—

(a) The department shall, in consultation with the Florida Hospital Cost Containment Board, develop a uniform system of financial reporting consistent with the reporting system for hospital blood service departments under s. 395.507. Existing reporting systems and data developed by the Florida Hospital Cost Containment Board shall be utilized by the department whenever applicable in carrying out the provisions of this section. Appropriate professional advisory bodies, existing proposed systems of accounting and reporting utilized by hospital and community blood banks and other blood service operations may be considered but every attempt should be made to develop a reporting system consistent with that developed under s. 395.507. No system of financial reporting required hereunder shall require the filing of reports which duplicate existing cost containment reporting requirements. The system shall be based on a uniform chart of accounts and generally accepted accounting principles for all facilities in the state which collect, store, process, or transfuse blood. Information relating to the consumer and provider, costs, percentage of profits, fees obtained from nonreplacement assessments, the quantity of blood replaced under the individual responsibility concept, recruitment costs, and other appropriate information may be included within the system as provided in s. 395.507.

(b) All reports filed under this section, except privileged medical information, shall be open to public inspection.

(c) All facilities in the state which collect, store, process, or transfuse blood shall submit reports to the department on forms adopted by the department, effective at such time and date as the department may direct. In determining the initial effective date and subsequent dates for reporting requirements, the department shall consider both the immediate need for uniform facility reporting information and the administrative and economic difficulties which facilities face in compliance. In no case shall the effective date be later than July 1, 1981.

(8) ~~(5)~~ ADMINISTRATION OF ACT.—

(a) The Department of Health and Rehabilitative Services shall promulgate rules necessary to carry out the provisions of this section. Such rules shall be promulgated in accordance with the provisions of chapter 120.

(b) The Department of Health and Rehabilitative Services may inspect the collecting, labeling, and storage facilities of any blood bank, hospital, or other entity that withdraws or stores blood, at any reasonable time, to assure compliance with this section.

(9) ~~(6)~~ VIOLATION; PENALTY.—A violation of any provision of subsection (3) shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent violation of any provision of subsection (3) shall be a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(10)~~(7)~~ VIOLATION; INJUNCTION.—In addition to any other remedy provided by law, the Department of Health and Rehabilitative Services may apply to a circuit court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of subsection (3), irrespective of whether or not there exists an adequate remedy at law.

Section 6. (1) There is hereby created an Interim Task Force Study Group consisting of 15 members to be appointed by the President of the Senate and the Speaker of the House of Representatives. The study group shall be composed of the following:

(a) Two representatives of free standing community blood banks.

(b) One representative of hospital blood banks.

(c) Two representatives of the American Red Cross.

(d) One representative *of one* of the largest instate blood banks.

(e) One representative of blood bank centers which have demonstrated high levels of blood replacement.

(f) One licensed physician.

(g) Three consumers, one of whom shall represent groups with special blood needs, one of whom shall represent donor group accounts, and one who is concerned with blood banking.

(h) Two members of the Senate

(i) Two members of the House of Representatives.

(2) The study group shall study and prepare recommendations with respect to the availability of blood and blood products in the state, the use of nonreplacement fees, the need for blood and various blood products, and special need situations which may exist in the state. The study group shall hold its initial meeting by August 31, 1980, and shall file a report with the Legislature on or before March 15, 1981. The study group shall expire upon filing the report with the Legislature. Members of the study group shall be entitled to per diem and travel expenses, as provided in s. 112.061, Florida Statutes, while engaged in the performance of their duties.

Section 8. This act shall take effect October 1, 1980, except that section 6 shall take effect upon becoming a law.

and renumber subsequent sections.

House Amendment 1 to House Amendment 1—On page 7, line 2, insert: (11) Nothing in this section shall require hospitals to file reports or disclose beyond that required by s. 395.507.

House Amendment 2—On page 1, line 6 in the title insert: ; amending s. 381.601, Florida Statutes; changing the title of the "Florida Blood Labeling Act of 1977" to the "Florida Blood Transfusion Act"; providing definitions; prohibiting the use of paid blood transfusions except under certain circumstances; providing that policy of state is to maintain adequate supply of donated blood; providing for reciprocal exchange of blood and charges; restricting the transfusion of blood obtained from a paid donor; establishing a uniform system of financial reporting; providing for public records; providing for time of reporting; providing penalties; providing remedies for violations; creating an interim study group; providing an effective date.

On motions by Senator Tobiassen, the Senate concurred in the House Amendments.

CS for SB 1188 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—28

Barron	Gorman	McClain	Steinberg
Beard	Grizzle	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Childers, W. D.	Henderson	Peterson	Tobiassen
Dunn	Hill	Poole	Vogt
Frank	Holloway	Scarborough	Ware
Gordon	Jenne	Scott	Winn

Nays—4

Mr. President	Fechtel	Skinner	Trask

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended, CS for HB 1869 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Appropriations and Representative Kutun and the Dade Delegation—

CS for HB 1869—A bill to be entitled An act relating to economic revitalization jobs creation incentive credits; adding subsection (6) to s. 220.02, Florida Statutes, and adding paragraphs (o), (p), and (q) to s. 220.03(1), Florida Statutes, providing legislative intent and definitions; creating s. 220.181, Florida Statutes; providing for an economic revitalization jobs creation incentive credit to be allowed against the tax imposed under the corporate income tax to businesses which establish jobs to employ residents of slum or blighted areas; providing for computation of the credit based on wages paid; providing for carryover credit; providing a limitation; providing filing requirements; providing for rules; amending s. 220.13(1)(a), Florida Statutes, specifying that amounts allowed for certain wages or salaries shall be added in computing "adjusted federal income" for corporate income tax purposes; providing an effective date and an expiration date.

—was read the first time by title and pursuant to the motion by Senator Barron was placed on the special order calendar.

On motions by Senator Steinberg, by unanimous consent CS for HB 1869 was taken up and by two-thirds vote read the second time by title, by two-thirds vote read the third time by title, passed and was certified to the House. The vote on passage was:

Yeas—25

Mr. President	Gorman	McKnight	Thomas
Anderson	Grizzle	Myers	Vogt
Carlucci	Hair	Peterson	Williamson
Chamberlin	Henderson	Scarborough	Winn
Childers, W. D.	Hill	Scott	
Dunn	Holloway	Skinner	
Gordon	Jenne	Steinberg	

Nays—7

Beard	Frank	Neal	Trask
Fechtel	McClain	Tobiassen	

Vote after roll call:

Nay to Yea—Trask

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 1870—and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Appropriations and Representative Kutun and the Dade Delegation—

CS for HB 1870—A bill to be entitled An act relating to economic revitalization tax incentive credits; adding subsection (6) to s. 220.02, Florida Statutes, and adding paragraphs (o), (p), (q), (r), (s) and (t) to s. 220.03(1), Florida Statutes, providing legislative intent and definitions; creating s. 220.18, Florida Statutes; providing for an economic revitalization tax credit to be allowed against the tax imposed under the corporate income tax to certain businesses located in slum or blighted areas which establish a new business or expand an existing business; providing for computation of the credit based on ad valorem taxes for school purposes paid; providing for carryover credit; providing a limitation; providing for notice and other procedural matters; creating s. 193.084, Florida Statutes; providing for notice of new or expanded property to be filed with the property appraiser; providing duties of property appraiser with respect thereto; adding subsection (5) to s. 193.085, Florida Statutes, and subsection (4) to s. 195.073, Florida Statutes, providing for classification and listing of new and expansion-related property; adding a new subsection (6) to s. 195.096, Florida Statutes, providing for periodic review of assessment rolls by the Department of Revenue; amending s. 220.13(1)(a), Florida Statutes; specifying that the amount allowed under the credit in s. 220.18 shall be added in computing "adjusted federal income" for corporate income tax purposes; providing an effective date and an expiration date.

—was read the first time by title and pursuant to the motion by Senator Barron was placed on the special order calendar.

On motions by Senator Steinberg, by unanimous consent CS for HB 1870 was taken up and by two-thirds vote read the second time by title, by two-thirds vote read the third time by title, passed and was certified to the House. The vote on passage was:

Yeas—26

Mr. President	Gorman	Johnston	Trask
Anderson	Grizzle	McKnight	Vogt
Carlucci	Hair	Myers	Ware
Chamberlin	Henderson	Scarborough	Williamson
Dunn	Hill	Scott	Winn
Fechtel	Holloway	Steinberg	
Gordon	Jenne	Thomas	

Nays—5

Beard	McClain	Neal	Tobiassen
Frank			

Vote after roll call:

Yea—Skinner

CONSENT CALENDAR

Senator Frank objected to consideration of House Bills 1871 and 1872.

On motions by Senator Barron, consideration of House Bills 1875 and 1878 was deferred.

HB 325—A bill to be entitled An act relating to public education; amending s. 228.121(1), Florida Statutes, and adding subsection (5) thereto to authorize rather than require a nonresident tuition fee; correcting a typographical error; providing an effective date.

—was read the second time by title. On motion by Senator Trask, by two-thirds vote HB 325 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—22

Mr. President	Gorman	Johnston	Stuart
Anderson	Grizzle	McKnight	Trask
Barron	Hair	Poole	Vogt
Carlucci	Henderson	Scarborough	Williamson
Chamberlin	Hill	Scott	
Fechtel	Holloway	Steinberg	

Nays—None

Votes after roll call:

Yea—Myers, Peterson

SB 810—A bill to be entitled An act relating to motor vehicle licenses; amending s. 320.083(1), Florida Statutes, and creating s. 320.0835, Florida Statutes, and transferring s. 320.083(4) thereto; providing that the additional $5 fee for special tags for amateur and citizens' band radio operators shall be paid only upon initial application for such tags; providing for an additional fee of $1.50 thereafter; providing an effective date.

—was read the second time by title.

Senator Henderson moved the following amendment which was adopted:

Amendment 1—On page 3, lines 4-10, strike all of said lines and renumber subsequent subsection

Pending further consideration of SB 810 as amended, on motion by Senator Henderson, the rules were waived and by two-thirds vote HB 800 was withdrawn from the Committee on Ways and Means.

On motion by Senator Henderson—

HB 800—A bill to be entitled An act relating to motor vehicle licenses; amending s. 320.083(1), Florida Statutes, and creating s. 320.0835, Florida Statutes, and transferring s. 320.083(4) thereto; providing that the additional $5 fee for special tags for amateur and citizens' band radio operators shall be paid only upon initial application for such tags; providing for an additional fee of $1.50 thereafter; providing an effective date.

—a companion measure was substituted for SB 810 and read the second time by title. On motion by Senator Henderson, by two-thirds vote HB 800 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Gorman	McClain	Stuart
Anderson	Grizzle	McKnight	Tobiassen
Beard	Hair	Myers	Trask
Carlucci	Henderson	Neal	Vogt
Chamberlin	Hill	Peterson	Ware
Fechtel	Holloway	Scarborough	Williamson
Frank	Jenne	Scott	Winn
Gordon	Johnston	Steinberg	

Nays—None

SB 810 was laid on the table.

On motion by Senator Thomas, by unanimous consent—

HB 1411—A bill to be entitled An act relating to the election code; amending ss. 104.31(1) and 110.233(4)(a), Florida Statutes; removing a restriction against certain officers and employees under the state merit system holding party offices or membership on any county or state executive committee; providing an effective date.

—was read the second time by title.

Senator Peterson moved the following amendments which were adopted:

Amendment 1—On page 4, between lines 3 and 4, insert: Section 3. Not withstanding any other provision of law, an officer or employee of the state or any political subdivision may also serve as a member of the state executive committee or county executive committee of a political party. No person shall be required to resign from his public office or employment, nor shall any person be fired or removed from such public office or employment, because of membership on such a committee prior to the effective date of this act.

Amendment 2—On page 1 in title, line 2, strike line 2 and insert: An act relating to public officers and employees; authorizing such officers and employees to hold political party offices; amending

On motion by Senator Thomas, by two-thirds vote HB 1411 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Anderson	Gorman	McKnight	Thomas
Barron	Grizzle	Myers	Tobiassen
Beard	Hair	Peterson	Trask
Carlucci	Hill	Scarborough	Vogt
Chamberlin	Holloway	Scott	Ware
Childers, W. D.	Jenne	Skinner	Winn
Fechtel	Johnston	Steinberg	
Frank	McClain	Stuart	

Nays—2

Mr. President Henderson

Senator Scarborough moved that the Senate reconsider the vote by which HB 1869 passed this day.

Senator Scarborough moved that the Senate reconsider the vote by which HB 1870 passed this day.

On motion by Senator Skinner, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Gordon—

SB 1319—A bill to be entitled An act relating to the Florida Endowment Trust Fund for Eminent Scholars; amending s. 240.257, Florida Statutes; providing that the Board of Regents administer the trust fund rather than the associated foundations; providing for investment of appropriated funds and for use of accrued interest; providing for matching of funds; providing for the creation of separate foundation trust funds for each university; providing for pledged funds and for expending the funds; providing an appropriation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 5, line 30, after the period "." insert: Section 2. Paragraph (d) of subsection (6) of Section 240.271, Florida Statutes, is amended to read:

240.271 State University System; funding.—

(6) For the 1979-1981 biennium, any quality improvement funds appropriated by the Legislature for the State University System and referred to this section shall be allocated in the following manner:

(d) However, any increase in salary rate resulting from new positions shall not exceed 25 percent of each university's total allocation for quality improvement *in the fiscal year 1979-1980.*

(Renumber subsequent section.)

Amendment 2—On page 1, line 12 of the title, after the semicolon ";" insert: amending s. 240.271(6)(d), Florida Statutes, relating to the funding of the State University System;

On motions by Senator Skinner, the Senate concurred in the House amendments.

SB 1319 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	McClain	Thomas
Anderson	Gorman	McKnight	Tobiassen
Barron	Grizzle	Myers	Trask
Beard	Hair	Neal	Vogt
Carlucci	Henderson	Peterson	Ware
Chamberlin	Hill	Scarborough	Williamson
Childers, W. D.	Holloway	Scott	Winn
Dunn	Jenne	Skinner	
Fechtel	Johnston	Steinberg	
Frank	Maxwell	Stuart	

Nays—None

The bill was ordered engrossed and then enrolled.

SPECIAL ORDER, continued

SB 1042—A bill to be entitled An act relating to state employees; adding a subsection to s. 110.117, Florida Statutes, providing one personal paid holiday per year for permanent full-time state employees; providing exceptions; providing an effective date.

—was read the second time by title.

Ways and Means Subcommittee E offered the following amendments which were moved by Senator Stuart and adopted:

Amendment 1—On page 1, lines 11-23, strike all of said lines and insert: Section 1. Subsection (3) is added to section 110.117, Florida Statutes, to read:

110.117 Paid holidays.—

(3) Each permanent full-time employee shall be entitled to one personal holiday per year. Such personal holiday shall be credited to eligible employees on July 1 of each year to be taken prior to June 30 of the following year. Members of the teaching and research faculty of the State University System and administrative and professional positions exempted under s. 110.205(2) (e) shall not be eligible for this benefit.

Section 2. This act shall take effect July 1, 1980.

Amendment 2—On page 1, lines 1-7, insert: A bill to be entitled An act relating to state employees, adding a subsection to s. 110.117, Florida Statutes, providing one personal paid holiday per year for permanent full-time state employees; providing exceptions; providing an effective date.

On motion by Senator Stuart, by two-thirds vote SB 1042 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Mr. President	Gorman	Maxwell	Tobiassen
Beard	Grizzle	McClain	Trask
Carlucci	Hair	Peterson	Vogt
Chamberlin	Henderson	Scarborough	Ware
Childers, D.	Hill	Scott	Williamson
Dunn	Holloway	Skinner	Winn
Fechtel	Jenne	Stuart	
Frank	Johnston	Thomas	

Nays—None

Votes after roll call:

Yea—Myers

On motion by Senator Vogt, by unanimous consent—

CS for HB 874—A bill to be entitled An act relating to saltwater fishing; creating a Saltwater Fisheries Study and Advisory Council; providing for membership and duties; providing for development of a comprehensive saltwater fishery conservation and management policy; providing for public hearings; providing for coordination with federal councils and interstate commissioners; providing effective and expiration dates.

—was taken up out of order and read the second time by title. On motion by Senator Vogt, by two-thirds vote CS for HB 874 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Gorman	McClain	Tobiassen
Beard	Grizzle	Neal	Trask
Carlucci	Hair	Peterson	Vogt
Childers, D.	Henderson	Scarborough	Ware
Childers, W. D.	Hill	Scott	Williamson
Dunn	Holloway	Skinner	Winn
Fechtel	Jenne	Stuart	
Frank	Johnston	Thomas	

Nays—None

Vote after roll call:

Yea—Myers

By the Committee on Judiciary-Criminal and Senator Williamson—

CS for SB 785—A bill to be entitled An act relating to bail; amending s. 903.31, Florida Statutes; providing that an adjudication of guilt or innocence shall satisfy the conditions of a bond; specifying effect of an original appearance bond; providing an effective date.

—was read the first time by title and SB 785 was laid on the table.

Pending further consideration of CS for SB 785, on motions by Senator Williamson, the rules were waived and by two-thirds vote HB 593 was withdrawn from the Committees on Judiciary-Criminal and Commerce.

On motion by Senator Williamson—

HB 593—A bill to be entitled An act relating to bail; amending s. 903.31, Florida Statutes; providing that an adjudication of guilt or innocence shall satisfy the conditions of a bond; specifying effect of an original appearance bond; providing an effective date.

—a companion measure, was substituted for CS for SB 785 and read the second time by title. On motion by Senator Williamson, by two-thirds vote HB 593 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	Maxwell	Steinberg
Anderson	Gorman	McClain	Thomas
Beard	Grizzle	McKnight	Tobiassen
Carlucci	Hair	Myers	Trask
Chamberlin	Henderson	Neal	Vogt
Childers, D.	Hill	Peterson	Ware
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Jenne	Scott	Winn
Fechtel	Johnston	Skinner	

Nays—None

CS for SB 785 was laid on the table.

On motion by Senator Fechtel, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended and passed CS for HB 1060 as amended and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs and Representative Williams—

CS for HB 1060—A bill to be entitled An act relating to municipal utilities; providing for transfer of certain real property between the Jacksonville Electric Authority and the Clay Electric Cooperative; providing for a feasibility study; providing for property appraisal agreement; providing a time period; providing for disposition of certain revenues beyond such time period; providing a procedure; providing an effective date.

House Amendment 1 to Senate Amendment 1—Add new section 4. Renumber subsequent sections: Section 4. Within 30 days after the expiration of the 6 months immediately following the effective date of this act, and after each succeeding 6-month period, Clay Electric Cooperative, shall pay to Duval County a franchise fee in an amount which equals 6 percent of the gross revenues collected from the retail sale of electricity to all customers within the consolidated gov't of Jacksonville, Duval County for the 6 months preceeding the applicable anniversary date. For the purpose of computing the amount of the franchise fee to be paid, the term "gross revenues' shall mean the sum total of all revenues, regardless of source, collected from the sale of electricity to customers in the consolidated gov't of Jacksonville, Duval County during the six months period immediately prior to May 1, 1980, however, after May 1, 1980 "gross revenues" shall mean the sum total of all revenues collected from the sale of electricity to customers in the consolidated gov't of Jacksonville, Duval County excluding any increase in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel which has occurred subsequent to May 1, 1980. The payment of the franchise fee shall cease upon transfer, to Jacksonville Electric Authority, of all real and personal property which is owned by Clay Electric Cooperative and is located within the boundaries of the consolidated gov't of Jax, Duval County.

On motions by Senator Fechtel, the Senate refused to concur in the House amendment to the Senate amendment, and the Senate receded from the Senate amendment.

CS for HB 1060 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Gorman	McClain	Trask
Anderson	Grizzle	McKnight	Vogt
Carlucci	Hair	Myers	Ware
Chamberlin	Henderson	Peterson	Williamson
Childers, D.	Holloway	Scarborough	Winn
Childers, W. D.	Jenne	Skinner	
Dunn	Johnston	Steinberg	
Fechtel	Maxwell	Tobiassen	

Nays—None

SPECIAL ORDER, continued

SB 169—A bill to be entitled An act relating to fire prevention; amending s. 633.121, Florida Statutes; deleting provisions for ex officio agents of the State Fire Marshal; authorizing fire chiefs and certain other local government personnel to enforce state fire prevention laws and rules; providing that such personnel shall act as agents of their respective jurisdictions and not as agents of the State Fire Marshal; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations offered the following amendments which were moved by Senator Carlucci and adopted:

Amendment 1—On page 1, lines 10-13, strike everything after the enacting clause and insert: Section 1. Section 633.121, Florida Statutes is amended to read:

(Substantial rewording of section. See s. 633.121, F.S., for present text.)

633.121 Fire chiefs, etc., authorized to enforce laws and rules.—The chiefs of county, municipal, and special district fire departments, other fire department personnel designated by the chief, and personnel designated by local governments having no organized fire departments are authorized to enforce this law and all rules prescribed by the State Fire Marshal within their respective jurisdictions. Such personnel, acting under the authority of this section, shall be deemed to be agents of their respective jurisdictions and not agents of the State Fire Marshal.

Section 2. This act shall take effect October 1, 1980.

Amendment 2—On page 1, lines 1-6, strike the title and insert: A bill to be entitled An act relating to fire prevention; amending s. 633.121, Florida Statutes; deleting provisions for ex officio agents of the State Fire Marshal; authorizing fire chiefs and certain other local government personnel to enforce state fire prevention laws and rules; providing that such personnel shall act as agents of their respective jurisdictions and not as agents of the State Fire Marshal; providing an effective date.

On motion by Senator Carlucci, by two-thirds vote SB 169 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Anderson	Frank	Maxwell	Thomas
Barron	Gorman	McClain	Tobiassen
Beard	Grizzle	McKnight	Trask
Carlucci	Henderson	Peterson	Vogt
Chamberlin	Hill	Poole	Ware
Childers, D.	Holloway	Scarborough	Williamson
Childers, W. D.	Jenne	Scott	Winn
Dunn	Johnston	Skinner	
Fechtel	MacKay	Steinberg	

Nays—1

Mr. President

Votes after roll call:

Yea—Hair, Myers

By the Committee on Commerce and Senator Henderson—

CS for SB 1191—A bill to be entitled An act relating to interest and usury; amending ss. 687.02 and 687.03(1), (3), (4), Florida Statutes; clarifying certain terms and when loans are in excess of $500,000; adding a new subsection (5) to s. 687.03, Florida Statutes; defining the term "line of credit"; providing legislative intent as to the term line of credit; providing an effective date.

—was read the first time by title and SB 1191 was laid on the table.

Pending further consideration of CS for SB 1191, on motion by Senator Henderson, the rules were waived and by two-thirds vote CS for HB 1147 was withdrawn from the Committee on Commerce.

On motion by Senator Henderson—

CS for HB 1147—A bill to be entitled An act relating to interest and usury; amending ss. 687.02 and 687.03(1), (3), and (4), Florida Statutes, to clarify certain terms and when loans are in excess of $500,000; adding a subsection to s. 687.03 to

define the term "line of credit"; providing legislative intent as to the term "line of credit"; providing an effective date.

—a companion measure, was substituted for CS for SB 1191 and read the second time by title. On motion by Senator Henderson, by two-thirds vote CS for HB 1147 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Mr. President	Gorman	McClain	Steinberg
Anderson	Grizzle	McKnight	Stuart
Beard	Henderson	Myers	Thomas
Childers, D.	Hill	Neal	Tobiassen
Childers, W. D.	Holloway	Peterson	Trask
Dunn	Jenne	Scarborough	Vogt
Fechtel	Johnston	Scott	Ware
Frank	Maxwell	Skinner	Winn

Nays—None

Vote after roll call:

Yea—Hair

CS for SB 1191 was laid on the table.

SB 858—A bill to be entitled An act relating to investigators employed by state attorneys; creating s. 27.258, Florida Statutes, to authorize such investigators to interview witnesses and administer oaths to witnesses; providing an effective date.

—was read the second time by title. On motion by Senator Maxwell, by two-thirds vote SB 858 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Anderson	Gorman	McClain	Skinner
Beard	Grizzle	McKnight	Trask
Chamberlin	Henderson	Myers	Vogt
Childers, W. D.	Hill	Neal	Williamson
Dunn	Holloway	Peterson	Winn
Fechtel	Jenne	Scarborough	
Frank	Maxwell	Scott	

Nays—None

Vote after roll call:

Yea—Hair

Senator Scarborough presiding

By the Committee on Judiciary-Civil and Senator Dunn—

CS for SB 1198—A bill to be entitled An act relating to trial procedures in nonproperty tax controversies; creating ss. 213.19-213.22, Florida Statutes; providing exclusive original jurisdiction in the circuit courts for actions relating to legality of nonproperty tax assessments; providing that administrative proceedings initiated under chapter 120, Florida Statutes, preclude circuit court actions relating to the same subject matter; establishing time limitations when actions must be commenced in circuit court; requiring tender of challenged assessment to the court; listing parties and venue; providing for informal conference procedures; providing for technical advisements upon written request; adding s. 120.52(14)(f), Florida Statutes; excluding certain law enforcement policies and procedures from the definition of "rule"; creating s. 120.57(5), Florida Statutes; providing that certain determinations of the Hearing Officer of the Division of Administrative Hearings shall be final; specifying applicability; amending s. 120.57(1)(a), Florida Statutes; exempting hearings involving regular school student assignment from the requirement of being conducted by hearing examiners; amending s. 230.232, Florida Statutes; providing for hearing on enrollment in accordance with certain model rules; repealing s. 214.26, Florida Statutes, relating to actions involving legality of tax or penalty; providing an effective date.

—was read the first time by title and SB 1198 was laid on the table.

On motion by Senator Dunn, by two-thirds vote CS for SB 1198 was read the second time by title.

Senators Ware and Dunn offered the following amendment which was moved by Senator Dunn and failed:

Amendment 1—On page 1, line 23, strike everything after the enacting clause and insert: Section 1. Section 213.13, Florida Statutes, is created to read:

213.13 Jurisdiction of circuit courts in specific tax matters, administrative hearings and appeals, time for commencing action, venue, parties, deposits; compromises of taxes and interest.

(1) In any matter relating to the legality of any assessment of tax, interest, or penalties as provided for under Chapters 198, 199, 201, 203, 206, 211, 212, 213, 214 or 220, Florida Statutes, the circuit court shall have the exclusive original jurisdiction unless an action has been initiated under the provisions of Chapter 120, Florida Statutes. The taxpayer may file an action in the circuit court or alternatively file a petition under the applicable provisions of Chapter 120, Florida Statutes. Once any action is initiated under §§ 120.56, 120.565 or 120.57, no action may be brought in circuit court, and judicial review shall be exclusively limited to appellate review pursuant to §120.68, Florida Statutes. This provision shall not be applicable to

(2) No action may be brought to contest any assessment of any tax, interest, or penalty as provided for in this section, after sixty days from the date an assessment of taxes as specified in s. 213.13(1).

(3) In cases involving the legality of any tax or penalty assessed under those Chapters specified in §213.13(1), Florida Statutes, in any action brought in circuit court the complaint shall, except where the taxes assessed, including penalties and interest, have been paid to the Department prior to the institution of suit, tender into court and file with the complaint the full amount of the assessment complained of, including penalties and interest, unless waived, or file with the complaint a cash bond or a surety bond endorsed by a surety company authorized to do business in this State, or by such sureties as may be approved by the Court, conditional to satisfying any judgment or decree in full, including the taxes complained of, costs, penalties, and interest.

(4) Venue in any case brought pursuant to §213.13(1), Florida Statutes, shall be as follows:

(a) If the taxpayer is an individual, venue may be either in the county where he maintains his permanent residence or in Leon County.

(b) If the taxpayer is a business equity, including sole proprietors, venue may be either in the county where its principal commercial domicile is located or in Leon County.

(c) If the taxpayer is not a resident of Florida, nor maintains its principal commercial domicile in Florida, venue shall be in Leon County.

(d) If the tax arises under ch. 198, venue shall be in the circuit court having jurisdiction over the administration of the estate.

Section 2. Section 213.14, Florida Statutes, is created to read:

213.14 In actions brought in circuit court as authorized in §213.13(1), Florida Statutes, a person initiating an action contesting as assessment shall be the plaintiff and the Department of Revenue shall be the defendant. It shall not be necessary that the Governor and Cabinet members, nor the Executive Director, be named as the persons constituting the Department, nor separately as individual parties. Service of process on the Department shall be perfected by serving the Executive Director of the Department of Revenue.

Section 3. Section 213.15, Florida Statutes, is created to read:

213.15 (1) The Department is authorized to promulgate rules for establishment of informal conference procedures within the Department for resolution of disputes relating to assessment of taxes and penalties, and for hearings under s. 120.57(2), Florida Statutes.

(2) The Department may compromise the amount of any tax, or interest assessed under those chapters specified in §213.13(1), Florida Statutes, but only under procedures established by rule. The procedures shall require the Department to maintain a full record of all such compromises and such records shall state the basis the Department believes the compromise is in the public interest.

Section 4. Section 213.16, Florida Statutes is created to read:

213.16 The Division of Audit of the Department is authorized to provide informal technical assistance advisements to persons upon written request, as to the probable tax consequences of a stated, proposed transaction or event, at a stated point in time under existing statutes, rules, or policies. Technical assistance advisements shall have no precedential value except as to the person requesting such advisement in writing. The technical assistance advisement shall be binding on the Department only as to the person requesting such advisement and only for the calendar year in which the technical assistance advisement is issued. Technical assistance advisement is not an order issued pursuant to §120.565 or §120.59, Florida Statutes, or a rule or policy of general applicability under §120.54, Florida Statutes. Provisions of §120.53(2), Florida Statues, are not applicable to technical assistance advisements. The Department shall not disclose technical assistance advisements to any persons other than the person requesting said technical assistance advisement was issued or to whom it pertains. The Department is authorized to establish rules and regulations specifying procedures for submission, issuance or denial of issuance, and disclosure of technical assistance advisements.

Section 5. Section 120.57(5), Florida Statutes, is created to read:

120.57(5) In any matter dealing with the liability of a taxpayer arising under an assessment of tax imposed pursuant to Chapters 198, 199, 201, 203, 206, 211, 212, 212, 214, and 220, Florida Statutes, where the matter is referred to the Division by the Department of Revenue, and there is an affirmative determination by the Hearing Officer that there are disputed facts, an order of the Hearing Officer of the Division shall be a final order rather than a recommended order. A final order by a Hearing Officer of the Division pursuant to this subsection shall be final agency action. A final order issued pursuant to this section shall comply with §120.59, Florida Statutes, and any party to the proceeding, including the Department of Revenue, is entitled to judicial review pursuant to §120.68, Florida Statutes. This provision shall not be applicable to the refund of taxes previously paid.

Section 6. Section 214.26, Florida Statutes, is hereby repealed.

Section 7. This act shall apply to all circuit court proceedings initiated after the effective date of this act and to all administrative proceedings under Section 5, initiated prior to the effective date of this act in which a Hearing Officer from the Division of Administrative Hearings has not rendered a recommended order on or before the effective date of this act.

Section 8. This act shall take effect October 1, 1980.

Senator Dunn moved the following amendments which were adopted:

Amendment 2—On page 5, between lines 6 and 7, insert: Section 5. Paragraph (f) is added to subsection (14) of section 120.52, Florida Statutes, to read:

120.52 Definitions.—As used in this act:

(14) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(f) Law enforcement policies and procedures of state law enforcement agencies which relate to:

1. Collection, management, and dissemination of active criminal intelligence information, active criminal investigative information, management of criminal investigations, and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.

2. Recruitment, management, identity, and remuneration of confidential informants or sources.

3. Surveillance techniques including the selection of surveillance personnel and electronic surveillance including court ordered and consensual interceptions of communication conducted pursuant to chapter 934.

4. The safety and release of hostages.

5. Providing of security and protection to public figures.

6. Witness protection.

(Renumber subsequent sections.)

Amendment 3—On page 1 in title, line 16, insert: adding s. 120.52(14)(f), Florida Statutes; excluding certain law enforcement policies and procedures from the definition of "rule";

Amendment 4—On page 1, line 16, after the semicolon insert: creating s. 120.57(5), Florida Statutes; providing that certain determinations of the Hearing officer of the Division of Administrative Hearings shall be final; specifying applicability;

Senator Myers and Dunn offered the following amendment which was moved by Senator Dunn and adopted:

Amendment 5—On page 7, line 13, insert new Section 8:

Section 8. Paragraph (a) of subsection (1) of section 120.57, Florida Statutes, is amended to read:

120.57 Decisions which affect substantial interests.—The provisions of this section shall apply in all proceedings in which the substantial interests of a party are determined by an agency. Unless waived by all parties, subsection (1) shall apply whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) shall apply in all other cases.

(1) FORMAL PROCEEDINGS.—

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Professional and Occupational Regulation;

2. Hearings before the Unemployment Appeals Commission in unemployment compensation appeals, unemployment compensation appeals referees, special deputies pursuant to s. 443.15, and the Public Service Commission or its examiners;

3. Hearings regarding drivers' licensing pursuant to chapter 322;

4. Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by chapter 75-48, Laws of Florida;

5. Hearings in which the division is a party, in which case an attorney assigned by the Administration Commission shall be the hearing officer;

6. Hearings which involve student disciplinary suspensions or expulsions and which are conducted by educational units;

7. Hearings which involve regular student school assignment determinations and which are conducted by district school boards.

~~7.~~ *8.* Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307; and

~~8.~~ *9.* Hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601.

Section 2. Subsection (3) of section 230.232, Florida Statutes, is amended to read:

230.232 Pupil assignment; powers and duties of school boards.—

(3) The parent or guardian of any child, or the person standing in loco parentis to any child who shall apply to the appropriate public school official for the enrollment of any such child in any public school within the district in which such child resides, and whose application for such enrollment shall be denied may, pursuant to rules and regulations established by the school board, apply to such board for enrollment in such school and shall be entitled to a prompt and fair *hearing* ~~determination~~ by such board in accordance with *model rules adopted by the State Board of Education* ~~chapter 120~~. The majority of such board shall be a quorum for the purpose of holding *such* ~~any~~ hearing and passing upon such application, and the decision of the majority of the members present at *such* ~~any~~ hearing shall be the decision of the board. If *at such hearing* the board shall find that such child is entitled to be enrolled in such school or if the board shall find that the enrollment of such child in such school will be for the best interest of such child and will not interfere with the proper administration of the school or with the proper instruction of the pupils there enrolled and will not endanger the health or safety of the pupils there enrolled, the board shall direct that such child be enrolled in and admitted to such school. If the board finds that the child is not entitled to be enrolled in such school or that his enrollment in such school would not be for the best interest of the child or that his enrollment would seriously interfere with the proper administration of such school or with the proper instruction of the pupils there enrolled or that the child's admission to such school would endanger the health or safety of the children there enrolled, the board shall deny the petition for enrollment and direct the enrollment of the child in such other school in the district as shall be determined by the board to be best adapted or qualified to serve the best interests of the child and of the public school system.

Senator Dunn moved the following amendment which was adopted:

Amendment 6—On page 1, in title, line 16, after the semicolon insert: amending s. 120.57(1)(a), Florida Statutes; exempting hearings involving regular school student assignment from the requirement of being conducted by hearing examiners; amending s. 230.232, Florida Statutes; providing for hearing on enrollment in accordance with certain model rules;

On motion by Senator Dunn, by two-thirds vote CS for SB 1198 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Anderson	Frank	McClain	Tobiassen
Barron	Gorman	McKnight	Trask
Beard	Grizzle	Myers	Vogt
Carlucci	Henderson	Neal	Ware
Chamberlin	Hill	Peterson	Williamson
Childers, D.	Holloway	Scarborough	Winn
Childers, W. D.	Jenne	Scott	
Dunn	Johnston	Steinberg	
Fechtel	Maxwell	Thomas	

Nays—None

Vote after roll call:

Yea—Hair

On motion by Senator Johnston, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Don Childers—

SB 484—A bill to be entitled An act relating to educational finance; amending s. 236.013(2)(a) and (c), Florida Statutes, providing for an extended school day or week for children of migrant farmworkers; providing for computation as a full-time student of each such student for purposes of determining full-time equivalent student membership; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 6, line 7, strike all of said line and insert: Section 2. Section 228.062, Florida Statutes is created to read: 228.062 Migrant education program.—The Commissioner of Education shall recommend, and the State Board of Education shall prescribe, such rules as are necessary to provide for the participation of the state in the federal migratory child compensatory education program, which may be funded from federal or other lawful sources. The Department of Education is authorized to plan, fund and administer educational programs for migrant children in the state, beginning at age 3. Such programs shall be operated through grants to local school districts or through contracts with other public agencies or nonprofit corporations.

Section 3. This act shall take effect July 1, 1980.

Amendment 2—On page 1, in the title, strike all of line 9 and insert: membership; creating s. 228.062, Florida Statutes, providing for participation in federal migratory child compensatory education program; providing for funding and administration; providing an effective date.

On motions by Senator Johnston, the Senate concurred in the House amendments.

SB 484 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Anderson	Grizzle	Neal	Tobiassen
Beard	Henderson	Peterson	Trask
Chamberlin	Hill	Scarborough	Vogt
Childers, D.	Jenne	Scott	Ware
Childers, W. D.	Johnston	Skinner	Winn
Fechtel	McClain	Steinberg	
Frank	McKnight	Stuart	
Gorman	Myers	Thomas	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Tobiassen—

SB 257—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.02(16), Florida Statutes; exempting from the term "admissions" for purposes of the tax thereon charges made for entering upon a vessel for the privilege of participating in fishing; adding s. 212.08(7)(r), Florida Statutes; exempting from the tax articles of typography, artwork, photoengravings, mats, stereotypes, compositions, lithographs, or electrotypes sold to a person engaged in printing if such products are to be used in producing certain materials for resale; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 1 and 2, strike everything after the enacting clause and insert: Section 1. Subsection (16) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(16) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including but not limited to theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues paid to private clubs providing recreational facilities, including but not limited to golf, tennis, swimming, yachting and boating facilities. *The term "admissions" shall not mean or include any charge made for entering or staying upon any boat or vessel for the privilege of fishing.* The term "admissions" shall not mean or include charges for admission by any organization described in s. 170(c) of the Internal Revenue Code of 1954, as amended, to live performances of ballet, dance, or choral performances, concerts, (instrumental and vocal), plays (with and without music), operas, and readings, ocean science centers, museums of science, historical museums, and botanical and zoological gardens, and exhibitions of paintings, sculpture, photography, and graphic and craft arts.

Section 2. This act shall take effect July 1, 1980.

Amendment 2—On page 1, lines 2-8 in title, strike all of said lines and insert: An act relating to the tax on sales, use, and other transactions; amending s. 212.02(16), Florida Statutes; exempting from the term "admissions" for purposes of the tax thereon charges made for entering upon a vessel for the privilege of fishing; providing an effective date.

Amendment 4—On page 2, line 14, insert: Section 2. Paragraph (i) of subsection (7) of section 212.08, Florida Statutes is amended to read:

212.08 Sales, rental, storage, use 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 tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(7) Miscellaneous Exemptions.—

(i) Household fuels.—Also exempt from payment of the tax imposed by this chapter are sales of utilities to residential households *or owners of residential models* in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, and sales of fuel to residential households *or owners of residential models*, including oil, kerosene, liquefied petroleum gas, coal, wood and other fuel products used in the household *or residential model* for the purposes of heating, cooking, lighting, and refrigeration, regardless of whether such sales of utilities and fuels are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the utility or fuel is used for a nonexempt purpose the entire sale shall be taxable. The landlord shall provide a separate meter for nonexempt utility or fuel consumption.

(Renumber Subsequent Section.)

Amendment 5—On page 1, line 7 in title, after ; insert: providing an exemption from tax on sales of household fuels;

On motions by Senator Tobiassen, the Senate concurred in the house Amendments.

SB 257 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—27

Anderson	Frank	Hill	McClain
Beard	Gorman	Holloway	McKnight
Childers, W. D.	Grizzle	Jenne	Myers
Fechtel	Henderson	Maxwell	Neal
Peterson	Skinner	Thomas	Ware
Scarborough	Steinberg	Tobiassen	Winn
Scott	Stuart	Vogt	

Nays—None

Vote after roll call:

Yea—Hair

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 1879 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Evans—

HCR 1879—A concurrent resolution recommending and encouraging the use of "kill switches" on motor boats.

—was read the first time in full. On motion by Senator Maxwell, the rules were waived and the bill was placed on the calendar.

On motions by Senator Maxwell, HCR 1879 was taken up out of order by unanimous consent, by two-thirds vote read the second time by title and adopted. The vote on adoption was:

Yeas—31

Anderson	Grizzle	McKnight	Stuart
Beard	Henderson	Myers	Thomas
Carlucci	Hill	Neal	Tobiassen
Childers, D.	Holloway	Peterson	Trask
Childers, W. D.	Jenne	Scarborough	Vogt
Fechtel	Johnston	Scott	Ware
Frank	Maxwell	Skinner	Winn
Gorman	McClain	Steinberg	

Nays—None

Vote after roll call:

Yea—Hair

SPECIAL ORDER, continued

HB 1745—A bill to be entitled An act relating to the Florida Insurance Exchange; amending s. 629.401, Florida Statutes, authorizing the creation of one or more insurance exchanges; modifying time periods regarding transmitting the proposed constitution and bylaws of the exchange to the Insurance Commissioner and Treasurer and to the Legislature; increasing the size and composition of the initial board of governors of any exchange, giving the Governor three appointments and the Speaker of the House of Representatives and the President of the Senate an additional appointment each; providing for application of certain laws; providing for regulation of the exchange by the Department of Insurance; providing for examinations and investigations; providing duties and obligations of underwriting members; providing for hearings; providing for admissibility of examination reports as evidence; providing for confidentiality; providing for reimbursement of expenses to department; providing powers of examiners; providing for contempt and perjury penalties; providing certain immunity; requiring certain paid-in capital and surplus; providing requirements with regard to risk limitation, premium and loss reserves, profit distribution, dividends and borrowing; providing department powers to restrict or suspend certain member's or associate brokers' right to transact business; specifying prohibited conduct; providing for involuntary withdrawal, suspension, reprimand, censure, and fines; providing applicability of fees and fines of other jurisdictions; providing requirements for eligibility for export; providing for noncomplying policies; providing time limitations for judgments or decrees; providing conditions for certain tender offers, exchange offers, and purchases; providing penalties; providing for conditional repeal; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendment which was moved by Senator Johnston and adopted:

Amendment 1—On page 2, line 20, after "*exchanges*" insert: *, with one or more offices each,*

The Committee on Commerce offered the following amendments which were moved by Senator Ware and adopted:

Amendment 2—On page 4, lines 8-11, strike all of said lines and insert: of *fourteen* ~~seven~~ members, three appointed by the Insurance Commissioner and Treasurer, *three* ~~two~~ by the Speaker of the House of Representatives, *three* ~~and two~~ by the President of the Senate, *one by the minority leader of the House of Representatives, one by the minority leader of the Senate, and three by the Governor of Florida,* to serve until

Amendment 3—On page 1 in title, line 14, after the semicolon insert: providing for one appointment each by the minority leaders of the Senate and House of Representatives;

On motion by Senator Johnston, by two-thirds vote HB 1745 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Anderson	Fechtel	McClain	Thomas
Barron	Frank	McKnight	Tobiassen
Beard	Gorman	Myers	Trask
Carlucci	Grizzle	Neal	Vogt
Chamberlin	Henderson	Scarborough	Ware
Childers, D.	Hill	Scott	
Childers, W. D.	Johnston	Skinner	
Dunn	Maxwell	Steinberg	

Nays—None

Votes after roll call:

Yea—Hair, Peterson

On motions by Senator Myers, the rules were waived and by two-thirds vote HB 424 was withdrawn from the Committee on Economic, Community and Consumer Affairs, Ways and Means Subcommittee E and the Committee on Ways and Means and by two-thirds vote placed at the end of the special order calendar.

SB 194—A bill to be entitled An act relating to insurance; amending s. 626.321(1)(a), Florida Statutes; expanding motor vehicle physical damage insurance license to include mechanical breakdown insurance; requiring applicants for such license to pass a written examination; amending s. 634.041(10) and (13), Florida Statutes; requiring an automobile warranty association to establish a 100 percent unearned premium reserve and to amortize it on a pro rata basis over the duration of the warranty contract; requiring the investment of assets in accordance with ss. 625.301-625.340, Florida Statutes; repealing s. 634.041(14), Florida Statutes, relating to the adoption of alternative reserve methods; providing for conditional repeal; providing an effective date.

—was read the second time by title.

Senator Anderson moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 7 and 8, insert: Section 2. Subsection (14) of section 634.041, Florida Statutes, as created by chapter 78-231, Laws of Florida, is hereby repealed and subsections (10) and (13) of said section are amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue warranty contracts in this state, an association shall be otherwise in compliance with this act, with related sections of the Insurance Code, and with its charter powers and shall comply with the following:

(10) *An association shall establish a 100 percent unearned premium reserve and amortize the unearned premium on a pro rata basis over the duration of the warranty contract. An association that establishes the 100 percent unearned premium reserve may also capitalize the acquisition cost up to 50 percent of the unearned premium as a prepaid asset and amortize the acquisition cost on a pro rata basis over the duration of the warranty contract.* ~~For those associations which do not obtain contractual liability insurance, an unearned premium reserve equal to 40 percent of the gross premium charged shall be set up on each warranty contract issued. Such reserve shall be maintained until the expiration of the contract. Those contracts issued for a period in excess of 1 year shall adjust the unearned premium reserve annually according to the reserve table furnished by the department.~~

(13) An association required to maintain the unearned premium reserve shall also maintain at all times unencumbered assets in an amount equal to the required reserve. Such assets shall be held in the form of cash or invested in securities for investments under *ss. 625.301-625.340* ~~s. 625.52~~.

Section 3. If chapter 634, Florida Statutes, is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that section 2 shall also be repealed on the same date as is therein provided.

(Renumber subsequent section.)

Amendment 2—On page 1, in title, line 7, after the semicolon ";" insert: amending s. 634.041(10) and (13), Florida Statutes; requiring an automobile warranty association to establish a 100 percent unearned premium reserve and to amortize it on a pro rata basis over the duration of the warranty contract; requiring the investment of assets in accordance with ss. 625.301-625.340, Florida Statutes; repealing s. 634.041(14), Florida Statutes, relating to the adoption of alternative reserve methods; providing for conditional repeal;

On motion by Senator Anderson, by two-thirds vote SB 194 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Anderson	Grizzle	McKnight	Thomas
Beard	Hair	Myers	Tobiassen
Childers, D.	Henderson	Neal	Trask
Childers, W. D.	Hill	Peterson	Vogt
Dunn	Jenne	Scott	Ware
Fechtel	Johnston	Skinner	Winn
Frank	Maxwell	Steinberg	
Gorman	McClain	Stuart	

Nays—None

SB 932—A bill to be entitled An act relating to drivers' licenses; amending s. 322.251(1), (2), Florida Statutes; providing that orders of cancellation, suspension, or revocation issued under certain provisions of law comply with certain notice procedures; deleting the requirement that the affidavit proving that notice was given be sworn to upon notice issuance; providing an effective date.

—was read the second time by title. On motion by Senator Holloway, by two-thirds vote SB 932 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Beard	Grizzle	MacKay	Skinner
Carlucci	Hair	Maxwell	Trask
Childers, W. D.	Henderson	Myers	Vogt
Dunn	Hill	Neal	Williamson
Fechtel	Holloway	Peterson	Winn
Frank	Jenne	Scarborough	
Gorman	Johnston	Scott	

Nays—None

SB 1246—A bill to be entitled An act relating to motor vehicle records; amending s. 322.201, Florida Statutes; authorizing the use of certain computer copies as evidence in court proceedings; eliminating certification by the Department of

Highway Safety and Motor Vehicles for records obtained by direct access to the department computer; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil offered the following amendments which were moved by Senator McKnight and adopted:

Amendment 1—On page 1, line 23, insert: *Provided further,*

Amendment 2—On page 1, lines 27 and 28, strike *"records of the department"* and insert: *department's records*

Pending further consideration of SB 1246 as amended, on motions by Senator McKnight, the rules were waived and by two-thirds vote HB 1330 was withdrawn from the Committees on Judiciary-Civil and Governmental Operations.

On motion by Senator McKnight—

HB 1330—A bill to be entitled An act relating to motor vehicle records; amending s. 322.201, Florida Statutes, authorizing the use of computer copies in certain court proceedings; eliminating certification by the Department of Highway Safety and Motor Vehicles of certain records; permitting access to departmental computer records under certain circumstances; amending s. 322.26(2), Florida Statutes, 1978 Supplement, providing for the mandatory revocation of the driver's license of any person driving or being in control of a motor vehicle while in possession of a controlled substance or entering a plea of nolo contendere with respect to such offense; providing for the issuance of separate traffic citations under certain circumstances; providing an effective date.

—a companion measure, was substituted for SB 1246 and read the second time by title. On motion by Senator McKnight, by two-thirds vote HB 1330 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Anderson	Gorman	Maxwell	Skinner
Beard	Grizzle	McKnight	Steinberg
Childers, D.	Hair	Myers	Stuart
Childers, W. D.	Henderson	Neal	Trask
Dunn	Hill	Peterson	Vogt
Fechtel	Holloway	Scarborough	Winn
Frank	Johnston	Scott	

Nays—None

SB 1246 was laid on the table.

HB 1699—A bill to be entitled An act relating to maintenance of an approved wrecker system of call allocation; creating s. 321.051, Florida Statutes; providing authority to the Florida Highway Patrol for maintenance of such lists for call to accident scenes or removal of abandoned vehicles when owner or operator incapacitated, unavailable or leaves decision to officer; providing guidelines for entry and retention on the system of call allocation; providing an effective date.

—was read the second time by title. On motion by Senator Holloway, by two-thirds vote HB 1699 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Anderson	Hair	McKnight	Stuart
Beard	Henderson	Myers	Thomas
Carlucci	Hill	Neal	Tobiassen
Dunn	Holloway	Peterson	Trask
Fechtel	Jenne	Scarborough	Vogt
Frank	Johnston	Scott	Ware
Gorman	Maxwell	Skinner	Williamson
Grizzle	McClain	Steinberg	Winn

Nays—None

SB 1283—A bill to be entitled An act relating to alcoholic beverages; amending s. 565.02(3)(a), Florida Statutes; providing for the sale of alcoholic beverages in airline passenger waiting lounges; providing license fees; providing an effective date.

—was read the second time by title. On motion by Senator Holloway, by two-thirds vote SB 1283 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Anderson	Henderson	Peterson	Trask
Carlucci	Hill	Scarborough	Vogt
Childers, W. D.	Holloway	Scott	Ware
Dunn	Jenne	Skinner	Williamson
Fechtel	Johnston	Steinberg	Winn
Frank	Maxwell	Stuart	
Gorman	McKnight	Thomas	
Grizzle	Neal	Tobiassen	

Nays—None

Votes after roll call:

Yea—Hair, Myers

Yea to Nay—Trask

HB 1547—A bill to be entitled An act relating to uniform traffic control; adding subsection (67) to s. 316.003, Florida Statutes; defining "chief administrative officer"; amending s. 316.1945(3), Florida Statutes; providing that uniform traffic citations for certain parking violations shall not be issued by being attached to unattended vehicles or for violation of municipal or county parking ordinances; adding subsection (4) to s. 316.1967, Florida Statutes; providing that violations of county or municipal parking ordinances shall not be subject to the provisions of chapter 318, Florida Statutes; amending s. 316.650, Florida Statutes; providing requirements with respect to the form of uniform traffic citations, accountability therefor, and distribution of copies thereof; amending s. 322.25(6), Florida Statutes, relating to reports of judicial disposition of certain driving offenses and traffic violations; deleting authority of the clerks of court to sign such reports; providing an effective date.

—was read the second time by title. On motion by Senator Holloway, by two-thirds vote HB 1547 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Anderson	Gorman	McClain	Trask
Beard	Grizzle	McKnight	Vogt
Carlucci	Henderson	Myers	Ware
Childers, W. D.	Holloway	Peterson	Williamson
Dunn	Jenne	Skinner	Winn
Fechtel	Johnston	Steinberg	
Frank	Maxwell	Stuart	

Nays—None

Votes after roll call:

Yea—Hair, Hill

On motion by Senator McClain, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB's 658 & 1074 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Criminal Justice and Representative Ward and others—

CS for HB's 658 & 1074—A bill to be entitled An act relating to construction sites; amending s. 812.014 providing for theft from construction sites; creating s. 810.09(d) relating to trespass of construction sites; providing an effective date.

—was read the first time by title. On motion by Senator McClain, the rules were waived and the bill was placed on the calendar.

On motions by Senator McClain, by unanimous consent, CS for HB's 658 and 1074 was taken up and by two-thirds vote read the second time by title. On motion by Senator McClain, by two-thirds vote CS for HB's 658 and 1074 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Anderson	Gorman	Myers	Thomas
Barron	Grizzle	Neal	Tobiassen
Beard	Hair	Peterson	Trask
Carlucci	Henderson	Scarborough	Vogt
Childers, W. D.	Hill	Scott	Ware
Dunn	Jenne	Skinner	Williamson
Fechtel	Maxwell	Steinberg	Winn
Frank	McKnight	Stuart	

Nays—None

SPECIAL ORDER, continued

SB 710 was taken up and on motion by Senator Anderson, the rules were waived and by two-thirds vote HB 919 was withdrawn from the Committee on Commerce.

On motion by Senator Anderson—

HB 919—A bill to be entitled An act relating to alcoholic beverage licenses; amending s. 561.20(7)(c), Florida Statutes, eliminating the authority of municipalities or counties to prevent racquetball or tennis clubs which are in compliance with state law from being granted alcoholic beverage licenses; providing an effective date.

—a companion measure, was substituted for SB 710 and read the second time by title. On motion by Senator Anderson, by two-thirds vote HB 919 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Anderson	Grizzle	McKnight	Stuart
Barron	Hair	Myers	Thomas
Beard	Henderson	Neal	Tobiassen
Carlucci	Hill	Poole	Vogt
Childers, W. D.	Holloway	Scarborough	Ware
Fechtel	Jenne	Scott	Winn
Frank	MacKay	Skinner	
Gorman	McClain	Steinberg	

Nays—3

Maxwell	Peterson	Trask

SB 710 was laid on the table.

SB 840—A bill to be entitled An act relating to certified chiropractic physician's assistants; creating s. 460.416, Florida Statutes, providing intent and definitions; providing for certification of chiropractic physician's assistants; providing procedures for the approval of programs for such assistants; requiring fees; providing penalties; providing for liability; providing for conditional repeal; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services offered the following amendments which were moved by Senator Grizzle and adopted:

Amendment 1—On page 2, line 22, on page 3, lines 7 and 26, and on page 5, line 15, strike "medical"

Amendment 2—On page 3, line 29, strike "certificated" and insert: certificates

On motion by Senator Grizzle, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 969 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative D. L. Jones—

HB 969—A bill to be entitled An act relating to certified chiropractic physician's assistants; creating s. 460.416, Florida Statutes, providing intent and definitions; providing for certification of chiropractic physician's assistants; providing procedures for the approval of programs for such assistants; requiring fees; providing penalties; providing for liability; providing for conditional repeal; providing an effective date.

—was read the first time by title. On motion by Senator Grizzle, the rules were waived and the bill was placed on the Calendar.

SPECIAL ORDER, continued

Pending further consideration of SB 840 as amended, on motion by Senator Grizzle, by two-thirds vote HB 969, a companion measure, was substituted for SB 840. On motions by Senator Grizzle, by two-thirds vote HB 969 was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Anderson	Gorman	MacKay	Steinberg
Barron	Grizzle	Maxwell	Stuart
Beard	Hair	McClain	Thomas
Carlucci	Henderson	McKnight	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Scarborough	Vogt
Fechtel	Jenne	Scott	Ware
Frank	Johnston	Skinner	Winn

Nays—None

SB 840 was laid on the table.

Consideration of SB 431, SJR 274, and Senate Bills 273 and 909 was deferred.

On motions by Senator Frank, by two-thirds vote HB 1829 was withdrawn from the Committees on Education and Ways and Means and by two-thirds vote placed on the special order calendar.

On motions by Senator Frank, by unanimous consent—

HB 1829—A bill to be entitled An act relating to teacher education; providing for continued development of a pilot program relating to teacher preparation; providing for a report; providing an effective date.

—was taken up and by two-thirds vote read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Anderson	Frank	MacKay	Skinner
Beard	Gorman	Maxwell	Steinberg
Carlucci	Grizzle	McClain	Stuart
Chamberlin	Hair	McKnight	Trask
Childers, D.	Henderson	Myers	Vogt
Childers, W. D.	Hill	Peterson	Ware
Dunn	Jenne	Scarborough	Winn
Fechtel	Johnston	Scott	

Nays—None

CS for HB 345—A bill to be entitled An act relating to sterilization of dogs and cats; providing for sterilization of dogs and cats given for adoption or sold by public or private pet animal shelters and animal control agencies; providing that shelters or animal control agencies shall require prospective owners of unsterilized animals to enter into written agreements

guaranteeing sterilization prior to adoption or purchase; requiring collection of certain deposits or donations with respect thereto; providing for refund of deposits or donations upon compliance with statements of promise; providing civil penalties and for forfeiture of deposits or donations and reclamation of unsterilized animals upon failure to comply; providing for costs; providing an effective date.

—was read the second time by title.

The Committee on Agriculture offered the following amendment which was moved by Senator Steinberg and adopted:

Amendment 1—On page 1 in title, lines 16 and 17, after the word "donations" strike: and reclamation of unsterilized animals

On motion by Senator Steinberg, by two-thirds vote CS for HB 345 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Anderson	Grizzle	Maxwell	Steinberg
Beard	Hair	McClain	Stuart
Chamberlin	Henderson	McKnight	Vogt
Childers, D.	Hill	Myers	Ware
Dunn	Holloway	Neal	Winn
Frank	Jenne	Scarborough	
Gorman	Johnston	Scott	

Nays—3

Barron	Peterson	Trask

SB 1003—A bill to be entitled An act relating to court costs; amending s. 57.081(1) and (3), Florida Statutes; providing that an indigent person who is a party to, or who intervenes in, or who initiates judicial or administrative agency proceedings is entitled to the services of courts, sheriffs, and clerks without prepayment of costs and to have costs taxed in his favor if he prevails; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil offered the following amendments which were moved by Senator MacKay and adopted:

Amendment 1—On page 1, line 20, after the word *"proceeding"* insert: *or who initiates such proceeding*

Amendment 2—On page 1, lines 29-31, and on page 2, lines 1-2, strike *"In any case in which a person is represented by a legal aid society, a legal services project, a public defender, or counsel assigned to represent an indigent person, prepayment of all costs shall be waived without the necessity of obtaining a certificate of insolvency."*

Amendment 3—On page 2, lines 7-12, strike all of lines 7 through and including line 12 and insert: applicant's affidavit and that he believes it to be true; that he has investigated the nature of *the applicant's position* ~~plaintiff's claim~~ and that in his opinion it is meritorious as a matter of law; and that he has not been paid or promised payment of any remuneration for his service and intends to act as attorney for applicant without compensation.

Senator Dunn moved the following amendment which was adopted:

Amendment 4—On page 1, line 18, strike "Insolvent and poverty-stricken;

on line 25, strike: insolvency

on line 27, strike: insolvent

on page 22, line 14, strike: "insolvency" and insert: on page 1, line 18: ~~insolvent and poverty stricken~~ *indigent*

on page 1, line 25: ~~insolvency~~ *indigency*

on page 1, line 27: ~~insolvent~~ *indigent*

on page 2, line 14: ~~insolvency~~ *indigency*

The Committee on Judiciary-Civil offered the following amendment which was moved by Senator MacKay and adopted:

Amendment 5—On page 1, line 5, after the word "in," insert: or who initiates

Senator Dunn moved the following amendment which was adopted:

Amendment 6—On page 1, line 4, strike "insolvent and poverty-stricken" and insert: indigent

On motion by Senator MacKay, by two-thirds vote SB 1003 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Anderson	Grizzle	Myers	Thomas
Barron	Hair	Neal	Tobiassen
Beard	Henderson	Peterson	Trask
Carlucci	Hill	Poole	Vogt
Chamberlin	Holloway	Scarborough	Ware
Childers, W. D.	Jenne	Scott	Winn
Dunn	Johnston	Skinner	
Frank	MacKay	Steinberg	
Gorman	McKnight	Stuart	

Nays—None

Vote after roll call:

Yea—Fechtel

SB 431 was taken up and on motion by Senator Trask, the rules were waived and by two-thirds vote HB 844 was withdrawn from the Committee on Commerce.

On motion by Senator Trask—

HB 844—A bill to be entitled An act relating to state fairs and expositions; repealing chapter 615, Florida Statutes, relating to state fairs and expositions; amending s. 220.03(1)(b), Florida Statutes, to conform; providing an effective date.

—a companion measure, was substituted for SB 431 and read the second time by title. On motion by Senator Trask, by two-thirds vote HB 844 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Anderson	Gorman	McClain	Stuart
Barron	Grizzle	McKnight	Thomas
Beard	Hair	Myers	Tobiassen
Carlucci	Henderson	Neal	Trask
Chamberlin	Hill	Peterson	Vogt
Childers, D.	Holloway	Scarborough	Ware
Childers, W. D.	Jenne	Scott	Williamson
Fechtel	Johnston	Skinner	Winn
Frank	Lewis	Steinberg	

Nays—None

SB 431 was laid on the table.

On motion by Senator Ware the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Ware—

SB 1165—A bill to be entitled An act relating to annexation; amending s. 171.044(1), Florida Statutes, providing that owners of real property located within an enclave may petition for

annexation; amending s. 171.0413(5), Florida Statutes, to provide requirements for annexation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 2—On page 1, line 10, strike Section 1 and renumber

Amendment 3—On page 1, line 1 in the title, strike the title and insert: An act relating to annexation; amending s. 171.0413, Florida Statutes, providing certain requirements for annexation.

On motions by Senator Ware, the Senate concurred in the House Amendments.

SB 1165 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Anderson	Grizzle	Myers	Tobiassen
Beard	Hair	Neal	Trask
Carlucci	Henderson	Peterson	Vogt
Chamberlin	Hill	Scarborough	Ware
Childers, D.	Holloway	Scott	Williamson
Childers, W. D.	Jenne	Skinner	Winn
Fechtel	Johnston	Steinberg	
Frank	McClain	Stuart	
Gorman	McKnight	Thomas	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 3 and refused to concur in Senate Amendment 2 to HB 1776 and requests the Senate to recede, and passed the bill as amended.

Allen Morris, Clerk

By the Committee on Community Affairs—

HB 1776—A bill to be entitled An act relating to community development; amending s. 125.01(5), Florida Statutes, which authorizes the establishment of special districts by the governing body of a county; providing that such districts shall include both incorporated and unincorporated areas subject to the approval of the governing body of the affected incorporated area; providing for composition of the governing body of such districts; creating Part II of Chapter 189, Florida Statutes; providing for creation, operation, management, and financing of community development districts; providing definitions; providing membership, terms, powers, and duties of the governing bodies of districts; providing a budget system; providing for disclosure of financing; specifying powers over public improvements and community facilities; providing for issuance of bond anticipation notes; providing for short-term borrowing; requiring trust agreements; providing for general obligation bonds and revenue bonds; authorizing ad valorem taxes, benefit taxes, and maintenance taxes; providing for enforcement of taxes; providing for special assessments; providing for issuance of certificates of indebtedness; providing for liens and foreclosure of liens; authorizing redemption of tax liens; providing for mandatory use of certain district facilities and services; requiring bids; providing for adoption and collection of fees, rentals, and other charges; authorizing discontinuation of service; providing legal and equitable remedies; providing for attorney's fees; exempting district property from execution; providing procedure for termination, contraction, merger, or expansion of districts; prohibiting certain special acts; repealing ss. 163.601-163.633, Florida Statutes, relating to new communities; providing an effective date.

On motion by Senator Jenne, the Senate receded from Senate Amendment 2 and passed HB 1776. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Anderson	Grizzle	McKnight	Thomas
Beard	Hair	Myers	Tobiassen
Chamberlin	Henderson	Peterson	Trask
Childers, D.	Hill	Scarborough	Vogt
Childers, W. D.	Holloway	Scott	Williamson
Fechtel	Jenne	Skinner	Winn
Frank	Johnston	Steinberg	
Gorman	McClain	Stuart	

Nays—None

On motion by Senator Peterson, by two-thirds vote CS for HB 1123 was withdrawn from the Committee on Agriculture and on motion by Senator Peterson, by two-thirds vote was placed on the special order calendar.

SPECIAL ORDER, continued

On motions by Senator Peterson, by unanimous consent—

CS for HB 1123—A bill to be entitled An act relating to agriculture; creating the Florida Community Gardening Pilot Program of 1980; providing definitions; providing that residents of specified pilot counties may be granted a permit to use vacant public land for gardening; providing duties of Commissioner of Agriculture; providing permit conditions; providing for liability; providing for compilation of a list of suitable vacant public land; providing that counties, municipalities, state agencies and departments may make public land available; providing for contracts with owners of private land; providing for liability; providing for rules; providing effective and expiration dates.

—was taken up and on motions by Senator Peterson, by two-thirds vote was read the second time by title, and by two-thirds vote read the third time by title, passed and was certified to the House. The vote on passage was:

Yeas—32

Anderson	Gorman	McClain	Steinberg
Beard	Grizzle	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Chamberlin	Henderson	Neal	Tobiassen
Childers, D.	Hill	Peterson	Trask
Childers, W. D.	Holloway	Scarborough	Vogt
Fechtel	Jenne	Scott	Williamson
Frank	Johnston	Skinner	Winn

Nays—None

On motion by Senator Stuart the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Commerce and Senator Ware—

CS for SB 179—A bill to be entitled An act relating to fire prevention and control; amending subsections (12) and (13) of s. 633.021, Florida Statutes; and adding a new subsection; redefining fire protection systems; specifying classes of contractors; and defining pre-engineered systems; amending s. 633.065(1), (2), Florida Statutes; permitting contractors of fire safety and protective equipment to be certified under s. 633.534, Florida Statutes, or licensed under s. 633.061, Florida Statutes; amending s. 633.521, Florida Statutes; providing that applications must specify the type of certificate requested; providing an examination for each type of contractor, and providing exemption from examination by qualified contractors; requiring certain persons to take and pass an examination as contractor; providing for revocation of certification; amending s. 633.524, Florida Statutes; specifying the application and renewal fees for all types of certificates; requiring all moneys collected to be deposited in the Insurance Commissioner's Regu-

latory Trust Fund; amending s. 633.531, Florida Statutes; providing exceptions for licensed plumbers; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 5, lines 20-27, strike all of said lines and insert: defined in subsection 633.021(13). ~~Any certificate~~

Senator Stuart moved the following amendment to House Amendment 1 which was adopted:

Senate Amendment 1—On page 1, line 2, before the period "." insert: , *provided the 5 years professional experience as a contractor was obtained prior to January 1, 1975*

Amendment 2—On page 4, line 30, strike "design" and insert: ~~design,~~

Amendment 3—On page 2, line 22, and on page 3, lines 3 & 14, strike "*design,*"

Amendment 4—On page 3, line 18, insert: *(d) The above definitions shall not be construed to include architects and shall not limit or prohibit a licensed architect from designing any type of fire protection system.*

Amendment 5—On page 2, lines 21 & 22, strike: ; ~~experience, knowledge, science, and skill intelligently~~ and insert: , experience, knowledge, science, and skill intelligently

Amendment 6—On page 1, lines 17-20 in the title, strike all of said lines and insert: qualified contractors; amending s. 633.524, Florida

Amendment 7—On page 7, line 8, after line 8 insert: a new section 6 and renumber subsequent sections

Section 6. Subsection (8) of section 633.05, Florida Statutes, is amended to read:

633.05 Regulations.—The State Fire Marshal shall make and promulgate all rules and regulations necessary to effectuate the enforcement of his powers and duties, including, but not limited to, the making and promulgation of rules and regulations for the:

(8) Establishment of uniform fire safety standards for state-owned and state-leased buildings and for all hospitals, nursing homes, rest homes, correctional facilities, public schools, public lodging establishments, public food-service establishments, elevators, migrant labor camps, *residential child-caring facilities,* and self-service gasoline stations, of which standards the State Fire Marshal shall be the final administrative interpreting authority. With respect to public schools, the State Fire Marshal shall utilize the fire safety standards that have been adopted by the State Board of Education.

(a) In state-owned and-leased buildings, community colleges, and public schools, all deficiencies of uniform fire safety standards shall be reported to the State Fire Marshal by the inspecting agencies, and said deficiencies shall be corrected within a reasonable period and within the budget limitation of the agency. All deficiencies which will require extensive renovation or sizable expenditures of moneys shall be reported to the Legislature by the responsible agency for its review and budgeting. Priority shall be given to the more serious deficiencies.

(b) The State Fire Marshal shall cause the uniform fire safety standards to be revised and republished as the need arises. He shall determine the method of distribution and may charge an amount not to exceed the amount reasonably calculated to cover the cost of production and distribution.

(c) This subsection shall apply to the establishment of uniform fire safety standards only and shall not affect the responsibility for conducting fire safety inspections or enforcing fire safety laws.

Amendment 8—On page 1, line 27, after "plumbers;" insert: amending s. 633.05(8), Florida Statutes; providing the State Fire Marshal rulemaking authority for residential child-caring facilities;

On motions by Senator Stuart, the Senate concurred in House Amendment 1 as amended and the House was requested to concur in the Senate amendment to House Amendment 1; and concurred in House amendments 2, 3, 4, 5, 6, 7 and 8.

CS for SB 179 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—26

Anderson	Grizzle	Peterson	Tobiassen
Beard	Henderson	Scarborough	Trask
Carlucci	Hill	Scott	Vogt
Chamberlin	MacKay	Skinner	Williamson
Childers, W. D.	McKnight	Steinberg	Winn
Fechtel	Myers	Stuart	
Gorman	Neal	Thomas	

Nays—None

Vote after roll call:

Yea—Hair

SPECIAL ORDER, continued

On motion by Senator Hill, by unanimous consent—

HB 1451—A bill to be entitled An act relating to unemployment compensation; amending s. 443.04(2)(a), Florida Statutes; increasing the maximum weekly benefit amount; providing an effective date.

—was read the second time by title. On motion by Senator Hill, by two-thirds vote HB 1451 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Anderson	Frank	Myers	Thomas
Barron	Gorman	Neal	Trask
Beard	Grizzle	Peterson	Vogt
Carlucci	Hill	Scarborough	Williamson
Chamberlin	Holloway	Scott	Winn
Childers, W. D.	McClain	Steinberg	
Fechtel	McKnight	Stuart	

Nays—None

Consideration of HB 30 and SB 401 was deferred.

HB 424—A bill to be entitled An act relating to group insurance for public officers and employees; amending s. 112.-0801, Florida Statutes, authorizing counties, municipalities, community colleges, and school boards, which provide group insurance plans for employees, to continue payment for such coverage with respect to retired employees under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 424 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Anderson	Gorman	McClain	Steinberg
Beard	Grizzle	McKnight	Stuart
Carlucci	Hair	Myers	Thomas
Childers, W. D.	Henderson	Neal	Trask
Dunn	Hill	Peterson	Vogt
Fechtel	Jenne	Scarborough	Winn
Frank	MacKay	Skinner	

Nays—None

On motion by Senator Steinberg the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed HB 1167 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Silver—

HB 1167—A bill to be entitled An act relating to consumer finance; amending s. 516.031(1) and (3), Florida Statutes, of the Florida Consumer Finance Act; increasing the loan ceiling from $2,500 to $25,000; providing that on loans in excess of $2,500, the interest charge shall not exceed 18 percent per annum simple interest; permitting title insurance and real property appraisal fees to be charged to the borrower; amending s. 516.20(2), Florida Statutes; providing a repayment schedule on loans in excess of $2,500; providing an effective date.

—was read the first time by title and on motions by Senator Steinberg, the rules were waived and by two-thirds vote HB 1167 was placed on the special order calendar.

SB 609 was taken up and on motion by Senator Steinberg, HB 1167, a companion measure was substituted therefor. On motions by Senator Steinberg, by two-thirds vote HB 1167 was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Anderson	Gorman	MacKay	Steinberg
Beard	Hair	McKnight	Stuart
Carlucci	Henderson	Myers	Thomas
Chamberlin	Hill	Neal	Trask
Childers, W. D.	Holloway	Peterson	Winn
Dunn	Jenne	Scarborough	
Fechtel	Johnston	Scott	

Nays—3

Grizzle	Skinner	Vogt

Vote after roll call:

Yea to Nay—Chamberlin

SB 609 was laid on the table.

On motion by Senator Steinberg, the Senate reconsidered the vote by which—

CS for HB 345—A bill to be entitled An act relating to sterilization of dogs and cats; providing for sterilization of dogs and cats given for adoption or sold by public or private pet animal shelters and animal control agencies; providing that shelters or animal control agencies shall require prospective owners of unsterilized animals to enter into written agreements guaranteeing sterilization prior to adoption or purchase; requiring collection of certain deposits or donations with respect thereto; providing for refund of deposits or donations upon compliance with statements of promise; providing civil penalties and for forfeiture of deposits or donations and reclamation of unsterilized animals upon failure to comply; providing for costs; providing an effective date.

—passed this day.

On motion by Senator Steinberg, the Senate reconsidered the vote by which CS for HB 345 was read the third time.

On motion by Senator Steinberg, the Senate reconsidered the vote by which Amendment 1 was adopted.

The question recurred on Amendment 1 which failed.

On motion by Senator Steinberg, by two-thirds vote CS for HB 345 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Anderson	Gorman	MacKay	Steinberg
Beard	Grizzle	McKnight	Stuart
Carlucci	Hair	Neal	Trask
Chamberlin	Henderson	Peterson	Vogt
Childers, W. D.	Hill	Scarborough	Winn
Fechtel	Holloway	Scott	
Gordon	Johnston	Skinner	

Nays—None

Vote after roll call:

Yea—Myers

The President presiding

HB 30—A bill to be entitled An act relating to state uniform traffic control; creating s. 316.1996, Florida Statutes; requiring use of right lane or lanes on multi-laned roadways except under certain circumstances; providing an effective date.

—was read the second time by title.

Senator Williamson moved the following amendment which was adopted:

Amendment 1—Strike lines 2 through 11.

Senator Scarborough presiding

On motion by Senator MacKay, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 6, 8, 14, 15, 16 & 17 and passed SJR 948 as amended by the required Constitutional three-fifths vote of the membership of the House; has refused to recede from House Amendments 9 and 13 and again requests the Senate to concur.

Allen Morris, Clerk

By Senator Lewis—

SJR 948—A joint resolution proposing an amendment to Section 16, Article III of the State Constitution, relating to apportionment by the Legislature.

Amendment 9—On page 1, lines 20-24, strike all of said lines and insert: state and of the United States into ~~not less than thirty nor more than~~ forty *single-member,* consecutively numbered senatorial districts of *compact,* ~~either~~ contiguous~~, overlapping or identical~~ territory, and into ~~not less than eighty nor more than~~ one hundred twenty *single-member,*

Amendment 13—On page 3, line 27, after the period insert: Providing for forty senate districts and one hundred twenty house districts.

On motions by Senator MacKay, the Senate concurred in House Amendments 9 and 13.

On motion by Senator Lewis further consideration of SJR 948 was deferred.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 2, 5 & 6,

has amended Senate Amendments 3 and 4, concurred in same as amended and passed HB 1506 as amended and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Select Committee on Energy—

HB 1506—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08(7)(o), Florida Statutes; exempting the sale of recycled oil or waste oil, solid waste material for use as a fuel, used for certain purposes from such tax; providing an effective date.

House Amendment 1 to Senate Amendment 3—On page 3, lines 1-14, strike all existing language and insert: *a. "Industrial Machinery and Equipment" shall mean "Section 38 property" as defined in section 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 the manufacturing, processing, compounding, or producing for sales items of tangible personal property. Such term shall* include 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 1 year immediately following the completion of installation of such machinery or equipment over the output for 1 year immediately preceding said installation. The units used to measure productive output shall be physically comparable between the two periods.

Section 4. Paragraph (r) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, storage, use 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 tangible personal property are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—

(r) Certain energy efficient devices, systems and components.—Central air conditioning systems whose energy efficiency ratio (EER) or seasonal energy efficiency ratio (SEER) exceeds 10.0; heat pumps whose EER or SEER exceeds 8.2 and whose coefficient of performance (COP) exceeds 2.8; water heating systems which recover waste heat from an air conditioning system, utilize the otherwise unused capacity of a heat pump or which derive heat from a heat pump dedicated to water heating; and compressor/condenser units installed as replacements in existing systems which will meet the EER or SEER requirements of this paragraph as installed shall be exempt from payment of the tax imposed by this chapter. This exemption is limited to those systems designed primarily for residential use, and any system of heating, ventilating and air conditioning (HVAC) which includes electric resistance elements as its primary source of heat shall not be exempt from the tax imposed by this chapter. The provisions of this section shall apply to transactions occurring between January 1, 1980, and July 1, 1985. Persons who have paid the tax prior to the effective date of this section may apply to the Department of Revenue for a refund, and the department is authorized to provide for the payment of such refunds.

Section 5. Section 196.175, Florida Statutes, is created to read:

196.175 Renewable energy source exemption.—

(1) Improved real property upon which a renewable energy source device is installed and operated shall be entitled to an exemption not greater than the lesser of:

(a) The assessed value of said real property less any other exemptions applicable under this chapter;

(b) The original cost of the device, including installation cost thereof, but excluding the cost of replacing previously existing property removed or improved in the course of such installation; or

(c) Eight percent of said property's assessed value immediately following installation.

(2) The exempt amount authorized under subsection (1) shall apply in full if the device was installed and operative throughout the 12-month period preceding January 1 of the year of application for this exemption. If the device was operative for a portion of said period, the exempt amount authorized hereunder shall be reduced proportionally.

(3) It shall be the responsibility of the applicant for an exemption pursuant to this section to affirmatively demonstrate to the satisfaction of the property appraiser that he meets the requirements for exemption hereunder, and that the original cost pursuant to subsection (1)(b) and the time period for which the device was operative, as indicated on the exemption application, are correct.

(4) No exemption authorized pursuant to this section shall be granted for a period of more than 10 years. No exemption shall be granted with respect to renewable energy source devices installed before January 1, 1980, or after December 31, 1990.

Section 6. Subsection (13) is added to section 196.012, Florida Statutes, to read:

196.012 Definitions.—For the purpose of this chapter the following terms are defined as follows except where the context clearly indicates otherwise:

(13) "Renewable energy source device" or "device" means the following equipment which, when installed in connection with a dwelling unit or other structure, collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits

(a) Solar energy collectors.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Free standing thermal containers.

(i) Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems, provided that conventional backup systems of any type shall not be included in this definition.

(j) Windmills.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

"Renewable energy source device" or "device" also means heat pumps with an EER or SEER exceeding 8.5 and a COP exceeding 2.8, waste heat recovery systems, and water heating systems whose primary heat source is a dedicated heat pump or the otherwise unused capacity of a heat pump heating, ventilating and air conditioning system, provided such devices are installed in structures substantially complete before January 1, 1985, and whether or not solar, wind energy or energy derived from geothermal deposits is collected, transmitted, stored or used by such devices.

Section 7. Section 553.9065, Florida Statutes, is created to read:

553.9065.—After January 1, 1985, no building permit shall be issued for any residential structure of two stories or less or for any swimming pool in which heated water is to be used if the water is to be heated by any system which utilizes electric resistance elements as the primary heat source. The Board of Building Codes and Standards shall hold a hearing to deter-

mine whether alternative water heating systems, equipment and installation services are readily available on the open market and that the price of other water heating systems is no more than 100% above the average retail price of water heating systems of identical capacity which do utilize electric resistance elements as the primary heat source. The findings and conclusions of the Board shall be certified to the President of the Senate and the Speaker of the House no later than February 1, 1984. If water heaters which do not utilize electric resistance elements as the primary heat source are not available in any county at a cost no higher than 100% above the average retail price of electric resistance water heaters of identical capacity, as determined by the Board, then the provisions of this section shall not apply to that county until such time as such water heaters are available, as determined by the Board.

Section 8. Section 553.909, Florida Statutes, is created to read:

553.909 Setting requirements for appliances; exceptions.—

(1) Water heaters sold for residential use, after October 1, 1980, shall be installed with a heat trap and shall have the thermostat set at 125°F or whatever minimum the unit is capable of if it exceeds 125°F. Electric water heaters equipped with resistance elements as the primary heat source shall be installed with a 24-hour timer, but the timer requirements of this subsection shall not apply to any electric water heater whose standby loss does not exceed 4 watts per square foot of tank surface per hour. Water heaters fueled by natural gas or liquified petroleum gas in any form sold or installed after March 1, 1981, shall have a recovery efficiency of 75 percent or more and standby loss in percent per hour not exceeding the number determined by dividing 67 by the volume of the tank in gallons and adding the result to 2.8.

(2) Dishwashers sold after March 1, 1981, shall be equipped so that the normal operating cycle does not include automatic switching on of the heating element for the drying portion of the operating cycle. Dishwashers whose controls permit the user to elect to have the heating element on during the drying portion of the operating cycle meet this requirement.

(3) If the provisions of this section are preempted in part by federal standards, those provisions not preempted shall apply.

Section 9. Section 163.166, Florida Statutes, is created to read:

163.166 Energy devices based on renewable resources.—Notwithstanding any provision of this chapter or other provision of general or special law, the adoption of an ordinance by a governing body, as those terms are defined in this chapter, which prohibits or has the effect of prohibiting the installation of solar collectors, clotheslines or other energy devices based on renewable resources is expressly prohibited. However, this provision shall not extend to building codes. No plat or subdivision plan shall be approved or renewed, nor shall the dedication of any street or other ground be accepted, if the deed restrictions, covenants or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting solar collectors, clotheslines or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision. In any litigation arising under the provisions of this subsection, the prevailing party shall be entitled to costs and reasonable attorney fees. The legislative intent in enacting these provisions is to protect the public health, safety and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings and resources by preventing the adoption of measures which will have the ultimate effect, however unintended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain. This section shall not apply to patio railings in condominiums, cooperatives or apartments.

Section 10. Section 553.909, Florida Statutes, is created to read:

553.9095 Swimming pool heater which consumes nonrenewable resource prohibited; exception.—It is unlawful for any person, institution, municipality or county to construct, add to, or modify, or to operate or continue to operate, any swimming pool heater for the purpose of warming the water contained in the pool when such heater consumes any nonrenewable resource as fuel unless 50 percent or more of the heat required to maintain a temperature of 78°F is provided by systems or devices using renewable sources or the heat loss from the pool is reduced by at least 50 percent by energy conserving systems or devices. However, this requirement shall not be construed to apply to hydrotherapy units prescribed by or used under the direction of a physician, or connected with a hospital, physician's office or a licensed physical therapy establishment or to those pools with a capacity of 1,000 gallons or less.

Section 11. Subsection (2) of section 211.02, Florida Statutes, is hereby repealed and subsection (1) of said section is amended to read:

211.02 Levy of oil and gas tax and amount thereof; first and second taxes; basis of tax.—

(1) There is hereby levied, to be collected hereafter, as provided herein, an excise tax upon every person engaging or continuing within this state in the business of producing or severing oil or gas, as defined herein, from the soil or water for sale, transport, storage, or profit or for commercial use. The amount of such tax shall be measured by the value of the oil produced and saved, and by the value of the gas produced and sold, or used, and is hereby levied and assessed at the following rates: For oil, 8 percent of the gross value thereof at the point of production; and for gas, 5 percent of the gross value thereof at the point of production; said tax on oil and gas being made up of separate taxes, being:

(a) First oil tax: *50* ~~37.5~~ percent of the total tax for the state for the use of the General Revenue Fund and 50 percent of the total tax for the state for the use of the Conservation and Recreation Lands Trust Fund.

~~(b) Second oil tax: 12.5 percent of the total tax for the county in which the oil is produced for the use of the general revenue fund of the board of county commissioners.~~

(b)~~(c)~~ First gas tax: *50* ~~30~~ percent of the total tax for the state for the use of the General Revenue Fund and 50 percent of the total tax for the state for the use of the Conservation and Recreation Lands Trust Fund.

~~(d) Second gas tax: 20 percent of the total tax for the county in which the gas is produced for the use of the general revenue fund of the board of county commissioners.~~

Section 12. Section 211.13, Florida Statutes, is hereby repealed.

Section 13. Sections 1, 2, 3, 4, 9, 11 and 12 of this act shall take effect July 1, 1980. Sections 7 and 8 of this act shall take effect October 1, 1980. Section 10 of this act shall take effect January 1, 1981. Sections 5 and 6 of this act shall take effect January 1, 1981, if Committee Substitute for House Joint Resolution No. 323 or similar legislation is approved by vote of the electors at the general election to be held November 4, 1980.

House Amendment 1 to Senate Amendment 4—On page 1, line 1 in title, strike "taxation" and insert: energy; adding paragraph (r) to s. 212.08(7), Florida Statutes; exempting from such tax certain energy efficient devices, systems and components until July 1, 1985; creating s. 553.9095, Florida Statutes; providing that it is unlawful to construct, add to, modify, operate or continue to operate any swimming pool heated by a heater which consumes any nonrenewable resource as fuel; providing an exception; creating s. 163.166, Florida Statutes; prohibiting zoning or similar local ordinances or regulations which preclude solar collectors, clotheslines or other energy devices based on renewable resources; providing for payment of costs and fees for litigation under certain circumstances; creating s. 553.909, Florida Statutes, requiring certain water heaters sold or installed in Florida to be installed with timers and to have specified thermostat settings; providing certain requirements for dishwashers; providing exceptions; providing for the effect of federal standards; creating s. 196.175, Florida Statutes; providing an exemption for real property upon which a renewable energy source device is installed and operated; providing for determination of the amount of such exemption; providing limitations; adding subsection (13) to s. 196.012, Florida Statutes; defining "renewable energy source device"; creating s. 553.9065, Florida Statutes; prohibiting the issuance of building permits for buildings in which electric resistance elements are to be the primary water heat source;

Senator Thomas moved the following amendment to House Amendment 1 to Senate Amendment 3 which was adopted:

Amendment 1—On pages 6-11, strike all of lines 2 through 26 on page 6, strike all of lines 1 through 30 on page 7, strike all of lines 1 through 32 on page 8, strike all of lines 1 through 18 on page 9, strike all of lines 1 through 32 on page 10, and strike lines 1 through 4 on page 11 and insert: Section 7. Section 553.909, Florida Statutes, is created to read:

553.909 Setting requirements for appliances; exceptions.—

(1) Water heaters sold for residential use, after October 1, 1980, shall be installed with a heat trap and shall have the thermostat set at 125°F or whatever minimum the unit is capable of if it exceeds 125°F. Electric water heaters equipped with resistance elements as the primary heat source shall be installed with a 24-hour timer, but the timer requirements of this subsection shall not apply to any electric water heater whose standby loss does not exceed 4 watts per square foot of tank surface per hour. Water heaters fueled by natural gas or liquified petroleum gas in any form sold or installed after March 1, 1981, shall have a recovery efficiency of 75 percent or more and a standby loss in percent per hour not exceeding the number determined by dividing 67 by the volume of the tank in gallons and adding the result to 2.8.

(2) Dishwashers sold after March 1, 1981, shall be equipped so that the normal operating cycle does not include automatic switching on of the heating element for the drying portion of the operating cycle. Dishwashers whose controls permit the user to elect to have the heating element on during the drying portion of the operating cycle meet this requirement.

(3) If the provisions of this section are preempted in part by federal standards, those provisions not preempted shall apply.

Section 8. Section 163.166, Florida Statutes, is created to read:

163.166 Energy devices based on renewable resources.—Notwithstanding any provision of this chapter or other provision of general or special law, the adoption of an ordinance by a governing body, as those terms are defined in this chapter, which prohibits or has the effect of prohibiting the installation of solar collectors, clotheslines or other energy devices based on renewable resources is expressly prohibited. However, this provision shall not extend to building codes. No plat or subdivision plan shall be approved or renewed, nor shall the dedication of any street or other ground be accepted, if the deed restrictions, covenants or similar binding agreements running with the land for the lots or parcels covered by the plat or subdivision prohibit or have the effect of prohibiting solar collectors, clotheslines or other energy devices based on renewable resources from being installed on buildings erected on lots or parcels covered by the plat or subdivision. In any litigation arising under the provisions of this subsection, the prevailing party shall be entitled to costs and reasonable attorney fees. The legislative intent in enacting these provisions is to protect the public health, safety and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings and resources by preventing the adoption of measures which will have the ultimate effect, however unintended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain. This section shall not apply to patio railings in condominiums, cooperatives or apartments.

Section 9. This section and sections 1, 2, 3, 4, and 8 of this act shall take effect July 1, 1980. Section 7 of this act shall take effect October 1, 1980. Sections 5 and 6 of

On motions by Senator Thomas, the Senate concurred in House Amendment 1 to Senate Amendment 3 as amended and the House was requested to concur in the Senate amendment to the House amendment; and the Senate concurred in House Amendment 1 to Senate Amendment 4.

HB 1506 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32

Anderson	Fechtel	Johnston	Skinner
Barron	Frank	Lewis	Steinberg
Beard	Gorman	MacKay	Thomas
Carlucci	Grizzle	McClain	Tobiassen
Chamberlin	Hair	McKnight	Trask
Childers, D.	Henderson	Neal	Vogt
Childers, W. D.	Hill	Scarborough	Ware
Dunn	Holloway	Scott	Winn

Nays—None

Votes after roll call:

Yea—Myers, Peterson

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By the Committee on Health and Rehabilitative Services and Senator MacKay and others—

CS for SB 722—A bill to be entitled An act relating to community care for the elderly; amending ss. 410.021, 410.022, 410.023, 410.024, 410.026, Florida Statutes; providing a short title; providing definitions; providing for the establishment of a community care service system by the Department of Health and Rehabilitative Services or contracting agency; providing for the coordination of services to functionally impaired elderly persons; providing for the training and supervision of volunteers; providing for minimum local funding; providing for contributions by functionally impaired elderly persons; providing for a uniform cost accounting and reporting system; authorizing the Department of Health and Rehabilitative Services to provide advance funding to contracting agencies; creating s. 410.0241, Florida Statutes; providing for the establishment of community care service systems; defining core services; providing for each community care service system to be under the direction of the department or contracting agency; providing for the location of a community care service system in multi-service senior centers, where practicable; providing for service integration; providing for the facilitation of core service delivery through the establishment of programs; authorizing the Department of Health and Rehabilitative Services to establish standards for core services and to conduct demonstration projects; providing for preservice and inservice training of service providers and staff; providing eligibility for services; creating s. 410.029, Florida Statutes; providing for the development of a state and multiyear plan for the effective implementation of the act; providing for adoption of rules; repealing s. 410.025, Florida Statutes, relating to home delivered service program; repealing s. 410.027, Florida Statutes, relating to family placement program; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 17, strike everything after the enacting clause and insert: Section 1. Section 410.021, Florida Statutes, is amended to read:

410.021 Short title.—Sections 410.021-*410.029* ~~410.027 shall be known, and~~ may be cited, as "The Community Care for the Elderly Act."

Section 2. Section 410.022, Florida Statutes, is amended to read:

410.022 Legislative intent.—The purpose of this act is to ~~find acceptable and cost effective ways to~~ assist functionally impaired ~~and other~~ elderly persons *in living* ~~to continue to live~~ dignified and reasonably independent lives in their own homes or in the homes of relatives or *caregivers* ~~caretakers~~ through the development, expansion, reorganization, and coordination of various community-based *services* ~~service programs~~. The Legislature intends that *a continuum of care be established so that functionally impaired elderly persons age 60 and older may be assured the least restrictive environment suitable to their needs. The development of innovative approaches to program management, staff training, and service delivery that impact on cost-avoidance, cost-effectiveness and program efficiency shall be encouraged.* ~~the home delivered service program, the multi-~~

~~service senior center program, or the family placement program be established in at least three districts, on a trial basis, in order that such programs may be demonstrated, studied, and evaluated. This shall be done to determine the feasibility of such programs as a means of satisfying the needs of Florida's elderly population with respect to community delivered services while conserving scarce state resources. In addition, an evaluation shall be made of the cost effectiveness of such programs, as well as the ability of such programs to diminish:~~

~~(1) The rate of inappropriate entry and placement of functionally impaired elderly persons in institutions; and~~

~~(2) The utilization of noninstitutional services and facilities.~~

Section 3. Section 410.023, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 410.023, F.S., for present text.)

410.023 Definitions.—As used in this act:

(1) "Community Care Service System" means a service network comprised of a variety of home delivered, day care, and other basic services, hereinafter referred to as core services, for functionally impaired elderly persons provided by several agencies under the direction of a single lead agency. Its purpose is to provide a continuum of care encompassing a full range of preventive, maintenance, and restorative services for functionally impaired elderly persons.

(2) "Department" means the Department of Health and Rehabilitative Services.

(3) "District" means a specified, geographic service area, as defined in s. 20.19(4)(a), in which the department's programs are administered and services are delivered.

(4) "Functionally impaired elderly person" means any person, 60 years of age or older, with physical or mental limitations that restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently without the provision of core services. Functional impairment shall be determined through a functional assessment administered to each applicant for community care for the elderly core services. The functional assessment shall be developed by the department.

(5) "Health maintenance service" means those routine health service necessary to help maintain the health of a functionally impaired elderly person, but shall be limited to medical therapeutic services, non-medical prevention services, personal care services, home health aide, home nursing services, and emergency response systems.

(6) "Lead agency" means an agency designated in each community care service system which shall have the authority and responsibility to coordinate services for functionally impaired elderly persons; to provide case management, except when the department agrees to provide case management directly through its own service workers; to provide, or subcontract for the provision of, no fewer than three core services; to compile community care statistics; and to monitor subcontracts with agencies providing core services.

(7) "Multi-service senior center" means a facility acquired, altered, or renovated for the purpose of serving as the focal point for housing and delivering services to persons 60 years of age or older.

(8) "State Plan on Aging" means a service plan developed by the department which evaluates service needs of the elderly, identifies priority services and target client groups, provides for periodic evaluation of activities and services funded under the plan, and provides for administration of funds available through the Older Americans Act.

Section 4. Section 410.024, Florida Statutes, is amended to read:

410.024 Community care for the elderly programs; powers and duties of the department.—

(1) The department shall *fund, directly or through a contracting agency, in each district, and in each subdistrict where practicable, at least one community care service system which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons through the provision of community-based core services. Whenever feasible, an Area Agency on Aging shall be the contracting agency of preference to engage only in the planning and funding of community care for the elderly core services for functionally impaired elderly persons.* ~~conduct, or cause to be conducted, a combination demonstration project and evaluation study to determine the desirability of establishing a home delivered service program, a multi-service senior center program, or a family placement program throughout the state. In carrying out the project, the department shall establish, or cause to be established, programs in at least three districts.~~

(2) All existing community resources available to the *functionally impaired* elderly *person* ~~client~~ shall be *coordinated into a community care service system to provide a continuum of care to such persons as their needs change* ~~utilized to support program objectives~~. Additional services may be incorporated into *the system, but shall not be funded from the community care for the elderly core service funds* ~~a program as appropriate and to the extent that resources are available~~. *The lead agency shall insure that all other funding sources available have been used prior to utilizing community care for the elderly funds.* The department, *area agencies on aging, and core service provider agencies are* ~~is~~ authorized to accept gifts and grants in order to carry out a *community care service system* ~~program~~.

(3) The use of volunteers shall be maximized to provide a range of ~~personal~~ services for the *functionally impaired elderly person* ~~client~~. *The department shall provide or arrange for the provision of training and supervision of volunteers to insure the delivery of quality services.* The department *or contracting agency may provide* ~~shall assure~~ appropriate *insurance* coverage to protect volunteers from personal liability while acting within the scope of their volunteer assignments under a *community care service system* ~~program~~. *Coverage may also include excess automobile liability protection.*

(4) The department *or contracting agency shall* ~~may~~ contract for the provision of ~~any portion or all of~~ the *core* services required by a *community care service system* ~~program~~. *However, the department may provide core services when such services cannot otherwise be purchased.* Such purchase of service contracts shall be utilized whenever the requirements of subsection 20.19(13) exist.

(5) Entities contracting to *provide care services* ~~conduct demonstration projects~~ under this act shall provide a minimum of *10* ~~25~~ percent of the funding necessary for the support of project operations. *In-kind contributions* ~~Contributions in kind~~, whether materials, commodities, transportation, office space, other types of facilities, or personal services, *and contributions of money or services from functionally impaired elderly persons,* may be evaluated and counted as part or all of this required local funding.

(6) When possible, services shall be obtained under:

(a) The Florida Comprehensive Annual Services Program Plan under Title XX of the Social Security Act;

(b) The Florida Plan for Medical Assistance under Title XIX of the Social Security Act;

(c) The State Plan on Aging under ~~Titles III and VII of~~ the Older Americans Act, or

(d) The Florida Financial Assistance for Community Services Act of 1974.

(7) Funds appropriated for community care for the elderly shall be used only for the provision of community care for the elderly core services, case management, and directly related expenditures. The department shall have the authority to provide advance funding for community care for the elderly.

(8) ~~(7)~~ *Provider agencies shall be responsible for the collection of contributions for services in accordance with rules promulgated by the department. Provider agencies are authorized to assess contributions for services rendered in accordance with those rules.* ~~If the department determines that it is necessary~~ To help pay for services received from community care *for the elderly* ~~programs~~, a *functionally impaired elderly person* ~~client~~ shall contribute an amount of money ~~or service of a specified value~~ *based on an overall ability to pay.* The

amount of money ~~or service~~ to be contributed shall be fixed according to a ~~rate~~ schedule established by the department ~~or entity developing the program~~. *Services of specified value may be accepted in lieu of a monetary contribution.* ~~This rate schedule shall consider expenses and resources of the client and overall ability of the client to pay for the services.~~ *This contribution schedule shall be developed on January 1, 1981, and in effect on July 1, 1981. This subsection shall not apply to programs utilizing federal funds where regulations require contributions to revert to the original funding source.*

(9)~~(8)~~ The department shall submit on January 1 of each year an evaluation report to the Speaker of the House of Representatives and to the President of the Senate summarizing the progress of *community care service systems* ~~the project~~. The report shall include the information and data necessary for an accurate analysis of the costs and benefits associated with the establishment and operation of the programs *as determined through a uniform cost accounting and reporting system. The evaluation shall provide an assessment of the ability of these programs to reduce:*

(a) The rate of inappropriate entry and placement of functionally impaired elderly persons in institutions; and

(b) The use of institutional services and facilities. ~~that were established.~~

Section 5. Section 410.0241, Florida Statutes, is created to read:

410.0241 Community care service system.—

(1) The department or contracting agency shall fund in each district, and in each subdistrict where practicable, at least one community care service system which shall provide case management, and no fewer than three core services to functionally impaired elderly persons. Core services are those services which are most needed to prevent unnecessary institutionalization. Core services shall be limited to homemaker and chore services, respit care, adult day care, medical transportation, mini-day care, home delivered meals, and health maintenance services. Services other than the community care for the elderly core services may be incorporated into a community care service system, but shall not be funded with funds designated for community care for the elderly. Case management services shall be provided to each community care core service recipient to ensure that arrangements are made for appropriate services. If independent living is no longer possible for a functionally impaired elderly person, the case manager shall assist the person in locating the most appropriate, least restrictive, and most cost-beneficial alternate living arrangement.

(2) Core and other support services may be furnished by public or private agencies or organizations. Each community care service system shall be under the direction of a lead agency which shall coordinate the activities of individual contracting agencies providing community care for the elderly services. When practicable, the community care service system shall be located in a multi-service senior center and coordinated with other services offered therein. Nothing in this subsection shall require programs in existence prior to the effective date of this act to be relocated.

(3) Services shall be coordinated into the community care service system and shall include:

(a) Community care core services.

(b) Older Americans Act services.

(c) Title XX of the Social Security Act services.

(d) Senior center services.

(e) Protective services.

(f) Hospice services.

(g) Financial assistance services, including, but not limited to, food stamps, Medicaid, Medicare and Supplemental Security Income.

(h) Other community services.

(4) The department shall define each core service pursuant to s. 410.0241(1) and establish minimum standards for the delivery of core services and may conduct or contract for demonstration projects to determine the desirability of new concepts of organization, administration, or service delivery designed to prevent the institutionalization of functionally impaired elderly persons. Evaluations shall be made of the cost-avoidance of such demonstration projects, the ability of the projects to reduce the rate of placement of functionally impaired elderly persons in institutions, and the impact of projects on the use of institutional services and facilities.

(5) A pre-service and inservice training program for community care for the elderly service providers and staff may be designed and implemented to help assure the delivery of quality services. Community care for the elderly service providers and staff shall participate in inservice training at least once a year. Training that is currently provided may be used to satisfy this requirement. Training programs may be offered to volunteers to fulfill the requirements of s. 410.24(3). Training shall be funded through the Older Americans Act, Title XX of the Social Security Act, and other available sources.

(6) Any person who has been classified as a functionally impaired elderly person, as defined in s. 410.023(5), shall be eligible to receive community care for the elderly core services. Those elderly persons who are determined by the functional assessment to be at risk of institutionalization shall be given primary consideration.

Section 6. Section 410.025, Florida Statutes, is hereby repealed.

Section 7. Section 410.026, Florida Statutes, is amended to read:

410.026 Multi-service senior center ~~program~~.—

(1) *Where practicable,* ~~A~~ multi-service senior center *services shall be available* ~~program, primarily geared to enable~~ *to functionally impaired* ~~an~~ elderly persons. ~~to live independently outside of an institution by providing a coordinated program of services, shall include:~~

~~(a) Health maintenance service.~~

~~(b) Homemaking and chore service.~~

~~(c) Mobile meal service.~~

~~(d) Counseling service.~~

~~(e) Telephone reassurance service.~~

~~(f) Information and referral service.~~

~~Additional services, such as transportation service, legal service, and employment service, may be incorporated into the program as appropriate and to the extent that resources are available.~~

~~(2) When feasible, such services shall be available on an emergency basis, 24 hours a day.~~

(2)~~(3)~~ When feasible, a multi-service senior center shall be centrally located and easily accessible to public transportation. Provision may be made for transporting persons to the center. A center shall be designed to provide ease of access and use, considering the infirmities of frail and handicapped elderly persons.

~~(4) Services may be furnished by public agencies or private organizations, but the total program of providing service within, and outside of, the center shall be coordinated by means of a single, centralized management unit which operates within the center and is established, staffed, and equipped for such purpose.~~

~~(5) As part of a multi-service senior center program, nursing home or hospital day care for the elderly services may be offered for mentally or physically impaired or frail individuals who are 60 years of age or older and who have a regular place of domicile or who do not require 24 hour a day care in a hospital, nursing home, or other health care institution, but who may, in the absence of day care for the elderly services, require admission to an acute or long-term health care facility.~~

~~(a) Each day care for the elderly service established pursuant to this subsection shall:~~

~~1. Provide a protective physical environment for elderly persons.~~

~~2. Make available to all day care participants at least one meal on each day of operation.~~

~~3. Provide facilities to enable day care participants to obtain needed rest while attending the program and provide social activities designed to stimulate interest and rekindled motivation.~~

~~4. Provide socialization in large and small groups.~~

~~(b) Participants in day care for the elderly services in a hospital as licensed under chapter 395 or nursing home as licensed under part I of chapter 400 shall not be counted as part of the hospital's or nursing home's general patient population in determining requirements for licensure.~~

Section 8. Section 410.027, Florida Statutes, is hereby repealed.

Section 9. Section 410.029, Florida Statutes, is created to read:

410.029 Multiyear plans.—The department shall develop a multiyear plan which shall provide for the implementation of at least one community care system in each district, and in each subdistrict where practicable. The multiyear plan shall be developed concurrent with and integrated into the State Plan on Aging required under the Older Americans Act and shall provide statewide coordination of all community based services for the elderly. The multiyear plan shall include an inventory of existing services and an analysis comparing the cost of institutional care and the cost of community care and other community-based services for the elderly. The multiyear plan shall emphasize potential savings to the state made by providing community-based services for the elderly under this act. The multiyear plan shall be presented to the Speaker of the House of Representatives and the President of the Senate by October 1, 1980, and at such times thereafter as required by the Older Americans Act.

Section 10. The Department of Health and Rehabilitative Services shall, by January 1, 1981, adopt rules to implement the provisions of this act.

Section 11. This act shall take effect upon becoming a law.

Senator Williamson moved the following amendment to House Amendment 1 which failed:

Senate Amendment 1—On page 9, line 1, before line 1 insert: counseling,

Amendment 2—On page 1, lines 2-31 and on page 2, lines 1-14 in the title, strike all language and insert: An act relating to community care for the elderly; amending ss. 410.021, 410.022, 410.023, 410.024, 410.026, Florida Statutes; providing a short title; providing definitions; providing for the funding of a community care service system by the Department of Health and Rehabilitative Services or contracting agency; providing for the coordination of services to functionally impaired elderly persons; providing for the training and supervision of volunteers; providing for minimum local funding; providing for contributions by functionally impaired elderly persons; providing for a uniform cost accounting and reporting system; authorizing the Department of Health and Rehabilitative Services to provide advance funding to contracting agencies; creating s. 410.0241, Florida Statutes; providing for the establishment of community care service systems; defining core services; providing for each community care service system to be under the direction of the department or contracting agency; providing for the location of a community care service system in multi-service senior centers, where practicable; providing for service integration; providing for the facilitation of core service delivery through the establishment of programs; authorizing the Department of Health and Rehabilitative Services to establish standards for core services and to conduct demonstration projects; providing for preservice and inservice training of service providers and staff; providing eligibility for services; creating s. 410.029, Florida Statutes; providing for the development of a state and multiyear plan for the effective implementation of the act; providing for adoption of rules; repealing s. 410.025, Florida Statutes, relating to home delivered service program; amending s. 410.026, Florida Statutes, relating to multi-purpose senior centers; repealing s. 410.027, Florida Statutes, relating to family placement program; providing an effective date.

On motions by Senator Johnston, the Senate concurred in the House Amendments.

CS for SB 722 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Anderson	Frank	McClain	Thomas
Barron	Gordon	McKnight	Tobiassen
Beard	Gorman	Neal	Trask
Carlucci	Grizzle	Peterson	Vogt
Chamberlin	Hair	Scarborough	Williamson
Childers, D.	Henderson	Scott	Winn
Childers, W. D.	Hill	Skinner	
Dunn	Johnston	Steinberg	
Fechtel	Maxwell	Stuart	

Nays—None

Votes after roll call:

Yea—MacKay, Myers

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 5, 6 and 7 to House Amendment 1 and Senate Amendment 1 to House Amendment 2 and has refused to concur in Senate Amendments 1, 2, 3, and 4 to House Amendment 1 and requests the Senate to recede, and passed the bill as amended.

Allen Morris, Clerk

(House Amendment 1 attached to original bill.)

By the Committee on Commerce—

CS for SB 348—A bill to be entitled An act relating to savings associations; substantially revising chapter 665, Florida Statutes, relating to savings associations; designating parts of the chapter; amending s. 665.011, Florida Statutes, and amending and renumbering s. 665.021, Florida Statutes, adding and revising definitions; amending and renumbering s. 665.031, Florida Statutes, changing references to "thrift institutions" to "associations"; altering procedures for the incorporation of an association and combining existing application provisions; amending and renumbering s. 665.051, Florida Statutes, deleting provisions relating to change of corporate name and forfeiture of charter for nonuse; creating s. 665.022, Florida Statutes, requiring incorporators to create an organization expense fund and restricting the use of such fund; amending and renumbering s. 665.701, Florida Statutes, changing the minimum permanent capital of an association; amending and renumbering s. 665.706, Florida Statutes, including both mutual and stock associations within general incorporation provisions; removing departmental approval of corporate bylaws; amending and renumbering s. 665.703, Florida Statutes, including both types of associations within provisions relating to directors; removing restrictions upon directors and prohibiting others from serving as directors; amending and renumbering s. 665.061, Florida Statutes, providing for conversions of federal savings associations into state associations and requiring a fee; amending and renumbering s. 665.441, Florida Statutes, designating all offices other than home offices as branches; providing standards for branch office applications; providing restrictions upon home and branch offices; amending and renumbering s. 665.073, Florida Statutes, providing for procedural rules and review standards for merger, reorganization, and consolidation; amending and renumbering s. 665.081, Florida Statutes, relating to dissolutions to conform to the act; amending and renumbering s. 665.710, Florida Statutes, providing review standards for conversion of state and federal mutual associations into stock associations; amending and renumbering s. 665.715, Florida Statutes, providing for rules with respect to acquisition of

majority control over an association; amending and renumbering s. 665.716, Florida Statutes, conforming to the act provisions restricting the acquisition of control of capital stock associations; creating s. 665.036, Florida Statutes, providing for the registration of savings and loan holding companies and restricting their acquisition of associations; amending and renumbering s. 665.091, Florida Statutes, merging provisions relating to meetings of members and stockholders of associations; amending and renumbering s. 665.111, Florida Statutes, expanding the applicability of provisions relating to access to corporate records and to communications between members and stockholders; renumbering s. 665.121, Florida Statutes, relating to financial statement provisions; creating s. 665.043, Florida Statutes, providing for the election and classification of directors; amending and renumbering s. 665.141, Florida Statutes, conforming provisions relating to indemnity bonds to the act; amending and renumbering s. 665.151, Florida Statutes, conforming to the act provisions restricting transactions of officers and directors; amending and renumbering s. 665.171, Florida Statutes, removing departmental approval in provisions relating to the indemnification of officers, directors, and employees; creating s. 665.047, Florida Statutes, providing for the applicability of general corporation laws to associations; amending and renumbering s. 665.191, Florida Statutes, removing restrictions upon recordkeeping and accounting practices; requiring certain stockholder records; providing for real estate records; amending and renumbering ss. 665.55, 665.57, 665.58, 665.59, 665.60, 665.61, 665.62, 665.63, and 665.64, Florida Statutes, merging provisions regulating safe-deposit facilities; amending and renumbering ss. 665.214 and 665.241, Florida Statutes, expanding the powers of associations, including borrowing and lending powers; amending and renumbering s. 665.215, Florida Statutes, restricting associations in exercising powers granted to federal savings and loan associations; amending and renumbering s. 665.221, Florida Statutes, conforming provisions relating to savings liability to the act; amending and renumbering s. 665.231, Florida Statutes, removing statutory limitations upon savings inducements; amending and renumbering s. 665.262, Florida Statutes, expanding the applicability of provisions relating to married women and minors and providing for the disposition of deceased minors savings; amending and renumbering ss. 665.271, 665.301, 665.311 and 665.272, Florida Statutes, merging provisions relating to and regulating various kinds of accounts; amending and renumbering s. 665.251, Florida Statutes, conforming to the act provisions relating to power of attorney on savings accounts; renumbering s. 665.281, Florida Statutes, relating to savings accounts in joint tenancy; amending and renumbering s. 665.331, Florida Statutes, authorizing an association to refuse to pay interest on negotiable orders of withdrawal; amending and renumbering s. 665.341, Florida Statutes, authorizing negotiable and transferable orders and authorizations unless prohibited by federal law; providing for the applicability of provisions regulating withdrawals to both types of associations; amending and renumbering s. 665.351, Florida Statutes, conforming to the act provisions relating to redemptions of savings accounts; creating s. 665.069, Florida Statutes, restricting the effect upon associations of adverse claims to accounts; amending and renumbering s. 665.361, Florida Statutes, restricting securities investments by associations; amending and renumbering s. 665.381, Florida Statutes, restricting the investment of associations in loans restricting other investments; amending and renumbering s. 665.391, Florida Statutes, providing procedures for real estate loans; providing legislative intent with respect to acceleration clauses in real estate contracts; amending and renumbering s. 665.401, Florida Statutes, providing for the applicability of provisions relating to loan expenses to both types of associations; renumbering ss. 665.411 and 665.421, Florida Statutes, relating to provisions dealing with successors in interest and to the right of an association to act to avoid loss; amending and renumbering s. 665.395, Florida Statutes, providing for the applicability of provisions relating to the collection of fines, interest and premiums on loans; amending and renumbering s. 665.431, Florida Statutes, granting investigatory and rulemaking powers to the department; amending and renumbering s. 665.451, Florida Statutes, increasing the departmental examination period of association records; authorizing the auditing of savings and loan holding companies; authorizing department to require independent audits; amending and renumbering s. 665.032, Florida Statutes, conforming fee and assessment provisions to the act; amending and renumbering ss. 665.201 and 665.371, Florida Statutes, permitting stock associations to designate their capital, surplus, or retained earnings as reserves; creating s. 665.084, Florida Statutes, providing for the confidentiality of various records; providing exemptions; providing penalties for unauthorized disclosures; creating ss. 665.084-665.098, Florida Statutes; providing confidentiality of records; providing protection from liability when acting upon department rule or order; providing for removal of an officer, director, or employee; providing for cease and desist orders; providing for public hearing and method of service; providing for administrative fines; providing criminal penalties; providing for investigations, hearings, subpoenas, and witnesses; amending and renumbering s. 665.461, Florida Statutes; providing for conservatorship; amending and renumbering s. 665.471, Florida Statutes; providing for receivership; amending and renumbering s. 665.481, Florida Statutes; providing for correction of wrongdoings by an unimpaired institution; amending and renumbering s. 665.501, Florida Statutes, permitting foreign associations to lend real estate mortgages covering property in Florida pursuant to a reciprocal arrangement; amending and renumbering s. 665.511, Florida Statutes, restricting the federal savings associations which are not considered foreign associations; amending and renumbering s. 665.53, Florida Statutes, updating grandfather provisions; amending and renumbering s. 665.54, Florida Statutes, authorizing the department to require associations to insure their accounts; amending and renumbering s. 665.321, Florida Statutes, conforming to the act provisions relating to savings accounts as legal investments; amending and renumbering s. 665.491, Florida Statutes, conforming to the act provisions relating to declaratory judgments; repealing ss. 665.041, 665.101, 665.131, 665.162, 665.181, 665.291, 665.442, 665.445, 665.56, 665.702, 665.704, 665.705, 665.707, 665.708, 665.709, 665.711, 665.712, 665.713, 665.714, and 665.717, Florida Statutes, as amended, removing various provisions appearing elsewhere in the act and provisions relating to capitalization minimums, membership changes, association deposits, facilities, safe-deposit boxes, stockholder's meetings, minimum capital requirements, savings deposits, conversions to federal associations, publication of statewide record dates, hearings on conversion plans, organization of stock associations, Saturday closing, approval of operating contracts, dividend limitations, and accounts of fiduciaries; repealing s. 3(3)(x) of chapter 76-168, Laws of Florida, as created by chapter 77-457, Laws of Florida, which repeals chapter 665, Florida Statutes; providing for repeal and legislative review; providing a retroactive effective date.

On motions by Senator W. D. Childers, the Senate receded from Senate amendments 1, 2, 3 and 4 to House Amendment 1 and passed CS for SB 348 as amended, and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Anderson	Gorman	McClain	Thomas
Barron	Grizzle	McKnight	Tobiassen
Beard	Hair	Myers	Trask
Carlucci	Henderson	Neal	Vogt
Chamberlin	Hill	Peterson	Ware
Childers, W. D.	Holloway	Poole	Williamson
Dunn	Jenne	Scarborough	Winn
Fechtel	Johnston	Scott	
Frank	MacKay	Steinberg	
Gordon	Maxwell	Stuart	

Nays—None

The bill was ordered engrossed and then enrolled.

The Senate resumed consideration of—

SJR 948—A joint resolution proposing an amendment to Section 16, Article III of the State Constitution, relating to apportionment by the Legislature.

On motion by Senator MacKay, by two-thirds vote debate was limited to 15 minutes per side.

Further consideration of SJR 948 was deferred.

On motion by Senator Barron, all bills on the calendar, all bills in committees and all bills in House Messages were referred to the Committee on Rules and Calendar.

The President presiding

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional three-fifths vote of the membership of the House HJR 1881 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Haben—

HJR 1881—A joint resolution extending the 1980 regular legislative session under the authority of Article III, Section 3, of the State Constitution.

—was read the first time in full, and on motion by Senator Barron, by two-thirds vote was placed on the calendar.

HJR 1881 was taken up out of order by unanimous consent, and by two-thirds vote read the second time by title. On motion by Senator Barron, by two-thirds vote HJR 1881 was read the third time in full, passed by the required constitutional three-fifths vote of the membership and certified to the House.

The vote on passage was:

Yeas—36

Mr. President	Gordon	MacKay	Scott
Anderson	Gorman	Maxwell	Steinberg
Barron	Grizzle	McClain	Stuart
Beard	Hair	McKnight	Thomas
Carlucci	Henderson	Myers	Tobiassen
Chamberlin	Hill	Neal	Trask
Dunn	Holloway	Peterson	Vogt
Fechtel	Jenne	Poole	Ware
Frank	Johnston	Scarborough	Winn

Nays—1

Childers, W. D.

The Senate resumed consideration of SJR 948.

Senator MacKay moved that the rules be waived and debate on SJR 948 be limited to 2 minutes. The motion failed. The vote was:

Yeas—16

Mr. President	Fechtel	MacKay	Scott
Anderson	Gorman	McKnight	Skinner
Carlucci	Grizzle	Neal	Stuart
Dunn	Johnston	Poole	Ware

Nays—22

Barron	Hair	Myers	Trask
Beard	Hill	Peterson	Vogt
Chamberlin	Holloway	Scarborough	Williamson
Childers, W. D.	Jenne	Steinberg	Winn
Frank	Maxwell	Thomas	
Gordon	McClain	Tobiassen	

Further consideration of SJR 948 was deferred.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Myers—

SB 1117—A bill to be entitled An act relating to corporations; amending s. 607.014(5), Florida Statutes; authorizing a corporation to pay certain expenses incurred in defending a civil or criminal action prior to final disposition as authorized by the corporation's board of directors; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 12-30, strike all of said lines and insert: Section 1. Subsections (4) and (5) of section 607.014, Florida Statutes, are amended to read:

607.014 Indemnification of officers, directors, employees, and agents.—

(4) Any indemnification under subsection (1) or subsection (2), unless pursuant to a determination by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsection (1) or subsection (2). Such determination shall be made:

(a) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding; or

(b) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or

(c) by the shareholders by a majority vote of a quorum consisting of shareholders who were not parties to such action, suit, or proceeding.

(5) Expenses (including attorneys' fees) incurred in defending a civil or criminal action, suit, or proceeding may be paid by the corporation in advance of the final disposition of such action, suit, or proceeding upon a preliminary determination following one of the procedures set forth in subsection (4) that the director, officer, employee or agent met the applicable standard of conduct set forth in subsection (1) or subsection (2) *or* ~~and~~ *as authorized by the board of directors in the specific case and in either event* upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

Section 2. This act shall take effect October 1, 1980.

Amendment 2—On page 1, lines 1-8 in the title, strike all of said lines and insert: A bill to be entitled an act relating to corporations; amending s. 607.014(4), Florida Statutes, authorizing a written determination by independent legal counsel that indemnification of an officer, director, employee or agent is proper in the circumstances; amending s. 607.014(5), Florida Statutes, authorizing a corporation to pay certain expenses incurred in defending a civil or criminal action prior to final disposition as authorized by the corporation's board of directors; providing an effective date.

Amendment 3—On page 2, between lines 14 & 15, insert Section 2. Subsection (5) of section 607.271, Florida Statutes, is amended to read:

607.271 Involuntary dissolution.—

(5) Any corporation dissolved by the Department of State under the provisions of subsection (2) or prior law may be reinstated by the Department of State at any time upon approval of an application for reinstatement signed by an officer or director of the dissolved corporation. Such application shall be filed by the Department of State whenever it is established to its satisfaction that in fact there was no cause for the dissolution or that the reasons for the dissolution have been corrected and all fees, computed at the rate provided by law at the time the corporation applies for reinstatement, have been paid. If the name of the disssolved corporation has been lawfully assumed in this state by another corporation, the Department of State shall require the dissolved corporation to amend its articles of incorporation to change its name before accepting

its application for reinstatement. *Provided, however, the name of the dissolved corporation shall not be available for assumption or use by another corporation until after the passage of one year from the date of final dissolution.* Whenever the application for reinstatement is approved and filed by the Department of State, the corporate existence shall be deemed to have continued without interruption from the date of dissolution. The reinstatement shall have no effect upon any personal liability of the directors, officers, or agents of the corporation on account of actions taken during the period between dissolution and reinstatement, but the power of the corporation to indemnify such directors, officers, or agents shall extend to actions taken during such period.

Renumber subsequent sections

Amendment 4—On page 1, line 9 in the title, insert: providing that names of dissolved corporations shall not be available to others for one year;

On motions by Senator Myers, the Senate concurred in the House Amendments.

SB 1117 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Maxwell	Thomas
Anderson	Gorman	McClain	Tobiassen
Barron	Grizzle	McKnight	Trask
Beard	Hair	Myers	Vogt
Carlucci	Henderson	Neal	Ware
Chamberlin	Hill	Peterson	Williamson
Childers, W. D.	Holloway	Scarborough	Winn
Dunn	Jenne	Scott	
Fechtel	Johnston	Skinner	
Frank	MacKay	Stuart	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 to House Amendment 2 and passed SB 310, as amended.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments 5 and 6; receded from House Amendments 3, 4, 7, 8, 9 and 10 and passed SB 618 as amended.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment to House Amendment 1 and passed SB 346, as amended.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendment 1 and passed CS for SB 179, as amended.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments 1 and 2 and passed CS for SB 334, as amended.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 to House Amendment 3 and has receded from House Amendments 1 and 2 to CS for SB 822 and passed as amended.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment to House Amendments and passed SB 1342, as amended.

Allen Morris, Clerk

The bills contained in the above messages were ordered engrossed and then enrolled.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional three-fifths vote of the membership of the House SJR 824.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 3 and 4 and passed SB 903.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed SB 388.

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed—

CS for SB 744	SB 892	SB 889
CS for SB 1161	SB 902	SB 956
CS for SB 1077		

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed—

SB 118	SB 867	SB 594	SB 261

Allen Morris, Clerk

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional three-fifths vote of the membership of the House—SJR 574.

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

By permission, Senator Hair was recorded as voting yea on the following bills which passed the Senate June 5: House Bills 115, 168, 162, 342 and 499, Senate Bills 892, 364, 270, CS for HB 273, SJR 574, CS for HB 317, CS for HB 524.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 5 was corrected and approved.

On motion by Senator Barron, the Senate adjourned at 12:02 a.m. to convene at 1:00 p.m., Saturday, June 7, 1980.