



Journal of the Senate

Number 27

Tuesday, May 31, 1983

BILL ACTION SUMMARY

Tuesday, May 31, 1983

- H 117 Passed
- H 121 Passed as amended
- H 129 Passed
- H 145 Passed
- H 150 Passed
- H 247 Passed
- H 434 Passed as amended
- H 436 Passed
- H 563 Passed
- H 648 Passed
- H 673 Passed
- H 770 Passed as amended
- H 794 Passed
- H 1023 Passed
- H 1114 Passed
- H 1141 Passed
- H 1142 Passed
- S 6, 18 and 287 C/S for C/S passed
- S 42 Passed as amended
- S 55 Passed as amended
- S 56 C/S passed as amended
- S 57 C/S passed as amended
- S 120 Concurred, C/S passed as amended
- S 128 Concurred, passed as amended
- S 232 Concurred, passed as amended
- S 452 Concurred, C/S passed as amended
- S 556 C/S passed as amended
- S 739 C/S passed as amended
- S 842 Concurred, passed as amended
- S 844 Concurred, passed as amended
- S 873 Concurred, passed as amended
- S 924 Concurred, passed as amended
- S 1199 Adopted
- S 1200 Adopted
- S 1205 Adopted

The Senate was called to order by the President at 10:00 a.m. A quorum present—39:

Mr. President	Frank	Jennings	Neal
Barron	Gersten	Johnston	Plummer
Beard	Girardeau	Kirkpatrick	Rehm
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Margolis	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Crawford	Henderson	McPherson	Vogt
Dunn	Hill	Meek	Weinstein
Fox	Jenne	Myers	

Excused: Senator Mann; periodically, Senators Neal, Langley, Kirkpatrick and Grizzle, conferees on CS for CS for HB 1129; Senators Gordon, Barron, Grant, Maxwell, Vogt and Hair, conferees on CS for CS for SB 357; Senators Johnston, Thomas, Kirkpatrick, Margolis, Maxwell, Neal, Scott, Vogt, Beard, Crawford, Gordon and Grant, conferees and alternates on SB 1195.

Prayer by the Rev. Harry C. Baas, Jr., Pastor, John Wesley United Methodist Church, Tallahassee:

O God, creator of all worlds, sustainer of all people.

We pause at this moment with anticipation of seeking and finding you. Just as persons of faith in past generations discovered you in their day, so we today see you in our generation.

We can so easily get lost in the myriad jobs and responsibilities we have to be about.

It is mentally impossible to think of you consciously every moment of this day, but help us to go about our work with a sense of thy presence.

May we see you in the faces of those we serve, thinking clearly and acting decisively in the best interests of all people.

Help us move with quiet determination and a sense of divine destiny.

In the name of our righteous and holy God, we ask this prayer. Amen.

Votes Recorded

Senator Crawford was recorded as voting yea on CS for SJR 46 and SB 256, which passed May 27; and CS for SB 784, CS for SB 435, Senate Bills 1033 and 721, which passed May 30.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, May 31, 1983: CS for CS for SB's 6, 18 and 287, SB 156, SB 639, CS for SB 1108, SB 1016, SB 362, SB 365, SB 367, SB 656, SB 539, SB 1095, SB 642, SB 609, SB 718, HB 1093, SB 283, SB 288, SB 1029, SB 964, SB 952, HB 97, SB 857, SB 85, CS for SB 206, HB 180, SB 218, SB 164, SB 492, SB 777, SB 971, CS for HB 54

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: CS for Senate Bills 594 and 389

The bills were referred to the Committee on Appropriations under the original reference.

The Committee on Finance, Taxation and Claims recommends the following pass: SB 327 with 2 amendments, CS for SB 446 with 2 amendments, CS for SB 716 with 2 amendments, SB 770, SB 865, SB 926, CS for SB 1093, SB 1111, CS for SB 1112, CS for HB 1217 with 3 amendments, HB 1309

The bills were placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

May 31, 1983

The Committee on Agriculture requests an extension of 15 days for consideration of the following: SB 890, SB 911

The Committee on Health and Rehabilitative Services requests an extension of 15 days for consideration of the following: SB 19, SB 52, SB 141, SB 241, SB 244, SB 328, SB 332, SB 429, SB 591, SB 592, SB 675, SB 707, SB 759, SB 778, SB 779, SB 822, SB 855, SB 858, SB 891, SB 939, SB 967, SB 978, SB 1063, SB 1101, SB 1125, SB 1146, SB 1153, HB 323, HB 411, HB 412, HB 668, HB 855, HB 929, HB 1008, HB 1109, HB 1176

The Committee on Commerce requests an extension of 15 days for consideration of the following: SB 16, SB 17, SB 39, SB 76, SB 170, SB 172, SB 180, SB 183, SB 253, SB 273, SB 301, SB 349, SB 423, SB 496, SB 498, SB 510, SB 520, SB 552, SB 534, SB 538, SB 541, SB 550, SB 581, SB 596, SB 932, SB 944, SB 957, SB 988, SB 1005, SB 1028, SB 1030, SB 1118, SB 1132, SB 1138, SB 1175, SB 1192, HB 193, HB 202, HB 306, HB 343, HB 402, HB 1047, HB 1069, HB 1104, HB 1116, HB 1159, HB 1160, HB 1237

Special Guests

The President introduced to the Senate the Honorable Claude Pepper, United States Congressman from Florida, who addressed the Senate.

On motions by Senator Vogt, by two-thirds vote SCR 1199 was withdrawn from the Committee on Rules and Calendar and by unanimous consent taken up instanter.

SCR 1199—A concurrent resolution designating October 1, 1983, the "Twenty-fifth Anniversary of the National Aeronautics and Space Administration" and extending congratulations and appreciation to NASA.

—was read the second time in full. On motion by Senator Vogt, SCR 1199 was adopted and certified to the House. The vote on adoption was:

Yeas—34

Mr. President	Fox	Jennings	Myers
Barron	Frank	Johnston	Neal
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Langley	Rehm
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Vogt
Childers, W. D.	Henderson	Maxwell	Weinstein
Crawford	Hill	McPherson	
Dunn	Jenne	Meek	

Nays—None

Vote after roll call:

Yea—Hair

The President appointed Senators Vogt and Maxwell to escort Richard G. Smith, Director of Kennedy Space Center, to the rostrum where he addressed the Senate. Mr. Smith presented to the Senate a flag which flew on the first flight of the spaceship "Columbia" April 12-14, 1981. The President presented a copy of SCR 1199 to Mr. Smith. John Ross, member of NASA Public Affairs, accompanied Mr. Smith.

On motions by Senator Beard, by two-thirds vote SR 1205 was withdrawn from the Committee on Rules and Calendar and taken up instanter.

SR 1205—A resolution commending Florida artist Lynn Hannon.

—was read the second time in full. On motion by Senator Beard, SR 1205 was adopted. The vote on adoption was:

Yeas—36

Mr. President	Gersten	Jennings	Neal
Barron	Girardeau	Johnston	Plummer
Beard	Gordon	Kirkpatrick	Rehm
Carlucci	Grant	Langley	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Margolis	Thomas
Crawford	Henderson	Maxwell	Thurman
Dunn	Hill	Meek	Vogt
Fox	Jenne	Myers	Weinstein

Nays—None

The President appointed Senator Beard to escort to the rostrum Lynn Hannon of Odessa, Florida, acclaimed by her peers as "the greatest sculptor of birds in the world". The President thanked Mrs. Hannon for her outstanding contributions to the arts in Florida and expressed appreciation for the opportunity to view her latest work, a full-scale replica of an American Bald Eagle, in the Capitol rotunda. Mrs. Hannon was presented a copy of SR 1205.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Barron, the rules were waived and by two-thirds vote SJR 118 and SB 119 were withdrawn from the Committee on Judiciary-Civil, HB 415 was withdrawn from the Committee on Economic, Community and Consumer Affairs, and Senate Bills 233 and 1135 were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Johnston, the rules were waived and by two-thirds vote Senate Bills 532, 1107, 500, 658, 684, 742, 984, 249, 758, CS for SB 250, CS for CS for SB 1038, CS for SB 796 and HB 994 were withdrawn from the Committee on Appropriations.

Senator Dunn moved that HB 1287 be recalled from the House. The motion failed by the following vote:

Yeas—12

Castor	Frank	Hair	Plummer
Dunn	Gersten	Jenne	Stuart
Fox	Girardeau	Meek	Weinstein

Nays—24

Mr. President	Gordon	Johnston	McPherson
Barron	Grant	Kirkpatrick	Myers
Beard	Grizzle	Langley	Neal
Childers, D.	Henderson	Malchon	Scott
Childers, W. D.	Hill	Margolis	Thomas
Crawford	Jennings	Maxwell	Vogt

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

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

SB 873—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 7.64, 13.01(2), 15.09(1)(b), 23.1225(2), 27.37(6)(b), 28.101, 39.41(3)(c), 72.011(4)(a), 83.57, 100.361(1)(a), 101.251(3), 101.35(2), (6), 101.56, 101.5612(1), 106.025(1)(a), 106.15(2), 111.012(2)(b), 112.05(2)(e), 120.53(5)(a), 121.052(1)(g), 121.101(1), (3), (4), 154.238, 154.41(2), 159.414, 159.494, 175.351(10), 177.031(10), 177.36, 190.012(3)(b), 192.091(2)(c), (4), 196.121(2), 201.132(2), 206.445, 206.945, 207.002(8), 207.004(1), (2), (5)(a), (b), 207.005(1), 207.023, 213.22(1), 215.37(2), 215.65(1), 215.84(2)(b), (7), 216.121, 218.31(1), 230.2317(4), 232.032(3)(d), (6), 234.01, 234.211(2)(a), 235.222, 235.34(1), 235.42(3), 236.081(1)(g), (4), (5), (6)(b), 238.171(3)(c), 240.319(3)(t), 240.343(2), 240.355, 240.405(1), (2), 242.331(1), (4), (5)(c), (e), 253.12(4), 253.55(3), 255.043(2), (3), 258.081, 265.138, 265.286(4), (5), 265.32(7)(f), 267.031(1), (4), 267.042(1)(d), 280.04(2)(a), 280.13(1)(c), (g), 280.14(1)(c), (g), and 295.02, Florida Statutes, and ss. 16.54(4), 20.03(12), 83.49(2), (7), 83.56(1), (2), (6), 83.759(1)(c), 83.7605(3), 83.795(3), 83.805, 103.121(5), 104.0515(1), 110.203(26), 112.3185(5), 121.0515(7)(b), 129.201(1), (3), (9), 129.202(1)(c), (d), 162.07(4), 163.01(7)(c), (15)(e)-(g), (k), 166.232(2), 192.001(5), (16), 193.1142(1), (4)(a), 193.122(6), 194.171(4), 197.0134, 200.001(4)(a), (5), (8)(g), 200.065(2)(e), (3)(j), 200.091, 212.03(3), (7), 212.031(1)(d), (3), 212.04, 212.12(7)(c), (10)(g), (11)(h), 212.18(3), 213.053(2), 213.06, 215.50(5), 218.369, 218.37(3)(b), 218.60(3), 218.63(3)(e), (4), 220.182(13), 221.01(1)(b), 221.04(1), 231.02, 231.085, 231.09, 231.29(3), 231.495, 232.277, 233.0671(3), 235.196(2)(a), (3), 235.31(1), 235.435(4), 240.295(2)(a), 240.402(1)(c), (2)(b), 240.48(4)(k), 240.485, 240.488(4), 246.085(1)(b), 246.151, 253.123(3)(d), 287.042(4)(f), 290.002(1)(g), 290.035(1)(a), and 292.04(1)(a), (2)(b), (3)(a), Florida Statutes (1982 Supplement); repealing ss. 20.30(9), 200.069(9), 220.25, and 229.85, Florida Statutes; and reenacting s. 175.361(4), Florida Statutes 1979, s. 117.01(3), (4), (5), Florida Statutes, and ss. 28.241(1) and 195.099, Florida Statutes (1982 Supplement), pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; correcting errors in the editing, publishing, and printing of the Florida Statutes; and confirming the restoration of provisions inadvertently omitted from republication in the amendatory process.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 43, line 23, strike "(g)," and on page 48, lines 9 through 31, and page 49, lines 1 through 20, strike all of paragraph (g); on pages 63 and 64, strike all of section 62, including the note; on page 96, strike all of section 97, including the note; and on page 98, strike all of section 99, including the note.

(Renumber sections accordingly.)

Amendment 2—In the title, on page 1, line 31, strike "163.01(7)(c), (15)(e)-(g), (k)," and insert "163.01(7)(c), (15)(e), (f), (k),"; and on page 2, line 9, strike "231.09," and "231.495," and, line 17, strike "200.069(9),".

On motions by Senator Scott, the Senate concurred in the House amendments.

SB 873 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Fox	Hill	Myers
Barron	Frank	Jenne	Plummer
Beard	Gersten	Jennings	Scott
Carlucci	Girardeau	Johnston	Stuart
Castor	Gordon	Kirkpatrick	Thomas
Childers, D.	Grant	Malchon	Thurman
Childers, W. D.	Grizzle	Maxwell	Vogt
Crawford	Hair	McPherson	Weinstein
Dunn	Henderson	Meek	

Nays—None

Vote after roll call:

Yea—Langley

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

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

SB 844—A reviser's bill to be entitled An act relating to the Florida Statutes, amending ss. 25.251(2), 27.255(2), 30.09(4), 30.24(2)(c), 35.26(5), 240.268(4), 258.024(2)(a), 285.18(2)(c), 316.640(2)(b), (3)(b), (c), 318.141(1), 570.151(2), 790.25(2), (3), and 916.18(2), Florida Statutes, and ss. 121.0515(2)(c), (5)(a), 218.23(1)(d), and 354.01, Florida Statutes (1982 Supplement); conforming the Florida Statutes to ch. 81-24, Laws of Florida, which changed the name of the Division of Standards and Training of the Department of Law Enforcement to the Division of Criminal Justice Standards and Training, which replaced the Police Standards and Training Commission within the department with the Criminal Justice Standards and Training Commission and merged the Correctional Standards Council of the Department of Corrections into the commission, and which made the provisions of ss. 943.085-943.255 applicable to correctional officers; conforming terminology to that used in ch. 943; revising cross-references; removing provisions which have become obsolete or which have served their purpose; and correcting grammatical errors in, and otherwise improving the clarity of, these sections.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 20-22, strike all of section 16, including the note.

Amendment 2—In title, on page 1, lines 6 and 7, strike "790.25(2), (3), and 916.18(2)," and insert "and 790.25(2), (3)," and on lines 24, 25, and 26, strike "removing provisions which have become obsolete or which have served their purpose;"

On motions by Senator Scott, the Senate concurred in the House amendments.

SB 844 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Jenne	Plummer
Beard	Gersten	Jennings	Scott
Carlucci	Girardeau	Johnston	Stuart
Castor	Gordon	Kirkpatrick	Thomas
Childers, D.	Grant	Langley	Thurman
Childers, W. D.	Grizzle	Malchon	Vogt
Crawford	Hair	Margolis	Weinstein
Dunn	Henderson	McPherson	
Fox	Hill	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

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

SB 842—A reviser's bill to be entitled An act relating to the Florida Statutes; repealing ss. 59.46(2), 253.124(5), 253.151, 311.011-311.031, 318.22, 370.035, 453.01-453.18, 501.136, 550.2615, 562.21, 718.126, 768.045, 768.44, 790.26, 798.03, 823.01(2), 828.15, 847.04, 847.05, 849.051, 877.11, 901.27, 901.28(1)-(4), (6), (7), 901.30, 901.32, and 932.58-932.60, Florida Statutes, to conform to judicial decisions holding said provisions or provisions related thereto unconstitutional or superseded by court rule; amending ss. 119.11(2), 193.461(4)(a), 447.301(2), 550.241(1), 718.111(2), 742.011, 876.05(1), and 924.07, Florida Statutes, and s. 960.25, Florida Statutes (1982 Supplement), to conform them to judicial decisions holding parts of said provisions unconstitutional or superseded by court rule; and amending s. 876.07, Florida Statutes, to conform to the invalidation of part of s. 876.05 by judicial decision.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 3 and 4, strike all of section 3, including the note; on page 5, strike all of section 6, including the note; on pages 9, 10, and 11, strike all of section 14, including the note; on pages 13 and 14, strike all of section 22, including the note; and on pages 18, 19, and 20, strike all of sections 29 and 30, including the notes.

(Renumber sections accordingly.)

Amendment 2—On page 1, in title, strike all of lines 4 through 15 and insert: "318.22, 370.035, 453.01-453.18, 501.136, 550.2615, 562.21, 718.126, 768.045, 768.44, 790.26, 798.03, 823.01(2), 847.04, 847.05, 849.051, 877.11, and 932.58-932.60, Florida Statutes, to conform to judicial decisions holding said provisions unconstitutional; amending ss. 119.11(2), 447.301(2), 550.241(1), 742.011, and 876.05(1), Florida Statutes, and s."

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

SB 842 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Frank	Jenne	Myers
Barron	Gersten	Jennings	Neal
Carlucci	Girardeau	Johnston	Plummer
Castor	Gordon	Kirkpatrick	Scott
Childers, D.	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Margolis	Thomas
Crawford	Hair	Maxwell	Thurman
Dunn	Henderson	McPherson	Vogt
Fox	Hill	Meek	Weinstein

Nays—1

Langley

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

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

CS for SB 452—A bill to be entitled An act relating to the Division of Criminal Justice Information Systems; adding s. 943.051(6), Florida Statutes; providing procedures for the entry of dental records of certain missing persons and unidentified deceased persons into a criminal justice information system of the division; requiring dentists to provide such dental records; 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. Department of Education to compile list of missing Florida school children; forms; notification.—The Department of Education shall provide, by rule, for a program to identify and locate missing Florida school children who are enrolled in Florida public school districts in kindergarten through grade 12. Pursuant to such program, the department shall:

(1) Collect each month a list of missing Florida school children as provided by the Florida Crime Information Center. A missing Florida

school child shall be defined for the purposes of this section as a child 18 years or younger whose whereabouts are unknown. The list shall be designed to include such information as the department deems necessary for the identification of the missing school child.

(2) Compile from the information collected pursuant to subsection (1) a list of missing Florida school children, to be distributed monthly to all public school districts admitting children to kindergarten through grade 12. The list shall include the names of all such missing children, together with such other information as the department deems necessary. The school districts shall distribute this information to the public schools in the district by whatever manner each district deems appropriate.

(3) Notify the appropriate local, state, or federal law enforcement authority as soon as any additional information is obtained or contact is made with respect to a missing Florida school child.

Section 2. Duty of public school districts.—Every public school district in this state shall notify the Department of Education at its earliest known contact with any child whose name appears on the department's list of missing Florida school children.

Renumber subsequent sections.

Amendment 2—In the title, on page 1, line 3 after the semi-colon (;) insert: directing the department to provide, by rule, for a program to identify and locate missing Florida school children enrolled in kindergarten through grade 12 in Florida public school districts; directing the department to collect each month a list of missing school children; directing the department to distribute the list monthly to every public school district admitting children to kindergarten through grade 12 in the state; directing the department to notify the appropriate law enforcement authority when certain information is obtained; directing public school districts to provide the department with certain information; providing an appropriation;

On motions by Senator Jennings, the Senate concurred in the House amendments.

CS for SB 452 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Barron	Frank	Jenne	Meek
Beard	Gersten	Jennings	Myers
Carlucci	Girardeau	Johnston	Neal
Castor	Gordon	Kirkpatrick	Scott
Childers, D.	Grant	Langley	Stuart
Childers, W. D.	Grizzle	Malchon	Thomas
Crawford	Hair	Margolis	Thurman
Dunn	Henderson	Maxwell	Vogt
Fox	Hill	McPherson	Weinstein

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

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

SB 128—A bill to be entitled An act relating to elevators; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, chapter 399, Florida Statutes, relating to regulation of elevators; amending ss. 399.01-399.03, 399.045, 399.05, 399.061, 399.07, 399.10, 399.11, 399.13, 509.211(3), 823.12, Florida Statutes; amending ss. 399.035, 624.605(1)(m), Florida Statutes, 1982 Supplement; providing definitions; specifying applicability; specifying powers and duties of the Division of Hotels and Restaurants of the Department of Business Regulation; requiring reports; providing confidentiality; providing penalties; requiring compliance with a safety code; providing for accessibility to handicapped persons; providing for issuance of certificates of competency; requiring specified persons to hold certificates of competency; providing for fees; prohibiting false representation as a certificate holder; providing penalties; providing for issuance of construction permits; providing for fees; requiring inspections; providing for state elevator inspectors; providing penalties for noncompliance; providing for issuance and suspension of certificates of operation; providing for fees; providing for issuance of temporary operation permits; providing for fees; prohibiting the use of an elevator without a certificate of operation; specifying violations and

penalties; authorizing the division to delegate its authority to local governments; deleting obsolete language; prohibiting smoking in elevators; providing penalties; allowing to stand repealed under the Regulatory Sunset Act ss. 399.04, 399.046, 399.047, 399.048, Florida Statutes, relating to appointment of inspectors and fees for, suspension and revocation of, and false representations concerning, certificates of competency; providing for legislative review; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 16, strike everything after the enacting clause and insert the following:

Section 1. Section 399.01, Florida Statutes, is amended to read:

399.01 Definitions.—As ~~When~~ used in this chapter:

(1) ~~The term~~ "Division" means the Division of Hotels and Restaurants of the Department of Business Regulation.

(2) ~~The term~~ "Elevator" means all *permanently installed* machinery, ~~construction,~~ apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between ~~permanent~~ rails or guides, and ~~also includes escalators and moving walks~~ all elevators, ~~power dumbwaiters, escalators, gravity elevators, moving walks, endless belt man lifts, powered lifts for sewage pump stations and other lifting or lowering apparatus permanently installed between rails or guides,~~ but does not include hand-operated dumbwaiters, construction hoists, or other similar temporary lifting or lowering apparatus, ~~provided that the provisions of this chapter shall not be applicable to elevators, dumbwaiters, escalators, gravity elevators, or other lifting apparatus or device installed and operating in private residences while such premises are used solely as private residences.~~

(3) ~~The term~~ "semiprivate elevator" means an elevator which is not utilized by the general public and the operation of which is restricted by key or similar device to a limited number of persons.

(3)(4) ~~The term~~ "Service maintenance contract" means a contract with an elevator company which provides for the service, repair, and maintenance, and replacement of parts and components for the total elevator installation sufficient to ensure the safe operation of the elevator.

(4)(5) ~~The term~~ "Elevator company" means any person, ~~firm,~~ or corporation that constructs, installs, inspects, *maintains, or repairs* repairs, or maintains any elevator within the state.

(6) ~~The term~~ "inspector" means an inspector qualified by the division to inspect elevators and lifting apparatus in the state.

(5)(7) ~~The term~~ "Alteration" ~~of an elevator~~ means a change in the use, classification, operation, control, motor, brake, character of power supply, capacity, dead weight of car or counterweights, car travel, speed, sizes or number of hoists or counterweight ropes, guide rails, car or counterweight safety devices, or safety governors *of an elevator,* ~~application for which is filed with the division under the provisions of this chapter.~~

(8) ~~The term~~ "Existing installation" of an elevator means an installation before July 1, 1971.

(9) ~~The term~~ "New installation" of an elevator means a complete elevator, dumbwaiter, escalator, or special equipment installation, the application for which is filed with the division after July 1, 1971.

Section 2. Section 399.02, Florida Statutes, is amended to read:

399.02 General requirements.—

(1) The requirements of this chapter shall apply to all installations of elevators *other than elevators used in private residences,* ~~as defined, as hereinafter specified.~~

(2) The division shall adopt, *by rule,* an elevator safety code the same as or similar to the latest revision of the "American Standard Safety Code for Elevators, Dumbwaiters and Escalators," ~~which is hereinafter referred to as the "Elevator Safety Code."~~

(3) The division ~~may only shall have the power to grant exceptions to or permit the uses of other devices or methods as may be provided by the Elevator Safety Code as authorized by the Elevator Safety Code.~~

(4) All new and existing elevators shall have a serial number assigned by the division painted on or attached to the elevator car in plain view and also to the driving mechanism. This serial number shall be shown on all required certificates and permits.

(5)(a) A permit shall be obtained from the Division of Hotels and Restaurants before erecting or constructing new elevators, moving such apparatus from one hoistway to another, or before making alterations to existing equipment.

(b) The contractor, company, or individual employed to do the work, shall submit an application for a permit accompanied by specifications and drawings showing the proposed construction, hoistway and elevator construction, and mode of operation in such form as the division may prescribe.

(5)(6)(a) The construction permitholder manufacturer, constructor, or contractor of the elevator, dumbwaiter, escalator, moving walk, endless belt man lift, or powered lift for sewage pump station shall be responsible for the correction of violations and deficiencies failure of the equipment or of any part thereof until the elevator has been inspected and a certificate of operation has been issued approved by the division and put in service. The construction permitholder manufacturer, constructor, or contractor shall be responsible for all tests of new and altered equipment until the elevator installation has been inspected and a certificate of operation has been issued approved by the division.

(b) The elevator owner or his duly appointed agent shall be responsible for the safe operation and proper maintenance of the elevator, dumbwaiter, escalator, moving walk, endless belt man lift, or powered lift for sewage pump station after it has been inspected and a certificate of operation has been issued approved by the division and placed in service. The owner or his agent shall make periodic inspections, maintain in proper working order all parts of the elevator installation, and make and be responsible for all tests and inspections which the division may require. However, if the responsibilities referred to above are specifically transferred by the terms of a lease, the responsibilities of the elevator owner of the equipment may be assigned by lease to a tenant or lessee who is the user of the equipment.

(c)1. The elevator owner or the lessee, if responsibility is transferred specifically by the terms of the lease, shall report to the division 60 30 days before the expiration of the elevator certificate of operation provided for in s. 399.07 whether there exists a service maintenance contract, with whom the contract exists, and the details concerning the provisions and implementation of the contract as the division may require. The division shall keep such reports confidential. The details of the contract shall include only matters relating to the type of maintenance service given and shall not include information about amounts paid under the contract or the date it terminates. This annual contract report shall be made on forms supplied by the division. The elevator owner or lessee shall report any material change in the service maintenance contract no less than 30 days prior to the effective date of the change within 10 days. The division shall determine whether the provisions of the service maintenance contract and its implementation ensure the safe operation of the elevator.

2. Any person who fails to comply with the reporting requirements of this section or with the reasonable requests of the division to determine whether the provisions of a service maintenance contract and its implementation assure safe elevator operation shall be subject to an administrative fine in an amount not greater than \$500 in addition to any other penalty provided by law.

Section 3. Section 399.03, Florida Statutes, is amended to read:

399.03 Design, installation, and alterations of elevators.—

(1) Each elevator shall comply with the Elevator Safety Code that was in effect at the time of receipt of application for the construction permit for the elevator. All new elevators, dumbwaiters, and escalators shall be designed and installed in accordance with the requirements of the Elevator Safety Code.

(2) All Alterations to, and relocations of, elevators, dumbwaiters, and escalators, installed after the adoption of this act, shall comply with meet the requirements of the Elevator Safety Code that was in effect at the time of receipt of application for the construction permit for the alteration or relocation.

(3) Elevators, dumbwaiters and escalators installed before July 1, 1971, may be used without being rebuilt to comply with the requirements of the Elevator Safety Code; provided, however, all such elevators shall be maintained in a safe operating condition and shall be subject to inspections and tests required by s. 399.08.

(4) Elevators, dumbwaiters and escalators, moved from one shaft or location to another, shall conform to the requirements of the Elevator Safety Code.

(5)(a) Existing installations may be altered to obtain the advantage of any provisions of the Elevator Safety Code, provided the safety requirements covering such provisions are met.

(b) Where alterations are made to existing installations, any part of the installation which is directly affected as to safety, due to the alteration, shall comply with the requirements of the Elevator Safety Code, subject also to the following subsections.

(6) Where an increase is made in the contract load, the installation shall meet the requirements of the Elevator Safety Code for car and counterweight safeties, interlocks, and terminal stopping devices.

(7) Where an increase is made in the contract speed, the installation shall meet the requirements of the Elevator Safety Code for car and counterweight safeties, buffers, speed governor, interlocks, and terminal stopping devices.

(8) Where any change is made in the method of operation, or type of control, the installation shall meet the requirements of the Elevator Safety Code for interlocks and terminal stopping devices.

(3)(9) Where any change is made in the classification of an elevator, the elevator installation shall comply with meet all of the requirements of the Elevator Safety Code that were in effect at the time of receipt of application for the construction permit for the change in classification.

(10)(a) Damaged or defective parts shall be wholly or partially replaced at the discretion of the division; broken parts subject to bending, tension, or torsional stresses, and parts upon which the support of the car depends, shall not be welded.

(b) Ordinary repairs or replacement on existing installations may be made with parts equivalent in material, strength and design to those replaced. Such repairs and replacements need not conform to the requirements of this chapter.

Section 4. Section 399.035, Florida Statutes, 1982 Supplement, is amended to read:

399.035 Passenger Elevator accessibility requirements for the physically handicapped.—

(1) Each passenger elevator, except a semiprivate elevator in a building which has an elevator that otherwise meets the requirements of this section, installation of which is begun after October 1, 1980, 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:

(a) Floor level numbers or letters and essential control designation symbols on the inside control panel of the elevator car shall be placed at a minimum of 35 inches above the floor and raised a minimum of 0.025 inch, and a Braille symbol which is raised a minimum of 0.025 inch shall be placed directly adjacent to each such control marking and at a minimum of 35 inches in height. No control marking may be recessed.

(b) In a building having any one or more passenger elevators which do not provide access to every floor level, passenger elevator hallway call buttons in the building shall be marked with Arabic and Braille symbols which indicate floor levels to which access is provided. Such symbols shall be placed directly above each call button. In all other buildings, hallway call buttons need not be marked with Arabic or Braille symbols.

(c) Door jamb markings shall be a minimum of 2 inches in height high and raised a minimum of 0.025 inch.

(d) Each elevator car interior shall have a handrail on at least one wall, preferably the rear wall. All handrails shall be smooth with no sharp edges and shall not be more than 1 1/2 inches thick wide. Handrails shall be continuous and shall extend from and to a point that is no more than

4 inches ~~one-half inch~~ from an adjacent wall or handrail. The inside surface of handrails shall be 1½ inches clear of the car wall. The distance from the top of the handrail to the finished car floor shall be at least 31 inches and not more than 33 inches. Padded or tufted material or decorative materials such as wallpaper, vinyl, cloth, or the like shall not be used on handrails.

(e) Each ~~passenger~~ elevator covered by this section shall be available to be used at any time for use at all times by authorized persons to assist the physically handicapped in the event of emergency evacuation. All The requirements of the latest revision of rules 211.3 and 211.4 of the American National Standards Institute standard ANSI 17.1-1978 shall be complied with to meet the requirements of this paragraph.

(f) ~~Any building more than three stories high shall contain at least one conveniently located passenger elevator which will accommodate an ambulance stretcher 76 inches long and 24 inches wide in the horizontal position.~~

(f)(g) Communications systems shall be positioned under the inside control panel of the car so that the center line of the installation is at a minimum height of 18 inches and a maximum height of 48 inches, with the identification marking raised a minimum of 0.025 inch and placed at the center of the access panel. A Braille symbol which is raised a minimum of 0.025 inch shall be placed directly adjacent to each such identification marking.

(g)(h) A car position indicator shall be provided above the car operating panel or over at least one the opening of each car to show the position of the car in the hoistway by illumination of an indicator corresponding to the landing at which the car is stopped or passing. Indicators shall be on a contrasting color background and shall be a minimum of one-half inch in height. An audible signal shall sound to tell a passenger that the car is stopping at a floor served by the elevator.

(h)(i) Interior surfaces of car enclosures shall be of fire-resistive material, and walls shall be surfaced with nonabrasive smooth, hard, flat materials. Padded or tufted material or carpeting shall not be used on walls. Floor coverings shall have a nonslip hard surface. Carpeting shall be securely attached, heavy duty, with a tight weave and low pile, and installed without padding. Vinyl or similar floor coverings shall be without padding.

(i)(j) A bench or seat may be installed on the rear wall of the elevator car enclosure, provided the bench or seat does not protrude beyond the vertical plane of the elevator car enclosure wall when folded into a recess provided for the bench or seat and, when not in use, the bench or seat automatically folds into the recess. 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 other decorative material may be used to cover the bench or seat; only materials approved for use inside the car enclosure may be used. Under no circumstances may the bench or seat encroach on the minimum clear-inside-car dimensions specified in this section law for wheelchairs and stretchers.

(j)(k) Car and hoistway doors shall be power-operated, automatic, and of the horizontal slide type with a minimum clear opening width of 36 inches. Doors shall be provided with a door reopening device which will function to stop and reopen a car door and adjacent hoistway door in case the car door is obstructed while closing. This reopening device shall also be capable of sensing an object or person in the path of a closing door without requiring contact with the door for activation at a nominal 5 inches and 29 inches above the finished floor. Such device shall be operative at all times.

(k)(l) Any building of three or fewer stories may be equipped with passenger elevators of 1,500-pound capacity if the minimum clear-inside-car dimensions are no less than 51 inches wide and no less than 51 inches deep, the door opening is at least 32 inches and not centered but is at a side of the car, and the inside car control panel is mounted adjacent to the door opening on the car wall that is adjacent to the door opening.

(l)(m) The exception provided in the "Suggested Minimum Passenger Elevator Requirements for the Handicapped" in paragraph 6 of the standard for elevators in schools, institutions, or other buildings specifically authorized by local authorities is not applicable in this state.

(2) Any building more than three stories high, construction of which was begun on or after October 1, 1978, shall contain at least one elevator which will accommodate an ambulance stretcher 76 inches long and 24 inches wide in the horizontal position.

(3) This section applies only to elevators available for the transportation of the general public. This section does not apply to elevators restricted by key or similar device to a limited number of persons in a building that has an elevator that otherwise meets the requirements of this section or elevators primarily used for the transportation of freight. This section does not apply to dumbwaiters or escalators.

(4)(2) This section supersedes all other state laws and regulations and local ordinances and regulations affecting the accessibility of passenger elevators to the physically handicapped, and the standards established by this section may not be modified by municipal or county ordinance.

Section 5. Section 399.045, Florida Statutes, is amended to read:

399.045 Certificate of competency.—

(1) Any person acting for or on behalf of an elevator company may apply to the division for a certificate of competency, which certificate shall evidence conclusively establish the competency of the holder thereof to construct, install, inspect, maintain, or repair any elevator in this state.

(3)(2) An applicant applying for a certificate of competency shall file a written application on forms supplied provided by the division, showing to the satisfaction of the division that such person:

(a) Has a degree in mechanical or electrical engineering or equivalent work experience in the construction, installation, inspection, maintenance, and repair of elevators as determined by the division by rule; and

(b) Has passed an examination approved conducted by the division covering the construction, installation, inspection, maintenance, and repair of elevators and their appurtenances.

(4)(3) Each certificate of competency shall be issued for a calendar year and shall expire at the end of the year. The certificate shall be unless renewed by the division upon payment of the required fee. Each application for a certificate of competency or and for renewal thereof shall be accompanied by a the fee set by the division by rule in an amount not greater than \$50. Such fee shall be deposited in the Hotel and Restaurant Trust Fund required by s. 399.046.

(5) Any person who falsely represents himself as a certificateholder is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 399.05, Florida Statutes, is amended to read:

399.05 Construction permits to erect, move, or alter.—

(1)(a) Before any permanent elevator is installed, relocated, or altered erected or removed to a different location, or whenever any changes or repairs are made which alter its construction or the classification, grade, or rated lifting capacity thereof, detailed plans and specifications of the elevator apparatus, in duplicate, shall be submitted to the division for approval, the permit fee required under paragraph (b) shall be paid, and a construction permit shall be obtained from the division for such work. When plans and specifications have been submitted to and approved by the division, a construction permit for the erection or other work shall be issued upon payment of the construction permit fee required by paragraph (b). The elevator shall not be operated until it has been inspected and a certificate of operation has been issued by the division. A final inspection shall be made of the apparatus when installed, or when repairs are completed, before final approval shall be given by the division. The elevator shall not be operated until such final inspection and approval is given and the certificate of operation is posted, unless a temporary operation permit has been issued granted by the division. Prior to issuance of a construction permit to erect, the elevator company shall have on file with the department, a certificate of comprehensive general liability insurance evidencing coverage limits in the minimum amount of \$100,000 per person and \$200,000 per occurrence.

(b) Each application applicant for a construction permit shall be accompanied by a fee set by rule in an amount not greater than \$250. Such fee shall be deposited in the Hotel and Restaurant Trust Fund from the division pursuant to paragraph (a) shall pay the division a fee which shall be deposited into the Hotel and Restaurant Trust Fund, established under s. 509.072. Fees, including fees for construction certificates, shall be set by rule by the division and shall not exceed \$250.

(2) The operation or use of any new, altered, or moved elevator is prohibited until such equipment has passed tests and inspection as required by this section and a certificate to this effect has been issued.

(2)(3) The ~~permitholder person or firm installing, moving, or altering~~ elevators shall notify the division in writing, at least 7 days before completion of the work, and shall, in the presence of a ~~state elevator inspector representative of the division~~, subject the ~~newly installed, relocated new, moved, or altered portions of the elevator equipment~~ to tests required to show that such ~~elevator equipment~~ meets the requirements of this chapter.

Section 7. Section 399.061, Florida Statutes, is amended to read:

399.061 Annual Inspections; certificates; fees.—

(1)(a) The division shall ~~annually inspect each elevator at least once during any year in which a service maintenance contract is not continuously in force with respect to such elevator. elevators initially certified under s. 399.05 when no service maintenance contract is consistently in force which is found by the division to ensure safe elevator operation. The division shall charge an annual certification fee, set by rule, not to exceed \$75.~~

(b) When a service maintenance contract ~~providing for maintenance and periodic inspection of all elements of an elevator necessary to ensure its safe operation~~ is maintained with an elevator company, the division shall verify with the elevator company that the contract is in force and being implemented. An elevator ~~covered served by such a service maintenance contract shall be inspected by a state elevator division inspector at least once every 2 years. For such an elevator, the division shall charge an annual certification fee, set by rule, not to exceed \$40.~~

(c) However, The division may inspect an elevator whenever necessary to ensure its safe operation.

(2) ~~The division shall employ state elevator inspectors to conduct the inspections required by subsection (1). Each state elevator inspector shall hold a certificate of competency issued by the division.~~

(3)(2) Whenever the division ~~determines shall determine~~ from the results of any inspection of ~~any elevator that, in the interest of the public safety, an such elevator or any part or appliance thereof is out of order and in an unsafe condition contrary to the requirements of this chapter,~~ the division may seal the elevator or shall have the power to order the discontinuance of the use of the ~~any such elevator and to compel the person, firm, or corporation having control, possession, or use thereof to discontinue such use until the division determines by inspection that such elevator or part or appliance thereof has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner is in a safe and proper condition as required by this chapter.~~

(4)(3) ~~When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation. An elevator owner who fails to comply with such order within 30 days after its issuance shall be subject to an administrative fine set by the division in an amount not greater than \$500 in addition to any other penalty provided by law. The division shall certify whether an elevator is in conformity with the requirements of this chapter. Certification shall be a prerequisite to the issuance of the certificate of operation required in s. 399.07.~~

Section 8. Section 399.07, Florida Statutes, is amended to read:

399.07 Certificates of operation; temporary operation permits; fees ~~construction certificates.~~—

(1)(a) ~~The division shall issue a certificate of operation when the division determines that the elevator complies~~ A certificate which shall be valid for a period of 1 year from the date of issuance shall be issued by the division when the inspections and tests required by this chapter show that the elevator is installed and maintained in accordance with the requirements of this chapter. Each certificate shall include the date of the most recent state ~~any~~ inspection and the name of the inspector. No certificate of operation shall be issued by the Department until, at the final inspection of the elevator, the elevator company supervisor signs an affidavit witnessed by the state elevator inspector, evidencing that he directly supervised construction and/or installation of the elevator.

(b) ~~The certificate shall be valid for a period of 1 year unless suspended or revoked. The division shall, by rule, adopt a schedule for staggered renewal of certificates and proration of fees. A certificate of operation shall not be issued until the elevator owner or lessee has complied with the reporting requirements of s. 399.02(6)(c). Failure to report within 10 days a material change in the service maintenance contract may result in the revocation of the certificate of operation.~~

~~(e) Each certificate shall be printed on a 6-inch wide by 9-inch high card and suitably framed in metal with a glass cover.~~

~~(d) The certificate shall show the serial number of the elevator for which it is issued, as required in s. 399.02(4). mosk~~

~~(c)(e) The required certificate of operation shall be posted in a conspicuous location on the elevator and shall be framed with a transparent cover.~~

~~(d) The division shall charge an annual fee for issuance of a certificate of operation. The fee shall be set by rule in an amount not greater than \$100 for an elevator not covered by a service maintenance contract and \$50 for an elevator covered by a service maintenance contract. Such fees shall be deposited in the Hotel and Restaurant Trust Fund.~~

(2)(a) The division may issue a temporary operation permit authorizing the temporary use of an ~~any~~ elevator during installation or alteration ~~under the authority of a construction certificate issued for each class of service. Such A temporary operation permit construction certificate shall not be issued until the elevator has been inspected by a state elevator inspector and tested under contract load; the hoistway is fully enclosed; the hoistway doors and interlocks are installed; the car is completely enclosed, including door or gate and top; all electrical safety devices are installed and properly functioning; and terminal stopping equipment is in place for a safe runby and proper clearance. When a car is provided with a temporary enclosure, the operating means shall be by constant pressure push-button or lever-type switch. The car shall not exceed the minimum safe operating speed of the elevator, and the governor tripping speed shall be set in accordance with the operating speed of the elevator.~~

~~(b) A temporary operation permit construction certificate shall be issued for a period not to exceed 30 days. The permit Such a certificate may be renewed at the discretion of the division.~~

~~(c) When a temporary operation permit construction certificate is issued, the permit, together with a notice bearing a statement the information that the elevator equipment has not been finally approved by a state elevator inspector, shall be conspicuously posted in the elevator.~~

~~(d) The division shall charge a fee, set by rule in an amount not greater than \$100, for each temporary operation permit. Such fees shall be deposited in the Hotel and Restaurant Trust Fund.~~

~~(3) The required certificate of operation shall contain the text of s. 823.12, relating to the prohibition of smoking in elevators. a provision informing any person who enters the elevator that it is unlawful to smoke or ignite any substance when the elevator is in operation and shall further indicate the penalty for the violation of law. This subsection shall only apply to certificates issued after October 1, 1974.~~

~~(4) Except as authorized by a temporary operation permit, the operation or use of any newly installed, relocated, or altered elevator is prohibited until the elevator has passed tests and inspections required by this chapter and a certificate of operation has been issued.~~

~~(5) The division may suspend any certificate of operation if it finds that the elevator is not in compliance with this chapter. The suspension shall remain in effect until the division determines, by inspection, that the elevator has been brought into compliance.~~

Section 9. Section 399.10, Florida Statutes, is amended to read:

399.10 Enforcement of law.—It shall be the duty of the division to enforce the provisions of this chapter. The division shall have rulemaking authority to carry out the ~~provisions purposes~~ of this chapter.

Section 10. Section 399.11, Florida Statutes, is amended to read:

399.11 Penalties.—

(1) Whoever violates any of the provisions of this chapter, or the rules and regulations of the division, ~~as herein provided for, or who fails or neglects to pay the fees herein provided for,~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) ~~An elevator owner who~~ Whoever continues to operate an his elevator ~~or other lifting or lowering apparatus,~~ after notice to discontinue its use, shall be subject to an administrative fine not greater than \$500

fined \$100 for each day the elevator or lifting or lowering apparatus has been operated after the service of the notice, in addition to any other penalty provided by law.

(3) All administrative fines collected shall be deposited into the Hotel and Restaurant Trust Fund.

(4) Whoever commences the operation, installation, relocation erection, removal to a different location, or alteration of any elevator for which a permit or certificate is required by s. 399.05 of this chapter without having obtained from the division the a permit or certificate therefor shall be subject to an administrative fine not greater than \$500 pay to the division a civil penalty of \$50 in addition to any other penalty provided by law. No fine may be imposed under this section for commencing installation without a construction permit if such permit is issued within 60 days after the actual commencement of installation.

(5) The division may suspend or revoke the certificate of competency of any person whom the division determines has knowingly violated any provision of this chapter or has knowingly filed any false reports with the division.

(a) An elevator company failing to comply with the reasonable requests of the division to determine whether the provisions of a service maintenance contract and its implementation ensure safe elevator operation shall be subject to an administrative fine not to exceed \$250. Each day of noncompliance shall be a separate violation.

(b) The division shall institute an administrative proceeding to impose the fine by serving, by certified mail, on the alleged violator written notice of a violation. The notice shall specify the law or rule allegedly violated, the facts upon which the allegation is based, and the amount of the administrative fine being sought. The fine shall not become due until after service of notice and an administrative hearing. However, the alleged violator shall have 20 days from service of notice to request an administrative hearing. Failure to respond within that time shall constitute a waiver, and the fine shall become due without a hearing.

(c) The division may enter its judgment for the amount of the administrative fine imposed in a court of competent jurisdiction, pursuant to s. 120.69. The judgment may be enforced as any other judgment.

Section 11. Section 399.13, Florida Statutes, is amended to read:

399.13 *Delegation of authority to municipalities or counties, cooperation with.*—The division may enter into contracts cooperative agreements with municipalities or counties under which maintain their own elevator inspection departments whereby such municipalities or counties may issue construction permits, temporary operation permits, and certificates of operation, for the erection, alteration or repair of elevators and may provide the regular inspection of elevators, and enforce the Elevator Safety Code, as required contemplated by this chapter. Each such agreement shall include a provision that the municipality or county shall furnish promptly to the division a copy of each permit and certificate issued by it for erection, alteration, or repair of an elevator and a copy of each final inspection report made by it, shall include a provision that each required inspection be conducted by the holder of a certificate of competency issued by the division, after completion of such erection, alteration, or repair; and may include such other provisions as the division deems necessary for the efficient and proper administration of this chapter. The division may make inspections of elevators in such municipalities or counties for the purpose of determining that the provisions of this chapter are being met; and may cancel the contract its agreement with any municipality or county which it finds has failed to comply substantially with such contract or agreement and the provisions of this chapter.

Section 12. Subsection (3) of section 509.211, Florida Statutes, is amended to read:

509.211 Safety regulations.—

(3) The division shall inspect elevators as provided in chapter 399. The division shall enforce any rule adopted by the State Fire Marshal which relates to public lodging establishments or public food service establishments. The State Fire Marshal may also enforce such rules.

Section 13. Paragraph (1) of subsection (2) of section 553.48, Florida Statutes, is amended to read:

553.48 Accessibility features required of new buildings; exceptions.—

(2) All new buildings as defined in this part, except those exempted pursuant to subsection (3), which the general public may frequent, live in, or work in shall be made accessible as required in this section:

(1) The mandatory portions of the standard "Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," of the American National Standards Institute, ANSI A117.1, except as modified by this part, and except as otherwise provided in s. 399.035 relating to the accessibility of passenger elevators to the physically handicapped, are hereby adopted.

Section 14. Paragraph (m) of subsection (1) of section 624.605, Florida Statutes, 1982 Supplement, is amended to read:

624.605 "Casualty insurance" defined.—

(1) "Casualty insurance" includes:

(m) Elevator.—Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire, and to make inspections of, and issue certificates of inspection upon, elevators; together with provision for medical, hospital, and surgical benefits to the injured persons, irrespective of the legal liability of the insured, when issued as an incidental coverage which is part of a liability insurance contract.

Section 15. Section 823.12, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 823.12, F.S., for present text.)

823.12 Smoking in elevators unlawful.—It is unlawful for any person to possess any ignited tobacco product or other ignited substance while present in an elevator. 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 s. 775.084.

Section 16. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, chapter 399, Florida Statutes, shall not stand repealed on October 1, 1983, and shall continue in full force and effect as amended herein, except that sections 399.04, 399.046, 399.047, and 399.048, Florida Statutes, shall stand repealed on October 1, 1983, as scheduled by the Regulatory Sunset Act.

Section 17. Chapter 399, Florida Statutes, is repealed on October 1, 1993, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes, the Regulatory Sunset Act

Section 18. This act shall take effect October 1, 1983.

Amendment 2—On pages 1 and 2, lines 1-31 and lines 1-12, strike all of said lines and insert the following:

A bill to be entitled An act relating to elevators; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, chapter 399, Florida Statutes, relating to regulation of elevators; amending ss. 399.01-399.03, 399.045, 399.05, 399.061, 399.07, 399.10, 399.11, 399.13, 509.211(3), 553.48(2)(1), and 823.12, Florida Statutes; amending ss. 399.035, 624.605(1)(m), Florida Statutes, 1982 Supplement; providing definitions; specifying applicability; specifying powers and duties of the Division of Hotels and Restaurants of the Department of Business Regulation; requiring reports; providing confidentiality; providing penalties; requiring compliance with a safety code; providing for accessibility to handicapped persons; providing for fees; prohibiting false representation as a certificateholder; providing penalties; providing for issuance of construction permits; requiring the filing of certificate of general liability insurance; providing for fees; requiring inspections; providing for state elevator inspectors; providing penalties for noncompliance; requiring an affidavit to be filed with the department; providing for issuance and suspension of certificates of operation; providing for fees; providing for issuance of temporary operation permits; providing for fees; prohibiting the use of an elevator without a certificate of operation; specifying violations and penalties; authorizing the division to delegate its authority to local governments; deleting obsolete language; correcting a cross reference; prohibiting smoking in elevators; providing penalties; allowing to stand repealed under the Regulatory Sunset Act ss. 399.04, 399.046, 399.047, 399.048, Florida Statutes, relating to appointment of inspectors and fees for, suspension and revocation of, and false representations concerning, certificates of competency; providing for legislative review; providing an effective date.

On motions by Senator Thomas, the Senate concurred in the House amendments.

SB 128 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Jennings	Neal
Barron	Gersten	Johnston	Plummer
Beard	Girardeau	Kirkpatrick	Scott
Carlucci	Gordon	Langley	Stuart
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	McPherson	Weinstein
Dunn	Hill	Meek	
Fox	Jenne	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

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

SB 232—A bill to be entitled An act relating to vacancies in public offices; amending s. 100.111(3)(b), Florida Statutes; providing time for designating nominees to fill certain vacancies in nomination; amending s. 101.253(3), Florida Statutes; providing that supervisors of elections are not required to place on a ballot names submitted less than 14 days prior to an election; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 28 and 29, strike “supervisor of elections” and insert: Department of State

On motion by Senator Hill, the Senate concurred in the House amendment.

SB 232 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Jenne	Meek
Barron	Frank	Jennings	Myers
Beard	Gersten	Johnston	Plummer
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Henderson	Maxwell	Vogt
Dunn	Hill	McPherson	Weinstein

Nays—None

Vote after roll call:

Yea—Gordon

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

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

SB 924—A reviser's bill to be entitled An act relating to the Florida Statutes; amending ss. 316.635(3)(c), 316.645, 316.655(4), 320.0897(3), 322.01(19), 322.201, 328.03(1), 364.01(2), 372.025(3), 372.072(6), 372.073(1), 372.57(4)(f), 372.921(5), 372.932(4), (5), (9), (10), 373.59(2), 381.507(5)(b), 393.065(2)(c), 393.066(6), 393.20(1), 394.455(16), 402.22(2), (4), 403.1834(8), 406.06(1)(a), 413.051(2)(b), 446.091, 446.092(2), 458.322(1), 459.0095(1), 460.4095(1), 484.003(3), 490.007(3), 496.31(12), (13), 496.335(1)(a), (c), 520.125(5), 527.01(2), 527.04(1), 550.023, 550.074(1), and 550.33(1), Florida Statutes, and ss. 316.1932(1)(c), 316.1934(1), 316.302(1)(b), 319.14(2), (5), 319.24(5)(a), (7), 319.27(1), 319.28(1)(b), 319.30(2)(b), 320.05, 320.089(1), 320.10(1)(f), 320.27(4),

322.031(3), 322.20(5), 336.59(2), 337.18(2), 351.009, 367.081(6), 372.574(6), 373.088, 381.272(11)(a), 381.493(3)(h), 381.494(7)(b), (8)(j), (k), 382.51, 395.003(3)(b), 395.011(3), 395.508(1), 401.25(2)(b), (5), 401.255(4), 401.26(2), 403.087(5)(a), 403.7045(3)(d), 403.707(1), (4), 403.722(10), 403.813(2)(b), 404.161(3), 404.30, Art. VII(2), 409.266(2)(c), (3)(d), 409.508(1)(a), (2), 409.602(4), 413.08(1)(a), (4), 420.5094(1), 443.051(3)(e), 455.20, 455.201(1), (3), 455.217(1), 455.241(2), 458.348(1)(b), 466.006(3), 467.012(1), 467.015(3)(b), (4)(b), 467.203(1)(f), 468.1705(1), (2), 475.10, 475.182(1), 475.451(1), 477.022(7), 482.211(1)(b), 482.226(6), 487.091(4), (6), 487.158(1), 499.003, 499.005(7), (10), 499.007(2), (12)(b), 499.01(3)(b), 499.011(4), (5), 499.015(2)-(4), 499.017(4), 499.018(1)(j), (q), 499.02(4), 499.028(2)(a), (4)(a), (e), (f), 499.04, 499.041(3), 499.066(4)(b), 499.069(2), 500.03(1), 500.04(7), 500.174, 500.177(2), 550.03(4), 550.10(3)(b), and 559.925(2), (5), Florida Statutes (1982 Supplement); repealing ss. 373.175(5), 393.069, 395.201, 400.023(2), 400.063(5), 400.126(12), 400.179(5), 400.322, 400.418(2), 400.419(7), 400.422(13), 400.426(2), 400.428(9), 400.429(2), 400.435(4), 400.452(2), 400.454(3), 403.051(2), 403.088(2), (5), 460.4165(13), and 475.1825(2), Florida Statutes; and reenacting ss. 520.125(1)-(4), (7)-(12), Florida Statutes, pursuant to s. 11.242, Florida Statutes; deleting provisions which have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; revising and correcting cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; correcting errors in the editing, publishing, and printing of the Florida Statutes; and confirming the restoration of provisions inadvertently omitted from republication in the amendatory process.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 38, line 6, strike “paragraphs (j) and (k)” and insert “paragraph (j)”; and on page 40, lines 14, 15, and 30, strike all of lines 14, 15, and 30.

Amendment 2—In title, on page 1, line 23, strike “(k).”

On motions by Senator Scott, the Senate concurred in the House amendments.

SB 924 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Jennings	Plummer
Barron	Gersten	Johnston	Scott
Beard	Girardeau	Kirkpatrick	Stuart
Carlucci	Gordon	Langley	Thomas
Castor	Grant	Malchon	Thurman
Childers, D.	Grizzle	Margolis	Vogt
Childers, W. D.	Hair	Maxwell	Weinstein
Crawford	Henderson	McPherson	
Dunn	Hill	Meek	
Fox	Jenne	Myers	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 319, 382, 484, 485, 501, 502, 503, 616, 746, 1162, 1184, 1190 and 1193.

Allen Morris, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed HB 493, as amended.

Allen Morris, Clerk

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments to House amendments and passed SB 261, as amended.

Allen Morris, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has adopted SCR 1199 and passed Senate Bills 921, 871, 168, 127, 96 and 92.

Allen Morris, Clerk

The bills contained in the foregoing message were ordered enrolled.

FIRST READING

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed HB 599, HB 680, HB 694, HB 889, HB 1115, HB 1239, HB 1284, CS for HB 975, CS for HB 210, HB 213, CS for HB 1070, HB 1164, HB 322 and HB 1339 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Transportation and Representative Peeples—

HB 599—A bill to be entitled An act relating to eminent domain; creating s. 337.271, Florida Statutes; providing a precondemnation negotiation procedure for the Department of Transportation; providing for submission by the property owner of an appraisal and estimate of business damages if claimed; specifying responsibilities of property owners and the department; providing for payment by the department of reasonable costs of appraisals and estimates of business damages; providing an effective date.

—was referred to the Committees on Transportation and Judiciary-Civil.

By Representative Cortina—

HB 680—A bill to be entitled An act relating to tax on sales, use and other transactions; adding new paragraph (b) to s. 212.06(5), Florida Statutes, 1982 Supplement; exempting sales of tangible personal property to a nonresident dealer who does not hold a Florida sales tax registration if the property is to be transported outside of the state for resale; requiring such nonresident dealers to furnish a statement declared to be true under penalty of perjury; providing duties of the seller; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By the Committee on Retirement, Personnel & Collective Bargaining—

HB 694—A bill to be entitled An act relating to state employees; creating s. 110.1265, Florida Statutes; authorizing security background investigations, including fingerprinting, as a condition of employment for certain state employees; requiring such checks for all employees of the Division of Treasury of the Department of Insurance; providing an effective date.

—was referred to the Committees on Commerce; Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representative Mitchell—

HB 889—A bill to be entitled An act relating to public officers and employees; amending s. 112.061(5)(b), (6) and (7)(d), Florida Statutes, as amended; revising travel times on which meal allowances are based and reimbursement rates for certain travel within the state; revising per diem, meal, and mileage allowances; amending s. 14.071(4), Florida Statutes; correcting a cross reference and revising travel allowances; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Transportation—

HB 1115—A bill to be entitled An act relating to state uniform traffic control; amending s. 316.295(1), Florida Statutes, providing requirements for materials placed on motor vehicle windows; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Transportation and Representatives Healey and Ward—

HB 1239—A bill to be entitled An act relating to liens; creating s. 713.79, Florida Statutes, providing that a lien for certain charges and fees of any publicly owned and operated airport attaches to any aircraft owned or operated by a person owing such charges and fees; providing a penalty; creating s. 713.792, Florida Statutes, providing for enforceability of certain liens with respect to aircraft; providing for required notice; providing for applicability; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By the Committee on Retirement, Personnel & Collective Bargaining and Representative Robinson—

HB 1284—A bill to be entitled An act relating to state administered retirement systems; providing for the development of recommendations for a health insurance plan for retirees of the systems; providing an appropriation; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; Rules and Calendar; and Appropriations.

By the Committee on Transportation and Representative Webster—

CS for HB 975—A bill to be entitled An act relating to the Department of Transportation; amending s. 334.21(9), Florida Statutes, 1982 Supplement; authorizing the department to amend its final annual program budget and 5-year construction plan during the fiscal year by adding certain projects, and by adding to, deleting from, or rescheduling in, said plan certain projects; requiring notification to legislative committees and members under certain circumstances; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Finance & Taxation and Representative Webster—

CS for HB 210—A bill to be entitled An act relating to distribution of the constitutional gas tax; amending s. 206.47(7), (9), and (10), Florida Statutes, as amended; requiring the State Board of Administration to distribute certain surplus constitutional gas tax funds to the counties; repealing s. 334.19(4), Florida Statutes, which requires the comptroller of the Department of Transportation to maintain separate accounts for each county; repealing s. 339.08(5), Florida Statutes, as amended, relating to deposit of the 80-percent surplus constitutional gas tax funds with the State Board of Administration and transfer of said funds to the counties; providing an effective date.

—was referred to the Committees on Appropriations; and Finance, Taxation and Claims.

By the Committee on Governmental Operations—

HB 213—A bill to be entitled An act relating to workers' compensation; amending s. 440.51(1)(a), Florida Statutes, modifying the current method of deriving administrative costs; reenacting s. 440.56(6), Florida Statutes, to incorporate the amendment to s. 440.51(1)(a), Florida Statutes, in a reference thereto; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committees on Appropriations and Higher Education—

CS for HB 1070—A bill to be entitled An act relating to community colleges; amending s. 20.15(3), (4)(c), (5), and (6), Florida Statutes, relating to the Department of Education, specifying that the State Board of Community Colleges shall be the director of the Division of Community Colleges; replacing the State Community College Coordinating Board with the State Board of Community Colleges; amending s. 228.041(1)(b) and (21), Florida Statutes, 1982 Supplement, clarifying language; adding paragraph (p) to s. 229.053(2), Florida Statutes, 1982 Supplement, providing that the State Board of Education shall recommend the establishment of community college branch campuses; amending s. 229.512(1), Florida Statutes, and adding a new subsection (2) thereto, providing that the Commissioner of Education has the power to suspend a community college president; creating s. 232.2455, Florida Statutes, providing responsibility for programs of remediation; adding subsection (6) to s. 232.246, Florida Statutes, providing for district school board responsibility relating to high school student communication and computation

skills; amending s. 235.05(2), Florida Statutes, correcting a cross reference; amending s. 235.435(5)(a), Florida Statutes, 1982 Supplement, providing that the State Board of Community Colleges, rather than the division, shall submit a priority list for capital outlay; adding a new subsection (3) to s. 240.115, Florida Statutes, providing that the articulation agreement established by the Department of Education shall identify certain skills and define performance standards; adding new subsections (6) and (7) to s. 240.147, Florida Statutes, providing that the Postsecondary Education Planning Commission shall recommend the establishment of branch campuses and review postsecondary education budget requests; amending s. 240.233(1), Florida Statutes, 1982 Supplement, correcting a cross reference; amending s. 240.301, Florida Statutes, providing the mission of the Community College System; amending ss. 240.305, 240.307(1) and (4), and 240.309(1), Florida Statutes, establishing the State Board of Community Colleges to replace the State Community College Coordinating Board and providing for appointment of members and organization; amending s. 240.311, Florida Statutes, 1982 Supplement, providing powers and duties of the board, which shall include establishing ranges for student fees; providing for the appointment of a Chancellor of the Community College System and providing duties; amending ss. 240.313(3) and (6) and 240.317, Florida Statutes, revising provisions relating to appointment of members of community college district boards of trustees; providing for rules; amending s. 240.319, Florida Statutes, 1982 Supplement, revising powers and duties of district boards of trustees; amending s. 240.321, Florida Statutes, relating to communication and computation skills necessary for admission to degree programs; creating ss. 240.3215 and 240.322, Florida Statutes, providing for performance standards for degrees and limiting remedial courses; amending ss. 240.327(1), 240.339, 240.341, and 240.343, Florida Statutes, and s. 240.335, Florida Statutes, 1982 Supplement, clarifying and conforming language; amending ss. 240.345, 240.347, 240.349(1), and 240.351, Florida Statutes, relating to student fees and the State Community College Program Fund; amending s. 240.359(3)(c) and (h), Florida Statutes, 1982 Supplement, and adding new paragraphs (d), (e), and (f) to subsection (1) and adding subsection (5) thereto, providing for program priority for funding, financing of program costs, and reporting of remedial education; amending ss. 240.361, 240.363, and 240.377, Florida Statutes, clarifying and conforming language; creating the Task Force on Vocational Education and providing for appointment of members and for organization, compensation and objectives thereof; providing for a report; providing for review and repeal; providing an effective date.

—was referred to the Committees on Education, Appropriations, and Rules and Calendar.

By the Committee on Regulatory Reform—

HB 1164—A bill to be entitled An act relating to migrant labor camps; amending s. 381.422, Florida Statutes, to clarify, update, and provide new definitions; amending s. 381.432, Florida Statutes, requiring a permit prior to establishment, operation, or maintenance of a migrant labor camp; requiring notice to the Department of Health and Rehabilitative Services prior to establishment, operation, or maintenance of a migrant dwelling unit; amending s. 381.442, Florida Statutes, requiring appropriate application to be filed; amending s. 381.452, Florida Statutes, clarifying and deleting obsolete language; requiring notice of closure; amending s. 381.462, Florida Statutes, providing for revocation of permit under certain circumstances; amending s. 381.472, Florida Statutes, directing the Department of Health and Rehabilitative Services to adopt necessary rules; amending s. 381.482, Florida Statutes, relating to the right of entry of the department; requiring annual departmental reports; saving the aforesaid sections of chapter 381, Florida Statutes, from Sunset review and repeal scheduled October 1, 1983; providing for future review and repeal in accordance with the Regulatory Sunset Act; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Representative MacKenzie—

HB 322—A bill to be entitled An act relating to motor vehicle licensing; amending s. 316.605, Florida Statutes, allowing a moped owner 10-days operation without display of a license plate; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Appropriations and Representatives Davis and Metcalf—

HB 1339—A bill to be entitled An act relating to state government; creating an Equity Pay Study Committee; providing for membership, terms, organization, and purpose of the committee; requiring an annual report to the Legislature; providing an appropriation; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Rules and Calendar.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 359, HB 468, CS for CS for HB 58, CS for HB 675, HB 1321, HB 677, HB 401 and HB 1075 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representatives Carlton and Bass—

HB 359—A bill to be entitled An act relating to land and water management; amending s. 380.04(1), Florida Statutes; providing a technical change to the definition of "development"; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation, and Appropriations.

By Representative Silver—

HB 468—A bill to be entitled An act relating to hospitals; creating s. 395.0175, Florida Statutes, prohibiting certain alteration, destruction, or removal of hospital patient records; providing a penalty; providing for review and repeal; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services, and Judiciary-Criminal.

By the Committees on Appropriations and Natural Resources and Conservation and Representative Burrell and others—

CS for CS for HB 58—A bill to be entitled An act relating to land acquisition; authorizing the Department of Natural Resources to acquire by eminent domain specific parcels of land; amending s. 253.023(8), Florida Statutes, 1982 Supplement; providing that the Conservation and Recreation Lands Trust Fund may be used to pay all costs associated with condemnation of such parcels; adding s. 375.041(5), Florida Statutes; providing that the Land Acquisition Trust Fund may be used to pay all costs associated with condemnation of such parcels; providing intent; authorizing the South Florida Water Management District to acquire by eminent domain certain parcels of land; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation, and Appropriations.

By the Committee on Regulatory Reform and Representative Lippman—

CS for HB 675—A bill to be entitled An act relating to chiropractic; amending s. 460.406(2), Florida Statutes; extending the date for waiver of accreditation and approval requirements for chiropractic colleges; providing additional provisions for waiver; deleting requirement for department to make available certain courses; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Finance and Taxation—

HB 1321—A bill to be entitled An act relating to ad valorem taxation; amending ss. 30.49(4) and 129.201(4), Florida Statutes, 1982 Supplement; specifying that changes may be made in the proposed budget of the sheriff or supervisor of elections at any hearing under s. 200.065, Florida Statutes; amending s. 193.122, Florida Statutes, 1982 Supplement; providing procedures for a certification of assessment rolls by the property appraisal adjustment board when rolls are extended prior to completion of board hearings under certain circumstances; providing for a second certification and for recertification of the tax rolls by the property appraiser; providing for extension of taxes against parcels subject to judicial or administrative review; providing for submission of assessment rolls to the executive director of the Department of Revenue after recertifica-

tion; amending ss. 193.076(3) and 193.077(3), Florida Statutes, relating to duties of property appraiser with respect to listing property of new businesses and property separately assessed as expansion-related property, to conform; amending s. 195.052, Florida Statutes, 1982 Supplement; correcting a cross reference; amending s. 194.171, Florida Statutes, 1982 Supplement; providing that the time limitation for actions to contest an assessment shall be 60 days from the date of recertification under certain circumstances; requiring that a taxpayer pay not less than the amount of tax he admits to be owing before bringing an action to contest an assessment; providing that payment of tax shall not be deemed an admission that the tax was due and shall not prejudice the taxpayer's right to bring action; providing that certain requirements are jurisdictional; amending s. 197.0134, Florida Statutes, 1982 Supplement; providing that no tax certificate or warrant shall be issued with respect to delinquent taxes on certain property if a petition with respect thereto has not received final action by the property appraisal adjustment board; amending s. 200.001(8)(f), Florida Statutes, 1982 Supplement; revising the definition of "voted millage"; amending s. 200.085(2)(a), Florida Statutes, 1982 Supplement, and adding paragraph (2)(c) and subsections (5) and (6); removing a limitation on authority of local governments to exceed millage limitations imposed with respect to the second and third years of participation in the local government half-cent sales tax; authorizing certain counties which borrowed money during fiscal year 1981-1982 as the result of action by the Administration Commission to exceed said millage limitations; providing limitations; providing an exception to said millage limitations when the responsibility for providing certain services is legally transferred, providing an exception for certain newly created municipal service taxing units; providing that millage limitations imposed on local governments participating in the local government half-cent sales tax may be exceeded if approved by referendum; defining "voted millage" with respect to said section; repealing s. 218.60(1)(b), Florida Statutes, 1982 Supplement, and amending subsection (3) thereof; deleting a definition of "voted millage"; specifying that provisions relating to estimates of moneys provided to such participating local governments apply to the first year of participation; amending the introductory paragraph of s. 192.001, Florida Statutes, 1982 Supplement; providing that definitions set out in chapter 200, Florida Statutes, are applicable to provisions relating to ad valorem tax administration; amending s. 200.069, Florida Statutes, 1982 Supplement; revising requirements with respect to the format of the notice of proposed property taxes; providing for an entry for water management districts, for a single entry for other independent special districts, and a single entry for voted levies for debt service; providing for inclusion of special assessments collected using the ad valorem method; modifying the requirement that the form approximate the facsimile set out in chapter 80-274, Laws of Florida; deleting a requirement that the notice for an upcoming year in which a county or municipality will first receive funds from the local government half-cent sales tax shall contain a statement with respect thereto; amending s. 218.63(4), Florida Statutes, 1982 Supplement; deleting a requirement that in the year preceding the year of such initial receipt of funds, proposed millage rates submitted to the property appraiser shall be accompanied by the "rates without sales tax"; amending s. 197.0126, Florida Statutes, 1982 Supplement; specifying that provisions which authorize the collection of special assessments in the same manner as ad valorem taxes shall be optional, rather than mandatory, subject to certain conditions; providing for application of certain collection and commission provisions; providing alternative procedures; exempting certain special assessments for 1982 from certain requirements; amending s. 196.111, Florida Statutes; providing that certain notice to taxpayers with respect to application for homestead exemption and reimbursement therefor by the county shall be optional, rather than mandatory; creating s. 194.013, Florida Statutes; authorizing property appraisal adjustment boards to impose, by resolution, a fee for the filing of petitions; providing exemptions; providing for disposition of such fees and for refund under certain circumstances; providing for waiver of the fee for certain taxpayers; amending s. 194.032(1), Florida Statutes, 1982 Supplement; deleting provisions relating to shortening of time periods specified with respect to hearings of said boards; renumbering portions of s. 194.032, Florida Statutes, 1982 Supplement, relating to property appraisal adjustment board hearings, as ss. 194.034, 194.035, 194.036, and 194.037, Florida Statutes, and amending subsections (3), (5), and (6); correcting cross references; providing that property appraisers, petitioners, and witnesses shall be required on request of either party to testify under oath; revising provisions relating to testimony and materials denied to the property appraiser by the petitioner; transferring and amending s. 194.032(7), Florida Statutes, 1982 Supplement; amending s. 193.122(3) and (5), Florida Statutes, 1982 Supplement, and s. 194.181(1) and (2), Florida Statutes; correcting cross references; amending s.

200.065(2)(d) and (f), (3)(f), and (11)(a), Florida Statutes, 1982 Supplement; clarifying language; revising time periods with respect to public hearings to finalize the budget, school district tentative budget advertisements and hearings, and required periods between mailing of notice and hearing; revising time periods with respect to budget hearing held by a multicounty taxing authority when mailing of notice of proposed taxes is delayed beyond August 29 or beyond August 15; providing for determination of date of commencement of specified time periods; amending s. 200.066, Florida Statutes, 1982 Supplement; prohibiting a unit of local government or a dependent special taxing district created or established after January 1 from levying an ad valorem tax for the upcoming year; amending s. 200.068, Florida Statutes, 1982 Supplement; requiring that a copy of the property appraisal adjustment board's notice of tax impact be included as part of a county's certification of compliance with millage determination requirements to the Department of Revenue; amending s. 236.081(4), Florida Statutes; revising provisions relating to prescription of required local effort for school districts by the Legislature; revising deadlines for certification by the department to the Commissioner of Education of assessed valuations for school purposes and for computation by the commissioner of millage rate necessary to generate required local effort; providing for utilization of 95 percent of nonexempt assessed valuation when computing millage required for equalization; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Representative Reddick and others—

HB 677—A bill to be entitled An act relating to educational research and development; amending the introductory paragraph of s. 229.561, Florida Statutes, including the analysis of certain student assessment tests and teacher certification examinations as part of the Educational Research and Development Program under the Commissioner of Education; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Thomas—

HB 401—A bill to be entitled An act relating to cosmetology; amending s. 477.019(1)(b), Florida Statutes, removing a limitation with respect to standards established by the Board of Cosmetology pursuant to training required to qualify for licensure; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Regulatory Reform—

HB 1075—A bill to be entitled An act relating to rehabilitation of drug dependents; amending s. 397.011, Florida Statutes, clarifying purpose and intent; amending s. 397.021(3), (4), (5), and (6), Florida Statutes; redefining certain terms; redesignating DATE centers as DATAP programs and changing the components thereof; amending s. 397.051, Florida Statutes, requiring certain treatment programs, rather than the Department of Health and Rehabilitative Services, to receive applications for admission and to establish a fee system; amending s. 397.052(2) and (4), Florida Statutes, requiring the court to issue a specified summons and increasing the period of involuntary treatment; creating s. 397.0525, Florida Statutes, authorizing the directors of certain drug treatment programs to refuse to admit persons to or to expel persons from their programs; amending s. 397.055(1), Florida Statutes, deleting provisions relating to the collection of fees for drug abuse care, maintenance, or treatment; amending s. 397.081, Florida Statutes, authorizing certain accreditation in lieu of written application requirements of licensure; authorizing licensure fees; amending s. 397.091(1), Florida Statutes, and adding a new subsection (1), authorizing the issuance of a probationary license; amending s. 397.096, Florida Statutes, providing for the confidentiality of certain treatment records; amending s. 397.20, Florida Statutes, increasing the period of treatment for which the payment is reimbursable; amending ss. 397.031(1), (4), and (5), 397.041(4), 397.061, 397.071, 397.092, 397.094, 397.095, 397.098, 397.12, 397.13, 397.14, 397.15, 397.16, 397.17, 397.18, and 397.19, Florida Statutes, to conform to the act; generally conforming new language throughout chapter 397, Florida Statutes; repealing s. 397.11, Florida Statutes, relating to definitions; saving ss. 397.071-397.099, Florida Statutes, from sunset review and repeal scheduled October 1, 1983; providing for future review and repeal of said sections; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has adopted HM 773 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Selph and others—

HM 773—A memorial to the Congress of the United States, urging Congress to advocate free, fair, and open access to overseas markets for American agricultural products.

—was referred to the Committee on Rules and Calendar.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed House Bills 735, 738, 742, 744, 746, 804, 896, 920, 973, 1005, 1006, 1025, 1064, 1111, 1244, 1310, 1337, 142, 223, 382, 387, 482, 506, 526, 568 and 745 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Hill—

HB 735—A bill to be entitled An act relating to Jupiter Inlet District, a special taxing district in Palm Beach County; repealing s. 2 of chapter 16057, Laws of Florida, 1933, and amending s. 11 of chapter 8910, Laws of Florida, 1921, as amended, to remove the existing temporary borrowing limitation of \$7,500 on principal outstanding at any one time, and to permit borrowing by the District for periods not to exceed 1 year, in an aggregate principal amount not exceeding its next prior year's ad valorem tax receipts, permitting unrestricted borrowing against pledged time deposits; amending s. 25 of chapter 8910, Laws of Florida, 1921, to permit funds of the District to be paid out by check or warrant signed by any two commissioners of the District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hill—

HB 738—A bill to be entitled An act relating to Northern Palm Beach County Water Control District, Palm Beach County; amending s. 6 of chapter 59-994, Laws of Florida; providing for a quorum of landowners at landowners' meetings; amending s. 22 of chapter 59-994, Laws of Florida; providing for an alternate method of creating units of development and providing for the levy of an organizational special assessment; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Healey and others—

HB 742—A bill to be entitled An act relating to Palm Beach County; providing for legislative intent; providing uniform filing dates and uniform election dates for municipal elections; providing for terms of office; providing for correspondence of terms of municipal office to the common dates provided in this act; providing that the general law for absentee ballots shall apply to all absentee ballots in municipal elections; providing for exemptions; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Healey—

HB 744—A bill to be entitled An act relating to the West Palm Beach Downtown Development Authority, Palm Beach County; amending s. 3 of chapter 67-2170, Laws of Florida, as amended, increasing and expanding the Downtown area description and extending the annual 1 mill tax levy to the entire area within the district of the Downtown Development Authority, including the newly annexed area; amending s. 4 of chapter 67-2170, Laws of Florida, increasing the number of board members from five to seven; providing for a referendum election; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative M. E. Hawkins—

HB 746—A bill to be entitled An act relating to the East Naples Fire Control District, Collier County; amending sections 1 and 2 of chapter 61-2034, Laws of Florida; changing the boundaries of the district to include certain lands described herein; providing for compensation of members of the district board; providing for the issuance of general obligation bonds of the district; providing for the power of eminent domain; providing for referendums on the change in district boundaries and eminent domain; repealing section 16 of chapter 61-2034, Laws of Florida, relating to an election for ratification of the act; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Harris—

HB 804—A bill to be entitled An act relating to the Hendry County Hospital Authority; amending sections 14 and 15 of chapter 67-1446, Laws of Florida, as amended, relating to the levy of ad valorem taxes; providing for a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative McEwan and others—

HB 896—A bill to be entitled An act relating to Orange County, the West Orange Memorial Hospital Tax District; amending sections 2 and 4 of chapter 26066, Laws of Florida, 1949, as amended; providing for the appointment of six (6) additional trustees; providing for the terms and appointments thereof; providing for term and replacement of a trustee who dies, resigns or is removed for cause; providing terms of trustees to end at the end of tax district's fiscal year; providing for limitation of terms of trustees; changing the number of trustees required to constitute a quorum and to transact business after the additional six (6) trustees have been appointed; amending section 5 of chapter 26066, Laws of Florida, 1949, as amended, to further define the term "hospital"; amending section 7 of chapter 26066, Laws of Florida, 1949, as amended, for the Board of Trustees to determine the periods of time for which money is to be borrowed, the interest rates and the amounts to be borrowed; providing that the provision for borrowing is supplemental, additional and an alternative method to any other powers conferred by other laws; amending section 8 of chapter 26066, Laws of Florida, as amended; providing that amounts to be borrowed, amounts of bonds to be issued and sold, rates of interest thereon, and times and place of payment are to be as determined by the Board of Trustees; amending section 17 of chapter 26066, Laws of Florida, 1949, expanding the definition of reasonable and necessary expenses; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Lippman and others—

HB 920—A bill to be entitled An act relating to Broward County and the South Broward Hospital District; amending s. 9 of chapter 24415, Laws of Florida, 1947, as amended, authorizing the South Broward Hospital District to borrow money and to issue anticipation time warrants, including bond anticipation notes, grant anticipation notes, revenue anticipation notes, and tax anticipation notes, and to issue the same in the form of commercial paper, having such maturities, not in excess of 5 years, form, and terms and bearing interest at such rate or rates, including variable rates, as shall be determined by the Board of Commissioners or by the Chairman, the Vice-Chairman, or the Secretary-Treasurer within guidelines and limits determined by the Board of Commissioners, and to refund any or all previously issued anticipation time warrants; adding s. 39 to chapter 24415, Laws of Florida, 1947, as amended, to repeal provisions which conflict with the provisions of s. 215.84, Florida Statutes, relating to interest rates which may be paid on bonds, and s. 218.385, Florida Statutes, relating to the sale of general obligation bonds and revenue bonds; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley and others—

HB 973—A bill to be entitled An act relating to the East Mulloch Drainage District in Lee County; amending s. 1 of chapter 63-930, Laws of Florida; amending district boundaries; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Arnold and others—

HB 1005—A bill to be entitled An act relating to the Tice Fire Protection and Rescue Service District in Lee County; amending ss. 3(4), 9(1), 10, 11(2), 12(2), chapter 76-410, Laws of Florida; authorizing operation and maintenance of emergency fire rescue services; eliminating the cap on the debt which the district may incur; providing for an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley and others—

HB 1006—A bill to be entitled An act relating to Lee County; amending s. 5(2), chapter 76-408, Laws of Florida; increasing the millage rate cap of the Estero Fire Protection and Rescue Service District; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley and others—

HB 1025—A bill to be entitled An act relating to the Iona-McGregor Fire Protection and Rescue Service District, Lee County; amending sections 5(1), (2), 6(1), (2); 7; 8(1), and repealing sections 1(5), (6); 5(3) of chapter 75-421, Laws of Florida; authorizing the district board to levy a tax not to exceed 1.75 mills; to pay for the operation and maintenance of a fire department and fire rescue service; repealing the district's assessment power and the cost of living adjustments to the assessment rate structure; repealing definitions of "residence" and "business"; providing a referendum; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Arnold and others—

HB 1064—A bill to be entitled An act relating to Lee County; amending section 9(1) of chapter 76-412, Laws of Florida, relating to the South Trail Fire Protection and Rescue Service District; removing the accumulative debt ceiling of the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Arnold and others—

HB 1111—A bill to be entitled An act relating to Lee County; relating to the Matlacha-Pine Island Fire Control District; amending s. 3 of chapter 63-1558, Laws of Florida, as amended; providing authority to operate a rescue service; providing limitations; providing for borrowing power for the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peeples and others—

HB 1244—A bill to be entitled An act relating to the Lehigh Acres Fire Control and Rescue District; adding section 3-A to chapter 63-1546, Laws of Florida, as amended; expanding the boundaries of the district; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Mitchell—

HB 1310—A bill to be entitled An act relating to Jackson County; establishing and organizing a municipality to be known and designated as

the City of Jacob City in said county; defining its territorial boundaries; providing for its government, jurisdiction, powers, franchises, immunities, privileges and means for exercising the same; prescribing the general powers to be exercised by said city; providing a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Dudley and others—

HB 1337—A bill to be entitled An act relating to Lee County; providing that the Board of County Commissioners of Lee County may assume responsibility for the debts and obligations of the East Mulloch Drainage District and for the operation and maintenance of drainage control structures and systems of the district; providing for the repeal of chapters 63-930 and 65-912, Laws of Florida, and for the abolition of the district upon the assumption of such responsibility; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peeples—

HB 142—A bill to be entitled An act relating to Charlotte County; amending section 4 of chapter 69-931, Laws of Florida, as amended, relating to the Harbour Heights Fire Control District, changing the maximum rate of assessments on property within the district; providing for severability; providing for a referendum.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Locke and Hodges—

HB 223—A bill to be entitled An act relating to Citrus County, Homosassa Special Water District; amending Section 1 of Chapter 59-1177, Laws of Florida, as amended, relating to the territorial limits of the district; providing for a referendum in the existing district limits and in the area to be included; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Burrall—

HB 382—A bill to be entitled An act relating to the South Venice Special Tax Road District, Sarasota County; amending sections 3 and 4 of chapter 57-1839, Laws of Florida, as amended, relating to the budget and taxing powers of the trustees; raising the tax cap; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Danson—

HB 387—A bill to be entitled An act relating to Sarasota County; amending Chapters 81-488 and 81-489, Laws of Florida, deleting certain lands from the Fruitville Area Fire Control District and adding such lands to the Northeast Fire District; providing for the pro-rata division of assessments collected on said lands between the two fire districts; providing that unpaid assessments for the current year on the subject lands shall become a lien in favor of the Northeast Fire District; directing the County tax collector to pay over collections on such assessments after the effective date of this act to the Northeast Fire District; requiring Northeast Fire District to pay over to Fruitville Area Fire Control District the pro-rata share of Fruitville Area Fire Control District's share of such collections; requiring the Fruitville Area Fire Control District to pay over to the Northeast Fire District all impact fees collected for construction in the area after a specified date; providing a time period in which such payments must be made; providing that certain lands heretofore incorporated in both districts are properly part of Northeast Fire District; ratifying previous actions treating lands as part of Northeast Fire District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative B. L. Johnson—

HB 482—A bill to be entitled An act relating to Santa Rosa County; adding certain lands to the Skyline Fire Protection and Rescue Service District; amending section 5(3) of chapter 80-606, Laws of Florida, to provide for a change in the rate of special assessment the board is authorized to levy; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 506—A bill to be entitled An act relating to Manatee County, Oneco-Tallevast Fire Control District; amending subsection (1) of Section 4 of Chapter 57-1545, Laws of Florida, as amended; increasing the maximum assessments which may be levied against taxable real property within the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 526—A bill to be entitled An act relating to the Braden River Fire Control and Rescue District, Manatee County; amending Section 9 of chapter 80-538, Laws of Florida, amending the district's power and authority to borrow money for district purposes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Danson—

HB 568—A bill to be entitled An act relating to the Tri-Par Estates Park and Recreation District, Sarasota County; amending section 5 of chapter 78-618, Laws of Florida, as amended, changing qualifications for electors in the district; amending section 7 of chapter 78-618, Laws of Florida, redefining "improved residential parcel" for unit tax assessment purposes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative M. E. Hawkins—

HB 745—A bill to be entitled An act relating to the North Naples Fire Control District, Collier County; amending sections 1, 2, and 4 of chapter 61-2032, Laws of Florida, as amended, adding subsections 21, 22, and 23 thereto, and repealing subsections 3 and 16 thereof; changing the boundaries of the district; providing for the election of the district board; providing for compensation of the members of the district board; modifying provisions relating to payment of expenses of the district board; providing for issuance of general obligation bonds of the district; providing for the power of eminent domain; repealing chapters 75-359, 77-533, 78-493, 80-488, and 82-283, Laws of Florida, relating to the district, to conform; providing an effective date and providing that the power of eminent domain shall only become effective upon approval at a special election.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 449 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Shackelford—

HB 449—A bill to be entitled An act relating to the Palmetto Fire Control District, Manatee County; amending section 7 and adding section 19 to chapter 63-1593, Laws of Florida, as amended; relating to the rate of special assessments to be levied against lands in the district, to establish the maximum amount which may be levied upon specific categories of property after the year 1981; establishing a category for emergency services rendered to motor vehicles; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SPECIAL ORDER

Consideration of Senate Bills 537 and 682 was deferred.

CS for SB 56—A bill to be entitled An act relating to a surtax on documents; creating s. 125.0167, Florida Statutes; authorizing each county to levy a discretionary surtax on certain documents to provide to certain families financial assistance to buy, rehabilitate, or rent homes or apartments; providing limitations and procedures; creating s. 201.031, Florida Statutes; providing for the levy of the surtax; providing for the administration, collection, and distribution of the proceeds of the surtax; providing an exception; requiring an annual report to the Department of Banking and Finance; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Meek and adopted:

Amendment 1—On page 3, line 10, after "county" insert: , as defined in s. 125.011(1),

Senator Meek moved the following amendments which were adopted:

Amendment 2—On page 1, line 19, strike everything after the enacting clause and insert:

Section 1. Section 125.0167, Florida Statutes, is created to read:

125.0167 Discretionary surtax on documents; adoption; application of revenue.—

(1) Pursuant to the provisions of s. 201.031, the governing authority in each county, as defined by s. 125.011(1), is authorized to levy a discretionary surtax on documents for the purpose of establishing and financing a Home Ownership Assistance Loan Trust Fund to assist low and moderate income families in the purchase of a home or an apartment, or the rehabilitation of an existing home or apartment. No less than 50 percent of the funds used in each county to provide such housing assistance shall be for the benefit of low income families. For the purpose of this section, "low income family" means a family whose income does not exceed 80 percent of the median income for the area, and "moderate income family" means a family whose income is in excess of 80 percent but less than 140 percent of the median income for the area. For purposes of this section, the term "home" is not limited to single-family, detached dwellings. The rate of the surtax shall not exceed the rate of the excise tax on documents under chapter 201. Such surtax shall apply only to those documents taxable under s. 201.02, except that there shall be no surtax on any document pursuant to which the interest granted, assigned, transferred, or conveyed involves only a single-family residence. Such single-family residence may be a condominium unit, a unit held through stock ownership or membership representing a proprietary interest in a corporation owning a fee or a leasehold initially in excess of 98 years, or a detached dwelling.

(2) The levy of the discretionary surtax and the creation of a Home Ownership Assistance Loan Trust Fund shall be by ordinance which shall set forth the policies and procedures of the assistance program. The ordinance shall be proposed at a regular meeting of the governing authority at least 2 weeks prior to formal adoption. Formal adoption shall not be effective unless approved on final vote by a majority of the total membership of the governing authority. The ordinance shall not take effect until 90 days after formal adoption.

(3) The county shall deposit revenues from the discretionary surtax in the Home Ownership Assistance Loan Trust Fund of the county and shall use the revenues only to assist low and moderate income families in financing the purchase of a home or an apartment, or the rehabilitation of an existing home or apartment owned by the applicant, and to pay necessary costs of collection and enforcement of the surtax. The proceeds of the surtax shall not be used for rent subsidies or grants.

(4) This section shall stand repealed 10 years after its effective date.

Section 2. Section 201.031, Florida Statutes, is created to read:

201.031 Discretionary surtax; administration and collection; Home Ownership Assistance Loan Trust Fund; reporting requirements.—

(1) Each county, as defined by s. 125.011(1), may levy, subject to the provisions of s. 125.0167, a discretionary surtax on documents taxable under the provisions of s. 201.02, except that there shall be no surtax on any document pursuant to which the interest granted, assigned, transferred, or conveyed involves only a single-family residence. Such single-family residence may be a condominium unit, a unit held through stock ownership or membership representing a proprietary interest in a corporation owning a fee or a leasehold initially in excess of 98 years, or a detached dwelling.

(2) All provisions of chapter 201, except 201.15, shall apply to the surtax. The Department of Revenue shall pay to the governing authority of the county which levies the surtax all taxes, penalties, and interest collected under this section less any costs of administration.

(3) Each county which levies the surtax shall include in the financial report required under s. 218.32 information showing the revenues and the expenses of the trust fund for the fiscal year.

Section 3. This act shall take effect July 1, 1983, and the provisions thereof shall expire and be void and inoperative on July 1, 1993.

Amendment 3—In title, on page 1, line 8, after the semicolon (;) insert: providing for future repeal of said section;

Amendment 4—In title, on page 1, strike all of lines 1-15 and insert: A bill to be entitled An act relating to a surtax on documents; creating s. 125.0167, Florida Statutes; authorizing certain charter counties to levy a discretionary surtax on certain documents to provide to certain families financial assistance to buy or rehabilitate homes or apartments; providing limitations and procedures; providing for future repeal of said section; creating s. 201.031, Florida Statutes; providing for the levy of the surtax; providing for the administration, collection, and distribution of the proceeds of the surtax; providing an exception; requiring an annual report to the Department of Banking and Finance; providing effective and expiration dates.

On motion by Senator Meek, by two-thirds vote CS for SB 56 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24

Mr. President	Fox	Hair	McPherson
Barron	Frank	Hill	Meek
Castor	Gersten	Jenne	Plummer
Childers, D.	Girardeau	Johnston	Stuart
Childers, W. D.	Grant	Malchon	Thurman
Dunn	Grizzle	Maxwell	Vogt

Nays—5

Beard	Henderson	Neal
Crawford	Langley	

Vote after roll call:

Yea—Gordon, Jennings, Margolis, Myers

On motion by Senator Gersten, by unanimous consent the Senate reverted to consideration of—

SB 537—A bill to be entitled An act relating to deceptive and unfair trade practices; amending s. 501.204, Florida Statutes; providing for interpretation of the Florida Deceptive and Unfair Trade Practices Act in accordance with that of the Federal Trade Commission Act as in effect on April 1, 1983, amending s. 501.205(2), Florida Statutes; providing that rules and regulations promulgated under the Florida Deceptive and Unfair Practices Act shall be consistent with the Federal Trade Commission Act as in effect on April 1, 1983; creating s. 501.2075, Florida Statutes; providing for civil penalties for violation of the Florida Deceptive and Unfair Trade Practices Act; providing an effective date.

—which was read the second time by title.

The Committee on Judiciary-Civil recommended the following amendments which were moved by Senator Gersten and adopted:

Amendment 1—On page 2, line 20, after “part,” insert: with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive or is prohibited by rule,

Amendment 2—On page 2, line 26, after the period (.) insert: The Department or the court may waive any such civil penalty if the person, firm, corporation, association, or entity or agent or employee of the foregoing, has previously made full restitution or reimbursements, or has paid actual damages to the consumers who have been injured by the unlawful act or practice or rule violation.

Senator Gersten moved the following amendments which were adopted:

Amendment 3—On page 1, strike line 21, and insert:

Section 1. Subsection (2) of section 501.204, Florida Statutes, is

Amendment 4—On page 1, strike lines 27 and 28, and insert:

(2) It is the intent of the Legislature that, in construing subsection (1) of this section, due consideration

Amendment 5—On page 2, line 6, hyphen through the words “and regulations”

Amendment 6—On page 1, line 15, strike “reimbursements” and insert: reimbursement

Amendment 7—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Florida Deceptive and Unfair Trade Practices Act; amending s. 501.204(2), Florida Statutes, updating cross references to the Federal Trade Commission Act; amending s. 501.205(2), Florida Statutes, updating cross references to the Federal Trade Commission Act; creating s. 501.2075, Florida Statutes, providing for civil penalties; providing an effective date.

Pending further consideration of SB 537 as amended, on motion by Senator Gersten, the rules were waived and by two-thirds vote HB 117 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Gersten—

HB 117—A bill to be entitled An act relating to the Florida Deceptive and Unfair Trade Practices Act; amending s. 501.204(2), Florida Statutes, updating cross references to the Federal Trade Commission Act; amending s. 501.205(2), Florida Statutes, updating cross references to the Federal Trade Commission Act; creating s. 501.2075, Florida Statutes, providing for civil penalties; providing an effective date.

—a companion measure, was substituted for SB 537 and read the second time by title. On motion by Senator Gersten, by two-thirds vote HB 117 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Fox	Hill	McPherson
Barron	Frank	Jenne	Myers
Beard	Gersten	Jennings	Plummer
Carlucci	Girardeau	Johnston	Stuart
Castor	Gordon	Kirkpatrick	Thurman
Childers, D.	Grant	Langley	Vogt
Childers, W. D.	Grizzle	Malchon	Weinstein
Crawford	Hair	Margolis	
Dunn	Henderson	Maxwell	

Nays—None

SB 537 was laid on the table.

SB 682—A bill to be entitled An act relating to game promotions; amending s. 849.094, Florida Statutes, redefining the term “game promotion”; prohibiting a game operator from requiring a fee or proof of purchase as a condition for game entry; exempting certain game promotions from registration requirement; requiring a filing fee; requiring financial institutions holding game promotion trust accounts and game operators who obtain a surety bond in lieu of establishing a trust account to file certain information with the Department of Legal Affairs; providing for waiver of certain requirements; providing methods for informing the public of prizes offered and prize winners and extending the filing deadline for such information; transferring jurisdiction over violations of game promotion laws; providing an effective date.

—was read the second time by title.

Senator Gordon presiding

The Committee on Economic, Community and Consumer Affairs recommended the following amendments which were moved by Senator Gersten and adopted:

Amendment 1—On page 5, line 9, strike “comply with” and insert: register under

Amendment 2—On page 5, line 17, strike “60” and insert: 90

Amendment 3—On page 5, line 20, after “operator” insert: *In lieu of the foregoing, the operator of a game promotion may, at his option, publish the same information about the winners in a Florida newspaper of general circulation within 60 days after such winners have been determined and shall provide the Department of Legal Affairs a certified copy of the publication containing the information about the winners*

Amendment 4—On page 7, strike all of lines 10-13 and insert:

~~(10) This section shall not apply to a game promotion conducted in less than three retail outlets or at places where such game promotion may be played or participated in by the public. This section does not~~ **Nothing herein shall apply to**

Senator Gersten moved the following amendments which were adopted:

Amendment 5—On page 1, strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (1), subsections (3), (4), and (5), paragraph (b) of subsection (8), and subsection (10) of section 849.094, Florida Statutes, are amended, and paragraph (e) is added to subsection (2) of said section, to read:

849.094 Game promotion in connection with sale of consumer products or services.—

(1) As used in this section:

(a) “Game promotion” means, but is not limited to, a “contest,” “game of chance, or” and “gift enterprise, conducted within or throughout the state and other states in connection with the sale of consumer products or services, and” in which the elements of chance and prize are present. However, “game promotion” shall not be construed to apply to bingo games or guest games conducted pursuant to s. 849.093.

(2) It is unlawful for any operator:

(e) *To require an entry fee, payment, or proof of purchase as a condition of entering the game promotion.*

(3) ~~All rules and regulations promulgated by~~ The operator of a such game promotion in which the total announced value of the prizes offered is greater than \$5,000 shall ~~must be filed~~ with the Department of Legal Affairs a copy of the rules and regulations of the game promotion and a list of all prizes and prize categories offered at least 30 days prior to ~~in advance of~~ the commencement of the game promotion. Such rules and regulations and may not thereafter be changed, modified, or altered. The operator of a game promotion ~~Such rules and regulations shall be~~ conspicuously ~~post~~ the rules and regulations of such game promotion ~~posted~~ in each and every retail outlet or place where such game promotion may be played or participated in by the public and shall also ~~publish the rules and regulations be published~~ in all advertising copy used in connection therewith. Radio and television announcements may indicate that the rules and regulations are available at retail outlets or from the operator of the promotion. A nonrefundable filing fee of \$100 shall accompany each filing and shall be deposited into the Consumer Frauds Trust Fund and utilized for the enforcement of this section or for the purposes specified in s. 501.2101(2).

(4)(a) Every operator of such a game promotion in which the total announced value of the prizes offered is greater than \$5,000 ~~conducted in the state~~ shall establish a trust account, in a national or state-chartered financial institution, with a balance sufficient to pay or purchase the total value of all prizes offered. On a form supplied by the Department of Legal Affairs, an official of the financial institution holding the trust account shall set forth the dollar amount of the trust account, the identity of the entity or individual establishing the trust account, and the name of the game promotion for which the trust

account has been established. Such form shall be filed with the Department of Legal Affairs at least 30 days in advance of the commencement of the game promotion. In lieu of establishing such trust account, the operator may obtain a surety bond, with sufficient sureties, in an amount equivalent to the total value of all prizes offered, and such bond shall be filed with the Department of Legal Affairs at least 30 days in advance of the commencement of the game promotion. A copy of a certificate of deposit indicating the balance of the trust account or of the bond shall be filed with the Department of Legal Affairs simultaneously with the filing of rules and regulations as herein provided, together with a list of all prizes and prize categories offered. However, the Department of Legal Affairs may waive the provisions of this paragraph for any operator who has conducted game promotions in the state for not less than 5 consecutive years and who has not had any civil, criminal, or administrative action instituted against him by the Department of Legal Affairs for violation of this section within that 5-year period. Such waiver may be revoked upon the commission of a violation of this section by such operator as determined by the Department of Legal Affairs.

1.(b) The moneys so held in the trust account ~~eserow or the bond shall at all times equal the total amount of the prizes offered.~~ Moneys may be withdrawn, from time to time, in order to pay the prizes offered only upon certification to the Department of Legal Affairs of the name of the winner or winners and the amount of the prize or prizes and of the value thereof.

2. If the operator of a game promotion obtains a surety bond in lieu of the trust account, the amount of the surety bond shall equal at all times the total amount of the prizes offered.

(b) The Department of Legal Affairs may waive the provisions of this subsection for any operator who has conducted game promotions in the state for not less than 5 consecutive years and who has not had any civil, criminal, or administrative action instituted against him by the Department of Legal Affairs for violation of this section within that 5-year period. Such waiver may be revoked upon the commission of a violation of this section by such operator as determined by the Department of Legal Affairs.

(5) Every operator of such a game promotion in which the total announced value of the prizes offered is greater than \$5,000 ~~conducted in the state~~ shall provide the Department of Legal Affairs with a certified list of the ~~disclose to the public~~ names and addresses of all persons, whether from Florida or from another state, who have won prizes having a value of more than \$25, the value of such prizes, and the dates when the prizes were won, ~~by publication in a newspaper of general circulation within the local geographic area wherein such game was played, maintained, or operated,~~ within 60 ~~30~~ days after such winners have been finally determined. The operator shall provide a copy of the list of winners, without charge, to any person who requests it. In lieu of the foregoing, the operator of a game promotion may, at his option, publish the same information about the winners in a Florida newspaper of general circulation within 60 days after such winners have been determined, and shall provide the Department of Legal Affairs a certified copy of the publication containing the information about the winners. The operator of a game promotion shall not be required to notify a winner by mail or by telephone when the winner is already in possession of a game card from which the winner himself can determine that he has won a designated prize. A certified list thereof shall be ~~simultaneously filed with the Department of Legal Affairs.~~ All winning entries shall be held by the operator for a period of 90 ~~60~~ days after the close or completion of such game.

(8)

(b) Whenever the Department of Legal Affairs has reason to believe that such a game promotion is being operated in violation of this section, it may bring an action in the circuit court of any judicial circuit in which the game promotion is being operated ~~Supreme Court~~ in the name and on behalf of the people of the state against any operator thereof to enjoin the continued operation anywhere within the state of such game promotion.

(10) ~~This section shall not apply to a game promotion conducted in less than three retail outlets or at places where such game promotion may be played or participated in by the public. Nothing herein~~ This section shall not apply to actions or transactions regulated by the Department of Business Regulation or to the activities of nonprofit organizations or to any other organization engaged in any enterprise other than the sale of consumer products or services.

Section 2. This act shall take effect July 1, 1983.

Amendment 6—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to game promotions; amending s. 849.094(1)(a), (3), (4), (5), (8)(b), and (10), Florida Statutes, and adding paragraph (e) to subsection (2) thereof; redefining the term "game promotion"; providing that it is unlawful for a game operator to require an entry fee, payment, or proof of purchase as a condition of entering a game promotion; requiring a \$100 filing fee with respect to certain game promotions; requiring game operators to establish trust accounts in a described manner; providing for surety bonds; authorizing the department to waive such requirements under certain circumstances; deleting the requirement of newspaper publication of winners' lists, providing an alternative method of informing the public, and extending times for filing; requiring operators to provide a copy of the list of winners upon request to any person; providing that the Department of Legal Affairs may enforce the provisions of the section in circuit court rather than in the Supreme Court; deleting exclusion pertaining to game promotions conducted in less than three retail outlets; providing an effective date.

Pending further consideration of SB 682 as amended, on motions by Senator Gersten, the rules were waived and by two-thirds vote CS for HB 145 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Appropriations.

On motion by Senator Gersten—

CS for HB 145—A bill to be entitled An act relating to game promotions; amending s. 849.094(1)(a), (3), (4), (5), (8)(b), and (10), Florida Statutes, and adding paragraph (e) to subsection (2) thereof; redefining the term "game promotion"; providing that it is unlawful for a game operator to require an entry fee, payment, or proof of purchase as a condition of entering a game promotion; requiring a \$100 filing fee with respect to certain game promotions; requiring game operators to establish trust accounts in a described manner; providing for surety bonds; authorizing the department to waive such requirements under certain circumstances; deleting the requirement of newspaper publication of winners' lists, providing an alternative method of informing the public, and extending times for filing; requiring operators to provide a copy of the list of winners upon request to any person; providing that the Department of Legal Affairs may enforce the provisions of the section in circuit court rather than in the Supreme Court; deleting exclusion pertaining to game promotions conducted in less than three retail outlets; providing an effective date.

—a companion measure, was substituted for SB 682 and read the second time by title. On motion by Senator Gersten, by two-thirds vote CS for HB 145 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Carlucci	Grant	Langley	Plummer
Castor	Grizzle	Malchon	Rehm
Crawford	Hair	Margolis	Stuart
Dunn	Henderson	Maxwell	Thurman
Frank	Hill	McPherson	Weinstein
Gersten	Jenne	Meek	
Girardeau	Johnston	Myers	
Gordon	Kirkpatrick	Neal	

Nays—5

Beard	Childers, W. D.	Vogt
Childers, D.	Thomas	

Vote after roll call:

Yea—Fox

SB 682 was laid on the table.

On motion by Senator D. Childers, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 434 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committees on Appropriations and Regulatory Reform—

CS for HB 434—A bill to be entitled An act relating to nursing homes and related facilities; amending ss. 20.19(6)(f) and (7)(g) and 159.27(16), Florida Statutes, 1982 Supplement, correcting terminology and references to conform; revising part I of chapter 400, Florida Statutes; amending ss. 400.011, 400.021, 400.023, 400.041, 400.051, 400.063, 400.102(1), 400.121, 400.125(1)(a), 400.126(1)-(3) and (9)-(11), 400.141, 400.151, 400.17(2) and (5), 400.176(1), 400.179, 400.20(2), 400.23, 400.241, 400.261, 400.29, 400.311, and 400.321, Florida Statutes, amending s. 400.071(3)-(6), Florida Statutes, and adding new subsections thereto, and amending ss. 400.022, 400.062(3) and (4), 400.111, 400.162, 400.18, 400.19, 400.191, 400.211, 400.301, 400.304, 400.307, 400.314, and 400.317, Florida Statutes, 1982 Supplement; repealing s. 400.126(12), Florida Statutes; amending and transferring ss. 400.4175, 400.425, and 468.1801, Florida Statutes, 1982 Supplement, relating to standards for laboratory tests and X-rays, to itemized billing, and to certification of nursing assistants, to part I of chapter 400; reenacting and amending s. 400.322, Florida Statutes, relating to emergency medication kits, and repealing s. 5 of chapter 81-152, Laws of Florida, which provides for review and repeal thereof; generally revising part I of chapter 400, relating to regulation of nursing homes, to change "patient" to "resident" and "chapter" to "part" and to change certain references to "facility" to "licensee"; renaming the State Nursing Home and Long-Term Care Facility Ombudsman Committee and the district nursing home and long-term care facility ombudsman committees as the State Nursing Home and Long-Term Care Facility Ombudsman Council and the district nursing home and long-term care facility ombudsman councils, respectively; revising definitions; revising rights of residents with respect to transfer or discharge when the source of payment for care changes, providing rights with respect to bed reservation policy for hospitalization, and providing a penalty for certain actions against employees submitting, or desiring to submit, a complaint concerning a suspected violation; revising license fees and disposition thereof; establishing the Nursing Homes and Related Facilities Licensure Trust Fund and providing for disposition thereof; authorizing use of certain self-testing procedures; revising provisions relating to establishment of the Resident Protection Trust Fund, deposits therein and use of such funds; authorizing the Department of Health and Rehabilitative Services to establish, without advance approval, a separate bank account for each facility, subject to its intervention, for the deposit of moneys received from the trust fund; authorizing the department to requisition moneys from the trust fund in advance of need; providing for security and accounting; removing provisions relating to return of patients placed in alternate placement and termination of expenditure of funds on their behalf; restricting certain persons from being or becoming controlling persons in any nursing home; directing the department to establish standards with respect to an applicant's financial ability to operate a nursing home; providing that certain requirements relating to Medicaid recipients apply to all licensees other than those offering continuing care agreements; requiring a certificate of need; providing that certain license renewal applications received after the filing date shall not be subject to a fine; providing for issuance of a conditional license when certain judicial proceedings are pending against an applicant for renewal; revising provisions relating to conditions for appointment and qualifications of a receiver, and accounting to the court after termination; providing that failure of the department to relocate certain residents of certain facilities which are closing is not in and of itself grounds to petition for appointment of a receiver; authorizing certain reimbursement; establishing prima facie evidence that a facility cannot meet its financial obligations; providing financial liability of licensees placed in receivership; revising terminology with respect to relationships of certain outpatient clinics and nursing homes; providing that microfilms of contracts may be retained in lieu of original records; directing the department to specify an alternative method for notification to parties to the contract of changes in cost of supplies; revising provisions relating to trust funds and other property of deceased residents; providing for distribution of rules to nursing homes; modifying provisions relating to unannounced onsite facility reviews; specifying additional persons who are exempt from nursing assistant certification requirements, modifying said requirements, and revising time limitation for enrolling an uncertified employee in a certification program; providing for automatic certification of certain persons; providing additional time limitations; providing for construction standards; authorizing the department to require alterations; providing for standard, rather than "unrated," licenses; revising provisions relating to review of plans and specifications for new projects and fees therefor; deleting certain information relating to nursing home employees from annual report requirements; providing that ombudsman council members who are affil-

iated with a nursing home or long-term care facility shall not participate in investigation or inspection of that facility or in an appeal associated therewith, modifying council-member qualifications; correcting cross references; removing obsolete provisions and timetables; revising part II of chapter 400, Florida Statutes; amending s. 400.402(1), (5), (7), (8), (10), and (11), Florida Statutes, 1982 Supplement, and adding subsections (13) and (14) thereto, modifying and adding definitions; adding paragraph (e) and (f) to s. 400.404(2), Florida Statutes, exempting certain facilities from the part; adding subsection (8) to s. 400.407, Florida Statutes, providing a penalty; amending s. 400.411, Florida Statutes, 1982 Supplement; modifying provisions relating to initial application for license; requiring proof of liability insurance; requiring notice of changed ACLF administration; requiring notice of employment or utilization of any nurse for the purpose of administering drugs; creating s. 400.412, Florida Statutes, relating to sale or transfer, including lease, of the ownership of a facility; providing for new license; providing for notice; providing for liability; providing for payment of certain debts; amending s. 400.414(2)(b), Florida Statutes, and adding subsection (3) thereto; modifying grounds for denial, suspension, or revocation of license; providing for a moratorium on admissions under certain circumstances; amending s. 400.417, Florida Statutes, 1982 Supplement; requiring notice by certified mail prior to expiration of license; limiting late renewal fees; authorizing the issuance of conditional or provisional licenses under certain circumstances; amending s. 400.418(1), Florida Statutes, 1982 Supplement, renaming the "Adult Congregate Living Facilities Trust Fund" as the "Aging and Adult Licensure Trust Fund"; amending s. 400.419(1)(a), (b), and (d), (2)(b), and (5), Florida Statutes, relating to violations and penalties, to conform; creating s. 400.420, Florida Statutes, prohibiting solicitation of contributions by or on behalf of one or more ACLF's under certain circumstances and providing a penalty for violation; amending s. 400.422(2) and (9), Florida Statutes, relating to receivership, to conform; amending s. 400.424(1) and (2), Florida Statutes, requiring facilities to maintain resident contracts on the premises and modifying requirements as to contract contents; amending s. 400.426, Florida Statutes, relating to examination of ACLF residents; providing responsibility of owner or administrator; providing a restriction upon the employment of physicians; modifying provisions relating to physical examination of admittees; providing for medical records; authorizing annual examination of supplemental security income recipients; providing for examination of certain residents at their own expense; providing for determination of appropriateness of residency; providing for mandatory relocation of residents deemed to be inappropriately in residence; amending s. 400.427(1), (2), and (7), Florida Statutes, 1982 Supplement, relating to property and personal affairs of residents, to conform; amending s. 400.428(1)(d) and (f) and (2), Florida Statutes, providing for ACLF visiting rights between 9 a.m. and 9 p.m., at minimum; amending s. 400.429(1), Florida Statutes, relating to civil actions, to conform; amending s. 400.431(3), Florida Statutes, providing for refund of advance payments within 7 days of closure; amending s. 400.434, Florida Statutes, 1982 Supplement, conforming terminology and removing a restriction upon random-sample auditing; amending s. 400.441(1)(f), Florida Statutes, and adding paragraph (g) thereto, providing for standards relating to provision of, or arrangement for, certain activities and services and relating to establishment of criteria defining appropriateness of admission and continued residency; amending s. 400.452(1), Florida Statutes, relating to staff training and educational programs, to conform; revising part III of chapter 400, Florida Statutes; amending s. 400.461(2), Florida Statutes, and adding subsection (3) thereto; clarifying purpose; providing for creation of a task force; providing for a report; amending s. 400.462(2), Florida Statutes, modifying definition of "home health agencies" to limit application to Medicare providers only; amending s. 400.467(2), Florida Statutes, raising agency fee cap to \$500; revising part IV of chapter 400, Florida Statutes; creating ss. 400.5565 and 400.5575, Florida Statutes; providing for the imposition of administrative fines; providing limits; specifying factors to be considered; providing for disposition of fees and fines; revising part V of chapter 400, Florida Statutes; amending s. 400.602, Florida Statutes, modifying licensure requirements and providing for exemptions; amending s. 400.603, Florida Statutes, providing certificate-of-need requirements and exemptions therefrom; amending and renumbering s. 400.612, Florida Statutes, authorizing inspection of hospices by the Department of Health and Rehabilitative Services; amending s. 400.605, Florida Statutes; providing rulemaking authority; requiring annual inspections; amending s. 400.606(1) and (4), Florida Statutes; requiring plans for implementation of home, outpatient, and inpatient care within specified time periods; correcting a cross-reference; adding subsections (3) and (4) to s. 400.607, Florida Statutes, providing for revocation of license upon violation of timetables; amending s. 400.608(2) and (15), Florida Statutes; proscribing

certain contractual arrangements; limiting requirements related to designation of specific rooms, alterations of certain physical plants, staffing standards, institutional standards for inpatient facilities, and full-time personnel; amending s. 400.610(1), Florida Statutes, and adding subsection (3) thereto, limiting requirements which may be made with respect to number of committees which must be established and number of meetings which must be held thereby; repealing s. 400.418(2), Florida Statutes, 1982 Supplement, and ss. 400.419(7), 400.422(13), 400.426(2), 400.428(9), 400.429(2), 400.435(4), 400.452(2), and 400.454(3), Florida Statutes, relating to sunset repeals, to remove obsolete timetables; repealing s. 400.437, Florida Statutes, relating to the establishment of an ad hoc committee on congregate living facilities; repealing ss. 400.561 and 400.565, Florida Statutes, abolishing an ad hoc committee and removing obsolete compliance timetables; repealing ss. 400.604 and 400.6115, Florida Statutes, and s. 400.615, Florida Statutes, 1982 Supplement, relating to exemptions from the act, the establishment of a hospice task force and the rights of inspection thereof, and requirements and restrictions with respect to rulemaking authority; saving ss. 400.4175, 400.425, and 468.1801, Florida Statutes, 1982 Supplement, from sunset review and repeal scheduled October 1, 1983; saving parts I, II, III, IV, and V of chapter 400, Florida Statutes, from sunset review and repeal scheduled October 1, 1983; saving ss. 400.304 and 400.307, Florida Statutes, relating to state and district nursing home and long-term care facility ombudsman councils, from sundown review and repeal scheduled October 1, 1983; providing for sunset review and repeal of parts I, II, III, IV, and V of chapter 400, Florida Statutes, and for sundown review and repeal of ss. 400.304 and 400.307, Florida Statutes, on October 1, 1993; providing effective dates.

—was read the first time by title. On motions by Senator D. Childers, by unanimous consent CS for HB 434 was placed on the special order calendar and taken up instanter.

SPECIAL ORDER, continued

On motion by Senator D. Childers, by two-thirds vote CS for HB 434 was read the second time by title.

Senator D. Childers moved the following amendments which were adopted:

Amendment 1—On page 10, line 17, strike everything after the enacting clause and insert:

Section 1. Paragraph (f) of subsection (6) and paragraph (g) of subsection (7) of section 20.19, Florida Statutes, 1982 Supplement, are amended to read:

20.19 Department of Health and Rehabilitative Services.—There is created a Department of Health and Rehabilitative Services.

(6) STATEWIDE HUMAN RIGHTS ADVOCACY COMMITTEE.—

(f) The responsibilities of the committee shall include, but are not limited to:

1. Serving as a third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, or regulated by the department.

2. Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights referred to the Human Rights Advocacy Committee by a district human rights advocacy committee. For the purposes of such investigation, the committee shall have access to all client files and reports when the client is receiving services through, and the files and reports are in the physical custody of, the Department of Health and Rehabilitative Services. In all other cases, the Human Rights Advocacy Committee shall have standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of human or constitutional rights or the abuse of a client. Upon completion of a general investigation of practices and procedures of the department, the committee may report its findings to the department. All information obtained through examination of such reports shall remain confidential. Client files, records, and reports, or copies thereof, shall not be removed from the department or agency facilities. All matters before the committee concerning abuse or deprivation of rights of an

individual client or group of clients of the department subject to the protections of this section shall be closed to the public and exempt from the provisions of s. 119.07(1). All other matters before the committee shall be open to the public and subject to chapter 119. Any person who knowingly and willfully discloses any such confidential information is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This section shall not be interpreted to allow committee access to confidential adoption records in accordance with the provisions of ss. 39.11, 63.022, and 63.162.

3. Reviewing existing programs or services and new or revised programs of the department and making recommendations as to how the rights of clients are affected.

4. Submitting an annual report to the Legislature, no later than November 30 of each calendar year, concerning activities, recommendations, and complaints reviewed or developed by the committee during the year.

5. Conducting meetings at least six times a year at the call of the chairperson and at other times at the call of the Governor or by written request of four members of the committee.

6. Developing bylaws to be used to carry out the purposes of this subsection, which bylaws are developed in consultation with the secretary and include at least the following:

- a. The responsibilities of the committee;
- b. The organization and operation of the committee, including procedures for replacing a member;
- c. Procedures for receiving and investigating reports of abuse of constitutional or human rights;
- d. The relationship of the committee to the district human rights advocacy committees;
- e. The relationship of the committee to the department secretary, including the way in which reports of findings and recommendations related to reported abuse are given to the department;
- f. Provision for cooperation with the State Nursing Home and Long-Term Care Facility Ombudsman ~~Council Committee~~; and
- g. Procedures for appeal. An appeal to the state committee is made by a district human rights advocacy committee when a valid complaint is not resolved at the district level. The statewide committee may appeal an unresolved complaint to the secretary. If, after exhausting all remedies, the statewide committee is not satisfied that the complaint can be resolved within the department, the appeal may be referred to the Governor.

7. Reviewing and approving annually all district committee bylaws to assure their consistency with statute.

(7) DISTRICT HUMAN RIGHTS ADVOCACY COMMITTEES.—

(g) Each district human rights advocacy committee shall comply with appeal procedures established by the statewide Human Rights Advocacy Committee. The duties, actions, and procedures of both new and existing district or regional human rights advocacy committees shall conform to the provisions of this act. The duties of each district human rights advocacy committee shall include, but are not limited to:

1. Serving as a third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, or regulated by the department.

2. Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights within the area of jurisdiction of the committee. For the purposes of such investigation, the committee shall have access to all client files and reports when the client is receiving services through, and the files and reports are in the physical custody of, the Department of Health and Rehabilitative Services. In all other cases, the Human Rights Advocacy Committee shall have standing to petition the circuit court for access to client records which are confidential as specified by law. The petition shall state the specific reasons for which the committee is seeking access and the intended use of such information. The court may authorize committee access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of human or constitutional rights or the abuse of a client.

Upon completion of a general investigation of practices and procedures of the department, the committee may make a report of its findings to the department. All information obtained through an examination of such reports shall remain confidential. Client files, records, and reports, or copies thereof, shall not be removed from the department or agency facilities. All matters before a district human rights advocacy committee concerning abuse or deprivation of rights of an individual client or group of clients of the department subject to the protections of this section shall be closed to the public and exempt from the provisions of s. 119.07(1). All other matters before the committee shall be open to the public and subject to chapter 119. Any person who knowingly and willfully discloses any such confidential information is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This section shall not be interpreted to allow committee access to confidential adoption records in accordance with the provisions of ss. 63.162, 63.022, and 39.11.

3. Reviewing, and making recommendation with respect to, the involvement by departmental clients as subjects for research projects, prior to implementation, insofar as their human rights are affected.

4. Reviewing existing programs or services and new or revised programs of the department and making recommendations as to how the rights of clients are affected.

5. Appealing to the state committee any complaint unresolved at the district level.

6. Submitting an annual report by September 30 to the statewide Human Rights Advocacy Committee concerning activities, recommendations, and complaints reviewed or developed by the committee during the year.

7. Conducting meetings at least six times a year at the call of the chairperson and at other times at the call of the Governor or by written request of four members of the committee.

8. Developing bylaws to be used to carry out the purposes of this subsection, which bylaws are developed in consultation with the district administrator, consistent with law, and amended to reflect any statutory changes. The bylaws shall address at least the following:

- a. The responsibilities of the committee;
- b. The organization and operation of the committee, including procedures for replacing a member;
- c. Procedures for receiving and investigating reports of abuse of constitutional or human rights;
- d. The relationship of the committee to the statewide Human Rights Advocacy Committee;
- e. The relationship of the committee to the district, including the way in which reports of findings and recommendations related to reported abuse are given to the department;
- f. Provision for cooperation with the district nursing home and long-term care facility ombudsman ~~council committee~~; and
- g. Procedures for appeal in accordance with procedures developed by the statewide Human Rights Advocacy Committee.

Section 2. Section 400.011, Florida Statutes, is amended to read:

400.011 Purpose.—The purpose of this ~~part chapter~~ is to provide for the development, establishment, and enforcement of basic standards for the health, care, and treatment of persons in nursing homes and related health care facilities, and for the construction, maintenance, and operation of such institutions which will insure safe and adequate care, treatment, and health of persons in such facilities.

Section 3. Section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this ~~part chapter~~, unless the context otherwise requires:

(1) "Department" means the Department of Health and Rehabilitative Services.

(2) "Administrator" means the licensed individual who has the general administrative charge of a facility.

(3) "Manager" or "supervisor" means the individual in charge of homes for aged, homes for special services, and related health care facility homes.

(4) "Facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including those places operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but shall not include any place providing care and treatment primarily for the acutely ill. A facility offering services for less than three persons shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

(5) "Nursing home facility" means any facility which provides nursing services as defined in chapter 464 and is licensed according to this *part chapter*.

(6) "Home for special services" means a related health care facility which provides specialized health care services, including personal and custodial care, but not continuous nursing services.

(7) "Related health care facility home" means a facility for the aged, home for special services, or other home as defined in rules and regulations of the department.

(8) "Nursing service" means such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in s. 464.003 464.021.

(9) "Custodial service" means care for a person which entails observation of diet and sleeping habits and maintenance of a watchfulness over the general health, safety, and well-being of the aged or infirm.

~~(10) "Existing facilities" means those licensed facilities which were in operation, or those proposed facilities which began construction or renovation of a building under final plans approved by the department, for the purpose of operating such facilities prior to July 7, 1970.~~

~~(11) "New facility" means those facilities which were constructed or renovated for the purpose of operating an institution according to architectural plans approved by the department subsequent to July 7, 1970.~~

(10)(12) "Board" means the Board of Nursing Home Administrators.

(11)(13) "Bed reservation policy" means the number of consecutive days and the number of days per year that a *resident patient* may leave the nursing home facility for overnight therapeutic visits with family or friends or for hospitalization for an acute condition before the facility may discharge the *resident patient* due to his absence from the facility.

(12)(14) "*Resident Patient* care plan" means a written plan developed, maintained, and reviewed not less than quarterly by a registered nurse, with participation from other facility staff and the *resident patient* or his designee or legal representative, which includes a comprehensive assessment of an individual *resident's patient's* needs, a listing of services provided within or outside the facility to meet those needs, and an explanation of service goals.

(13)(15) "*Resident Patient* designee" means a person, other than the owner, administrator, or employee of the facility, designated in writing by a *resident patient* or a *resident's patient's* guardian, if the *resident patient* is adjudicated incompetent, to be the *resident's patient's* representative for a specific, limited purpose.

(14)(16) "State ombudsman *council committee*" means the State Nursing Home and Long-Term Care Facility Ombudsman *Council Committee* established pursuant to s. 400.304.

(15)(17) "District ombudsman *council committee*" means each district nursing home and long-term care facility ombudsman *council committee* established pursuant to s. 400.307.

Section 4. Section 400.022, Florida Statutes, 1982 Supplement, is amended to read:

400.022 *Residents' Patients' rights.*—

(1) All nursing home facilities shall adopt and make public a statement of the rights and responsibilities of the *residents patients* residing in such facilities and shall treat such *residents patients* in accordance with the provisions of that statement. The statement shall assure each *resident patient* the following:

(a) The right to civil and religious liberties, including knowledge of available choices and the right to independent personal decision, which will not be infringed upon, and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights.

(b) The right to private and uncensored communication, including, but not limited to, receiving and sending unopened correspondence, access to a telephone, visiting with any person of the *resident's patient's* choice during visiting hours, and overnight visitation outside the facility with family and friends in accordance with facility policies, physician orders, and Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act regulations, without the *resident patient* losing his bed. Facility visiting hours shall be flexible, taking into consideration special circumstances such as, but not limited to, out-of-town visitors and working relatives or friends. Unless otherwise indicated in the *resident patient* care plan, the facility shall, with the consent of the *resident patient* and in accordance with policies approved by the department, permit recognized volunteer groups, representatives of community-based legal, social, mental health, and leisure programs, and members of the clergy access to the facility during visiting hours for the purpose of visiting with and providing services to any *resident patient*.

(c) The right to present grievances on behalf of himself or others to the facility's staff or administrator, to governmental officials, or to any other person; to recommend changes in policies and services to facility personnel; and to join with other *residents patients* or individuals within or outside the facility to work for improvements in *resident patient* care, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to ombudsmen and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups.

(d) The right to manage his own financial affairs or to delegate such responsibility to the facility, but only to the extent of the funds held in trust by the facility for the *resident patient*. A quarterly accounting of any transactions made on behalf of the *resident patient* shall be furnished to the *resident patient* or the person responsible for the *resident patient*.

(e) The right to be fully informed, in writing and orally, prior to or at the time of admission and during his stay, of services and charges for services not covered under Title XVIII or Title XIX of the Social Security Act or not covered by the basic per diem rates; and of bed reservation and refund policies of the facility.

(f) The right to be adequately informed of his medical condition and proposed treatment, unless otherwise indicated by the *resident's patient's* physician; to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the *resident's patient's* physician; and to know the consequences of such actions.

(g) The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the *resident patient* care plan, with established and recognized practice standards within the community, and with rules as promulgated by the department.

(h) The right to have privacy in treatment and in caring for personal needs; to close room doors, and to have facility personnel knock before entering the room, except in the case of an emergency or unless medically contraindicated; to have confidentiality in the treatment of personal and medical records; and to security in storing and using personal possessions. Privacy of the *resident's patient's* body shall be maintained during, but not limited to, toileting, bathing, and other activities of personal hygiene, except as needed for *resident patient* safety or assistance.

(i) The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and an oral explanation of the services provided by the facility, including those required to be offered on an as-needed basis.

(j) The right to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by a physician for a specified and limited period of time or as are necessitated by an emergency. In case of an emergency, restraint may only be applied by a qualified licensed nurse who shall set forth in writing the circumstances requiring the use of restraint, and, in the case of use of a chemical restraint, a physician shall be consulted immediately thereafter. Restraints shall not be used in lieu of staff supervision or merely for staff convenience, for punishment, or for reasons other than *resident patient* protection or safety.

(k) The right to be transferred or discharged only for medical reasons or for the welfare of other *residents patients*, and the right to be given reasonable advance notice of no less than 30 days of any involuntary transfer or discharge, except in the case of an emergency as determined by a licensed professional on the staff of the nursing home, or in the case of conflicting rules and regulations which govern Title XVIII or Title XIX of the Social Security Act. For nonpayment of a bill for care received, the *resident patient* shall be given 15 days' advance notice. A facility certified to provide services under Title XIX of the Social Security Act shall not transfer or discharge *residents patients* solely because the source of payment for care changes from private to public funds or from public to private funds, ~~unless the facility, as documented in the patient's medical record, makes a reasonable effort to arrange for appropriate continued care in the community or through another nursing home.~~

(l) The right to freedom of choice in selecting a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the *resident's patient's* choice, at the *resident's patient's* own expense or through Title XIX of the Social Security Act; and to obtain information about, and to participate in, community-based activities programs, unless medically contraindicated as documented by a physician in the *resident's patient's* medical record. If a *resident patient* chooses to use a community pharmacy and the facility in which the *resident patient* resides uses a unit-dose system, the pharmacy selected by the *resident patient* shall be one that provides a compatible unit-dose system, provides service delivery, and stocks the drugs normally used by long-term care *residents patients*. If a *resident patient* chooses to use a community pharmacy and the facility in which the *resident patient* resides does not use a unit-dose system, the pharmacy selected by the *resident patient* shall be one that provides service delivery and stocks the drugs normally used by long-term care *residents patients*.

(m) The right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other *residents patients* or unless medically contraindicated as documented by a physician in the *resident's patient's* medical record. If clothing is provided to the resident by the facility, it shall be of reasonable fit.

(n) The right to have copies of the facility's rules and regulations and an explanation of the *resident's patient's* responsibility to obey all reasonable rules and regulations of the facility and to respect the personal rights and private property of the other *residents patients*.

(o) *The right to be informed of the bed reservation policy for a hospitalization. The nursing home shall inform a private pay resident and his responsible party that his bed shall be reserved for any single hospitalization for a period up to 30 days provided the nursing home receives reimbursement. Notice shall be provided within 24 hours of the hospitalization.*

(2) Each nursing home shall provide a copy of the statement required by subsection (1) to each *resident patient* or the *resident's patient's* guardian at or before the *resident's patient's* admission to a facility and to each staff member of a facility. Each such facility shall prepare a written plan and provide appropriate staff training to implement the provisions of this section.

(3) Any violation of the *resident's patient's* rights set forth in this section shall constitute grounds for action by the department under the provisions of s. 400.102. In order to determine whether the facility is adequately protecting *residents' patients'* rights, the annual inspection of the facility shall include private informal conversations with a sample of *residents patients* to discuss *residents' patients'* experiences within the facility with respect to rights specified in this section and general compliance with standards, and consultation with the ombudsman *council committee* in the district in which the nursing home is located.

(4) Any person who submits or reports a complaint concerning a suspected violation of the *resident's patient's* rights or concerning services or conditions in a facility or who testifies in any administrative or judicial proceeding arising from such complaint shall have immunity from any criminal or civil liability therefor, unless that person has acted in bad faith, with malicious purpose, or if the court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party.

Section 5. Section 400.023, Florida Statutes, is amended to read:

400.023 Civil enforcement.—

(1) Any *resident patient* whose rights as specified in this part are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the *resident patient* or his guardian or by a person or organization acting on behalf of a *resident patient* with the consent of the *resident patient* or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a *resident patient*. Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith, with malicious purpose, and that there was a complete absence of a justiciable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a *resident patient* and to the department.

(2) ~~If chapter 400 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 this act shall also be repealed on the same date as is therein provided.~~

Section 6. Section 400.041, Florida Statutes, is amended to read:

400.041 Nursing facilities; categories for licensing.—For the administration of this *part chapter*, facilities shall be licensed in the following categories:—

(1) Nursing home.

(2) Home for special service.

(3) Such other health-related categories as may be defined by rules and regulations issued by the department.

Section 7. Section 400.051, Florida Statutes, is amended to read:

400.051 Homes or institutions exempt from the provisions of this *part chapter*.—

(1) The following shall be exempt from the provisions of this *part chapter*:

(a) Any facility, institution, or other place operated by the Federal Government or agency thereof.

(b) Any institution which offers its services primarily for medical treatment or surgery and is licensed by the state.

(2) Any facility or institution operated only for persons who rely exclusively upon treatment by prayer or spiritual means, in accordance with the creed or tenets of any organized church or religious denomination, shall be exempt only from any requirement of this *part chapter* or rule and regulation adopted pursuant thereto requiring medical examinations or medical treatment of residents or patients therein.

Section 8. Section 400.062, Florida Statutes, 1982 Supplement, is amended to read:

400.062 License required; fee; disposition; display; transfer.—

(1) It is unlawful to operate or maintain a facility without first obtaining from the Department of Health and Rehabilitative Services a license authorizing such operation.

(2) Separate licenses shall be required for facilities maintained in separate premises, even though operated under the same management. However, a separate license shall not be required for separate buildings on the same grounds.

(3) The annual license fee required for each license issued under of a facility licensed by this part shall be at the rate of \$2 per bed. ~~The minimum license fee hereunder shall be \$26, and the maximum fee shall be \$300, no part of which shall be returned. The annual license fee shall be comprised of two parts. Part I of the license fee shall be the basic license fee, which shall not exceed \$75 per facility. The rate per bed for the basic license fee shall be established annually, and in establishing such rate, the department shall divide one-third of the total fiscal year legislative appropriation for carrying out the provisions of this part by the total number of beds to be licensed under this part. Part II of the license fee shall be the *resident patient* protection fee, which shall be at the rate of not less than \$.25 per bed. The rate per bed shall be the minimum rate~~

per bed, and such rate shall remain in effect until the effective date of a rate per bed promulgated by rule by the department pursuant to this part. At such time as the amount on deposit in the Resident Protection Trust Fund is less than \$500,000, the department may promulgate rules to establish a rate which shall not exceed \$10 per bed. The rate per bed shall revert back to the minimum rate per bed when the amount on deposit in the Resident Protection Trust Fund reaches \$500,000, except that any rate established by rule shall remain in effect until such time as the rate has been equally required for each license issued under this part. Any amount in the fund in excess of \$800,000 shall revert to the Nursing Home and Related Facilities Licensure Trust Fund not exceed \$225 per facility. The department may prorate the annual license fee, and the minimum and maximum fee ranges in this section, for those licenses which it issues under this part for less than 1 year. Funds generated by license fees collected in accordance with this section shall be deposited divided between both parts in the following manner:

(a) The basic license To a maximum of \$75, half of the fee collected from any facility shall be a basic license fee and shall be deposited in the Nursing Homes and Related Facilities Licensure Trust Fund for the sole purpose of carrying out the provisions of this part General Revenue Fund.

(b) The resident protection fee A maximum of \$225 generated from fees collected hereunder shall be deposited in the Resident Patient Protection Trust Fund for the sole purpose of paying, that shall be established by the Department of Administration. Funds so deposited shall be appropriated in a grants-in-aid category and directed to the Department of Health and Rehabilitative Services specifically to pay, in accordance with the provisions of s. 400.063, for the appropriate alternate placement, care, and treatment of a resident patient removed from a nursing home facility on a temporary, emergency basis, or to maintain and care for residents in the facility pending removal and alternate placement.

(4) Counties or municipalities applying for licenses under this part chapter shall be exempt from the payment of license fees provided herein.

(5) The license shall be displayed in a conspicuous place inside the facility.

(6) A license shall be valid only in the hands of the individual, firm, partnership, association, or corporation to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall a license be valid for any premises other than those for which originally issued.

Section 9. Section 400.0625, Florida Statutes, is created to read:

400.0625 Minimum standards for clinical laboratory test results and diagnostic X-ray results.—

(1) Each nursing home, as a requirement for issuance or renewal of its license, shall require that all clinical laboratory tests performed by or for the nursing home shall be performed by a clinical laboratory licensed under the provisions of chapter 483. Results of clinical laboratory tests performed prior to admission which meet the minimum standards shall be accepted in lieu of routine examinations required upon admission and clinical laboratory tests which may be ordered by a physician for residents of the nursing home.

(2) Each nursing home, as a requirement for issuance or renewal of its license, shall establish minimum standards for acceptance of results of diagnostic X-rays performed by or for the nursing home. Such minimum standards shall require licensure or registration of the source of ionizing radiation under the provisions of chapter 404. Diagnostic X-ray results which meet the minimum standards shall be accepted in lieu of routine examinations required upon admission and in lieu of diagnostic X-rays which may be ordered by a physician for residents of the nursing home.

Section 10. Section 400.063, Florida Statutes, is amended to read:

400.063 Resident Patient Protection Trust Fund.—

(1) The Department of Administration shall establish A Resident Patient Protection Trust Fund shall be established for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 400.062(3)(b), 400.111(1), 400.121(2), and 400.23(4). Such funds shall be for the sole purpose of paying directed to the Department of Health and Rehabilitative Services to pay for the appropriate alternate placement, care, and treatment of

residents patients who are removed from a nursing home facility in which the department determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the nursing home residents patients. If the department determines that it is in the best interest of the residents' patients' health, safety, or security to provide for an orderly removal of the residents patients from the facility, the department may utilize such funds to maintain and care for the residents patients in the facility pending removal and alternative placement. The maintenance and care of the residents patients shall be under the direction and control of a receiver appointed pursuant to s. 400.126(1). However, funds may be expended on an emergency basis upon a filing of a petition for a receiver.

(2) The Department of Health and Rehabilitative Services is authorized to establish for each facility subject to the department's intervention, a separate bank account for the deposit to the credit of the department of any moneys received from the Resident Protection Trust Fund or any other moneys received for the maintenance and care of residents in the facility, and the department is authorized to disburse moneys from such account to pay obligations incurred for the purposes of this section. The department is authorized to requisition moneys from the Resident Protection Trust Fund in advance of actual cash need on the basis of the department's estimate of moneys to be spent under authority of this section. Any bank account established under this section need not be approved in advance of its creation as required by s. 18.101, but shall be secured by depository insurance equal to or greater than the balance of such account or by the pledge of collateral security in conformance with criteria established in s. 18.11. The department shall notify the Treasurer and the Comptroller of any such account so established and shall make a quarterly accounting to the Comptroller for all moneys deposited in such account. Any patient receiving care and treatment in an appropriate alternate placement as provided for in this section shall be returned to the facility from which he was removed, and funds expended on his behalf as provided for in this section shall be terminated within 2 days after the department certifies that the condition or conditions requiring the patient's removal have been corrected and that the necessary relicensure or recertification has been accomplished.

(3) Funds authorized under this section shall be expended on behalf of all residents patients transferred to an alternate placement, at the usual and customary charges of the facility used for the alternate placement, provided no other source of private or public funding is available. However, such funds shall not be expended on behalf of a resident patient who is eligible for Title XIX of the Social Security Act, if the alternate placement accepts Title XIX of the Social Security Act. Funds shall be utilized for maintenance and care of residents patients in a facility in receivership only to the extent private or public funds, including funds available under Title XIX of the Social Security Act, are not available or are not sufficient to adequately manage and operate the facility, as determined by the department. The existence of the Resident Patient Protection Trust Fund shall not make the department liable for the maintenance of any resident patient in any facility. The state shall be liable for the cost of alternate placement of residents patients removed from a deficient facility, or for the maintenance of residents patients in a facility in receivership, only to the extent that funds are available in the Resident Patient Protection Trust Fund.

(4) The department is authorized to promulgate rules necessary to implement the provisions of this section.

(5) If part I of this chapter 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 this section shall also be repealed on the same date as is therein provided.

Section 11. Section 400.071, Florida Statutes, is amended to read:

400.071 Application for license.—

(1) Application for license as required by s. 400.062 shall be made to the Department of Health and Rehabilitative Services on forms furnished by it, and shall be accompanied by the appropriate license fee.

(2) The application shall be under oath and shall contain the following:

(a) The name and address of the applicant if an individual; if the applicant is a firm, partnership, or association, the name and address of every member thereof; if the applicant is a corporation, its name and

address and the name and address of its director and officers and of each person having at least a 10-percent interest in the corporation; and the name by which the facility is to be known.

(b) The name of any person whose name is required on the application under the provisions of paragraph (a) and who owns at least a 10-percent interest in any professional service, firm, association, partnership, or corporation providing goods, leases, or services to the facility for which the application is made, and the name and address of the professional service, firm, association, partnership, or corporation in which such interest is held.

(c) The location of the facility for which a license is sought and an indication, as in the original application, that such location conforms to the local zoning ordinances.

(d) The name of the person or persons under whose management or supervision the facility will be conducted and the name of its licensed administrator.

(e) The number and type of residents for which maintenance, care, or nursing is to be provided.

(f) Information relating to the number, experience, and training of the employees of the facility and of the moral character of the applicant and employees which the department requires by rule, including the name and address of any nursing home with whom the applicant or employees have been affiliated through ownership or employment within 5 years of the date of the application for a license. The applicant must demonstrate that sufficient numbers of qualified staff, by training or experience, will be employed to properly care for the type and number of residents who will reside in the facility.

(3) The applicant shall submit evidence which establishes the good moral character of the applicant, manager, supervisor, and administrator. No applicant, if the applicant is an individual; no member of a board of directors or officer of an applicant, if the applicant is a firm, partnership, association, or corporation; and no licensed nursing home administrator shall have been convicted, or found guilty, regardless of adjudication, of a crime in any jurisdiction which affects or may potentially affect residents patients in the facility.

(4) The applicant shall furnish satisfactory proof of financial ability to operate and conduct the home in accordance with the requirements of this part and all rules promulgated hereunder, *and the department shall establish standards for this purpose.* The department shall also establish documentation requirements, to be completed by each applicant facility, that show anticipated facility revenues and expenditures, the basis for financing the anticipated cash-flow requirements of the facility, and an applicant's a facility's access to contingency financing.

(5) If the applicant offers continuing-care agreements as defined in chapter 651, proof shall be furnished that such applicant has obtained a certificate of authority as required for operation under that chapter. *This provision shall not apply prior to 12 months from the date of the adoption of the rules by the Department of Insurance as contemplated by s. 651.101*

(6) As a condition of initial licensure, each facility, except one offering continuing-care agreements as defined in chapter 651, must agree to accept recipients of Title XIX of the Social Security Act on a temporary, emergency basis. The persons who the department may require such facilities to accept are those recipients of Title XIX of the Social Security Act who are residing in a facility in which existing conditions constitute an immediate danger to the health, safety, or security of the nursing home facility's residents patients.

Section 12. Section 400.102, Florida Statutes, is amended to read:

400.102 Action by department against facility; grounds.—

(1) Any of the following conditions shall be grounds for action by the Department of Health and Rehabilitative Services against a facility:

(a) An intentional or negligent act materially affecting the health or safety of residents of the facility;

(b) Misappropriation or conversion of the property of a resident of the facility;

(c) Violation of provisions of this part chapter or of minimum standards, rules, or regulations promulgated pursuant thereto; and

(d) Any act constituting a ground upon which application for a license may be denied.

(2) If the department has reasonable belief that any of the said conditions exist, it shall take the following action:

(a) In the case of an applicant for original licensure, denial action as provided in s. 400.121;

(b) In the case of an applicant for relicensure or a current licensee, administrative action as provided in s. 400.121, or injunctive action as authorized by s. 400.125; and

(c) In the case of a facility operating without a license, injunctive action as authorized in s. 400.125.

Section 13. Section 400.111, Florida Statutes, 1982 Supplement, is amended to read:

400.111 Expiration of license; renewal.—

(1) A license issued for the operation of a facility, unless sooner suspended or revoked, shall expire on the date set forth by the department on the face of the license or 1 year from the date of issuance, whichever occurs first. Ninety days prior to the expiration date, an application for renewal shall be submitted to the Department of Health and Rehabilitative Services. A license shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this part and all rules and regulations promulgated hereunder. An applicant for renewal of a license issued under this part for a period of 4 months or less, however, shall submit an application for renewal to the department, on forms furnished by the department, 14 days prior to the expiration date. The failure to file an application within the period established herein shall result in a late fee charged to the facility by the department in an amount equal to 50 percent of the fee in effect on the last preceding regular renewal date. A late fee shall be levied for each and every day the filing of the license application is delayed, but in no event shall such fine aggregate more than \$5,000. *If an application is received after the required filing date and exhibits a hand-canceled postmark obtained from a United States Post Office dated on or before the required filing date, no fine shall be levied.* A license renewed for a period of 4 months or less shall not be subject to late fees provided for in this section. Late fees shall be deposited and disbursed through the Resident Patient Protection Trust Fund established by s. 400.063. New facilities which are in substantial compliance with this section and with the rules of the Department of Health and Rehabilitative Services, but which have deficiencies, may be issued conditional licenses pending correction of deficiencies.

(2) A licensee against whom a revocation or suspension proceeding, or any judicial proceeding instituted by the department under this part, is pending at the time of license renewal may be issued a conditional license effective until final disposition by the department of such proceeding. If judicial relief is sought from the aforesaid administrative order, the court having jurisdiction may issue such orders regarding the issuance of a conditional license permit during the pendency of the judicial proceeding.

Section 14. Section 400.121, Florida Statutes, is amended to read:

400.121 Denial, suspension, revocation of license; moratorium on admissions; administrative fines; procedure.—

(1) The Department of Health and Rehabilitative Services may deny, revoke, or suspend a license or impose an administrative fine, not to exceed \$500 per violation per day, for a violation of any provision of s. 400.102(1). All hearings shall be held within the county in which the licensee or applicant operates or applies for a license to operate a facility as defined herein.

(2) The department, as a part of any final order issued by it under the provisions of this part chapter, may impose such fine as it deems proper, except that such fine shall not exceed \$500 for each violation. Each day a violation of this part chapter occurs shall constitute a separate violation and shall be subject to a separate fine, but in no event shall any fine aggregate more than \$5,000. A fine may be levied pursuant to this section in lieu of and notwithstanding the provisions of s. 400.23. Fines paid by any nursing home facility under the provisions of this subsection shall be deposited in the Resident Patient Protection Trust Fund and expended as provided in s. 400.063.

(3) The department may issue an order immediately suspending or revoking a license when it determines that any condition in the facility presents a danger to the health, safety, or welfare of the *residents patients* in the facility.

(4) The department may impose an immediate moratorium on admissions to any facility when the department determines that any condition in the facility presents a threat to the health, safety, or welfare of the *residents patients* in the facility.

Section 15. Section 400.125, Florida Statutes, is amended to read:

400.125 Injunction proceedings authorized.—

(1) The Department of Health and Rehabilitative Services may institute injunction proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of this *part chapter* or any minimum standard, rule, regulation, or order issued or entered into pursuant thereto; or

(b) Terminate the operation of a home where any of the following exist:

1. Failure to take preventive or corrective measures in accordance with any order of the department.

2. Failure to abide by any final order of the department once it has become effective and binding.

3. Any violation as provided in s. 400.121 constituting an emergency requiring immediate action.

(2) Such injunctive relief may include temporary and permanent injunction.

Section 16. Section 400.126, Florida Statutes, is amended to read:

400.126 Receivership proceedings.—

(1) As an alternative to or in conjunction with injunctive proceedings, the department may petition a court of competent jurisdiction for the appointment of a receiver, ~~if suitable alternate placements are not available~~, when any of the following conditions exist:

(a) The facility is operating without a license and refuses to make application for a license as required by s. 400.062

(b) The facility is closing or has informed the department that it intends to close and adequate arrangements have not been made for relocation of the *residents patients* within 7 days, exclusive of weekends and holidays, of the closing of the facility. *However, the failure on the part of the department, after receiving notice of the closing of a facility that is certified to provide services under Title XIX of the Social Security Act, a minimum of 90 days prior to the closing date, to make adequate arrangement for relocating those residents who are receiving assistance under s. 409.266 shall in and of itself not be grounds to petition for the appointment of a receiver. Under these circumstances, if a facility remains open beyond the closing date, the department shall reimburse the facility for all costs incurred, up to the cap, for those residents who are receiving assistance under s. 409.266, provided that the facility continues to be licensed pursuant to this part and certified to provide services under Title XIX of the Social Security Act.*

(c) The department determines that conditions exist in the facility which present an imminent danger to the health, safety, or welfare of the *residents patients* of the facility or a substantial probability that death or serious physical harm would result therefrom.

(d) The facility cannot meet its financial obligation for providing food, shelter, care, and utilities. *Evidence such as issuance of bad checks or accumulation of delinquent bills for such items as personnel salaries, food, drugs or utilities shall constitute prima facie evidence that the ownership of the facility lacks the financial ability to operate the home in accordance with the requirements of this part and all rules promulgated hereunder.*

(2) Petitions for receivership shall take precedence over other court business unless the court determines that some other pending proceeding, having similar statutory precedence, shall have priority. A hearing shall be conducted within 5 days of the filing of the petition, at which time all interested parties shall have the opportunity to present evidence pertaining to the petition. The department shall notify the owner or administrator of the facility named in the petition of its filing and the

date set for the hearing. The court shall grant the petition only upon finding that the health, safety, or welfare of *residents patients* of the facility would be threatened if a condition existing at the time the petition was filed is permitted to continue. A receiver shall not be appointed ex parte unless the court determines that one or more of the conditions in subsection (1) exist; that the facility owner or administrator cannot be found; that all reasonable means of locating the owner or the administrator and notifying him of the petition and hearing have been exhausted; or that the owner or administrator, after notification of the hearing, chooses not to attend. After such findings, the court may appoint any person qualified by *education, training, or experience to carry out the responsibilities of receiver pursuant to this section, who shall either be qualified pursuant to s. 400.20 or who shall employ a licensed nursing home administrator in compliance with s. 400.20 as a receiver*, except it shall not appoint any owner or affiliate of the facility which is in receivership. The receiver may be selected from a list of persons qualified to act as receivers developed by the department and presented to the court with each petition for receivership. Under no circumstances shall the department or designated departmental employee be appointed as a receiver for more than 60 days; however, the receiver may petition the court, one time only, for a 30-day extension. The court shall grant the extension upon a showing of good cause.

(3) The receiver shall make provisions for the continued health, safety, and welfare of all *residents patients* of the facility and:

(a) Shall exercise those powers and perform those duties set out by the court.

(b) Shall operate the facility in such a manner as to assure safety and adequate health care for the *residents patients*.

(c) Shall take such action as is reasonably necessary to protect or conserve the assets or property of the facility for which the receiver is appointed, or the proceeds from any transfer thereof, and may use them only in the performance of the powers and duties set forth in this section and by order of the court.

(d) May use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to *residents patients* and to any other persons receiving services from the facility at the time the petition for receivership was filed. The receiver shall collect payments for all goods and services provided to *residents patients* or others during the period of the receivership at the same rate of payment charged by the owners at the time the petition for receivership was filed, or at a fair and reasonable rate otherwise approved by the court for private-pay *residents patients*. The receiver may apply to the department for a rate increase for Title XIX of the Social Security Act *residents patients* if the facility is not receiving the "state reimbursement cap" and expenditures justify an increase in the rate.

(e) May correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety or health of *residents patients* while they remain in the facility, provided the total cost of correction does not exceed \$3,000. The court may order expenditures for this purpose in excess of \$3,000 on application from the receiver after notice to the owner and a hearing.

(f) May let contracts and hire agents and employees to carry out the powers and duties of the receiver under this section.

(g) Shall honor all leases, mortgages, and secured transactions governing the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of receivership, or which, in the case of a purchase agreement, become due during the period of receivership.

(h) Shall have full power to direct and manage and to discharge employees of the facility, subject to any contract rights they may have. The receiver shall pay employees at the rate of compensation, including benefits, approved by the court. Receivership does not relieve the owner of any obligation to employees made prior to the appointment of a receiver and not carried out by the receiver.

(i) Shall be entitled to take possession of all property or assets of *residents patients* which are in the possession of a facility or its owner. The receiver shall preserve all property or assets and all *resident patient* records of which the receiver takes possession and shall provide for the

prompt transfer of the property, assets, and records to the new placement of any transferred resident. An inventory list certified by the owner and receiver shall be made at the time the receiver takes possession of the facility.

(4)(a) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver for any goods or services provided by the receiver after the date of the order if the person would have been liable for the goods or services as supplied by the owner. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit accounts received in a separate account and shall use this account for all disbursements.

(b) The receiver may bring an action to enforce the liability created by paragraph (a).

(c) A payment to the receiver of any sum owing to the facility or its owner shall discharge any obligation to the facility to the extent of the payment.

(5)(a) A receiver may petition the court that he not be required to honor any lease, mortgage, secured transaction, or other wholly or partially executory contract entered into by the owner of the facility if the rent, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rent, price, or rate of interest at the time the contract was entered into, or if any material provision of the agreement was unreasonable, when compared to contracts negotiated under similar conditions. Any relief in this form provided by the court shall be limited to the life of the receivership, unless otherwise determined by the court.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest which the receiver has obtained a court order to avoid under paragraph (a), and if the real estate or goods are necessary for the continued operation of the facility under this section, the receiver may apply to the court to set a reasonable rental, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on the application within 15 days. The receiver shall send notice of the application to any known persons who own the property involved or mortgage holders at least 10 days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease, security interest, or mortgage involved by any person who received such notice, but the payment does not relieve the owner of the facility of any liability for the difference between the amount paid by the receiver and the amount due under the original lease, security interest, or mortgage involved.

(6) The court shall set the compensation of the receiver, which will be considered a necessary expense of a receivership.

(7) A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts, or breach of fiduciary duty.

(8) The court may require a receiver to post a bond.

(9) The court may terminate a receivership when:

(a) The court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist; or

(b) All of the *residents patients* in the facility have been transferred or discharged.

(10) *Within 30 days after the termination, unless this time period is extended by the court, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected and disbursed, and of the expenses of the receivership. Unless otherwise specified by the court, within 30 days after termination, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected, and of the expenses of the receivership.*

(11) Nothing in this section shall be deemed to relieve any owner, administrator, or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator, or employee prior to the

appointment of a receiver; nor shall anything contained in this section be construed to suspend during the receivership any obligation of the owner, administrator, or employee for payment of taxes or other operating and maintenance expenses of the facility, or of the owner, administrator, employee, or any other person for the payment of mortgages or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership.

~~(12) If chapter 400 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 this act shall also be repealed on the same date as is therein provided.~~

Section 17. Section 400.141, Florida Statutes, is amended to read:

400.141 Administration and management of nursing facilities.—Every facility shall comply with all applicable standards, rules, and regulations of the Department of Health and Rehabilitative Services and shall:

(1) Be under the administrative direction and charge of a licensed administrator, supervisor, or manager.

(2) Have available the regular, consultative, and emergency services of physicians licensed by the state.

(3) Provide for the access of its residents to dental and other health-related services, recreational services, rehabilitative services, and social-work services appropriate to their needs and conditions and not directly furnished by the facility. When a geriatric outpatient nurse clinic is conducted in accordance with rules adopted by the department, outpatients attending such a clinic shall not be counted as part of the nursing facility's general *resident patient* population, nor shall the nursing staff of the geriatric outpatient clinic be counted as part of the nursing staff of the facility, until the case load exceeds 15 a day.

(4) Maintain its premises and equipment and conduct its operations in a safe and sanitary manner.

(5) If the facility furnishes food service, provide a wholesome and nourishing diet sufficient to meet generally accepted standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by attending physicians. In making rules and regulations to implement this subsection, the department shall be guided by standards recommended by nationally recognized professional groups and associations with knowledge of dietetics.

(6) Keep full records of resident admissions and discharges; medical and general health status, including medical records, personal and social history, and identity and address of next of kin or other persons who may have responsibility for the affairs of the residents; and individual *resident patient* care plans including, but not limited to, prescribed services, service frequency and duration, and service goals. The records shall be open to inspection by the department.

(7) Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this *part chapter*.

Section 18. Section 400.151, Florida Statutes, is amended to read:

400.151 Contracts.—

(1) The presence of each resident in a facility shall be covered by a contract, executed by the facility and the resident or his designee or legal representative at the time of admission or prior thereto, at the expiration of the term of a previous contract, and at the time the source of payment for the *resident's patient's* care changes. Each party to the contract shall be entitled to a duplicate original thereof, printed in boldfaced type, and the facility shall keep on file all contracts which it has with residents. The facility shall not destroy or otherwise dispose of any such contract until 5 years after its expiration or such longer period as may be provided in the rules and regulations of the department. *Microfilm or other similar duplicative process may be kept in lieu of the original records.*

(2) Each contract to which this section applies shall contain express provision specifically setting forth the services and accommodations to be provided by the facility, the rates or charges therefor, bed reservation and refund policies, and any other matters which the parties deem appropriate. The facility shall attach to the contract a list of services and supplies available but not covered by the facility's per diem rate or by Title XVIII and Title XIX of the Social Security Act and the standard charge to the

~~resident patient~~ for each item. The facility shall provide written *and oral* notification to each party to the contract of any changes in any attachment thereto, not fewer than 14 days in advance of the effective date of those changes. *The department shall specify by rule an alternative method for notification of changes in the cost of supplies.* ~~If the patient is a party to the contract, the facility shall provide him with a written and oral notification of the changes.~~

(3) No contract or any provision thereof shall be construed to relieve any facility of any requirement or obligation imposed upon it by this *part* ~~chapter~~ or standards, rules, or regulations in force pursuant thereto.

Section 19. Section 400.162, Florida Statutes, 1982 Supplement, is amended to read:

400.162 Property and personal affairs of ~~residents~~ *patients*.—

(1) The admission of a resident to a facility and his presence therein shall not confer on the facility or its owner, administrator, manager, supervisor, employees, or representatives any authority to manage, use, or dispose of any property of the resident; nor shall such admission or presence confer on any of the aforementioned persons any authority or responsibility for the personal affairs of the resident, except what may be necessary for the safety and orderly management of the facility.

(2) No facility and no owner, administrator, manager, supervisor, employee, or representative thereof shall act as guardian, trustee, or conservator for any resident of the facility or any of such resident's property.

(3) A facility shall provide for the safekeeping of personal effects, funds, and other property of the resident in the facility. Whenever necessary for the protection of valuables, or in order to avoid unreasonable responsibility therefor, the facility may require that they be excluded or removed from the facility and kept at some place not subject to the control of the facility.

(4) A facility shall keep complete and accurate records of all funds and other effects and property of its residents received by it for safekeeping.

(5)(a) Any funds or other property belonging to or due to a resident or expendable for his account which are received by a facility shall be trust funds, shall be kept separate from the funds and property of the facility, and shall be used or otherwise expended only for the account of the resident.

(b)1. Any facility which holds resident funds in trust, as provided in paragraph (a), during the period for which a license is requested or issued shall file a surety bond with the department in an amount equal to twice the average monthly balance in the ~~resident patient~~ trust fund during the prior year or \$5,000, whichever is greater. The bond shall be executed by the facility as principal and a surety company authorized and licensed to do business in the state as surety. The bond shall be conditioned upon the faithful compliance of the facility with the provisions of this section and shall run to the department for the benefit of any resident injured by the violation by the facility of the provisions of this section.

2. A new bond or a proper continuation certificate shall be required on the annual renewal date of each licensee's bond. Such bond or certificate shall be filed with the department as provided in subparagraph 1.

3. Any surety company which cancels or does not renew the bond of any licensee shall notify the department, in writing, not less than 30 days in advance of such action, giving the reason for the cancellation or non-renewal.

(c) As an alternative to posting a surety bond, the facility may enter into a self-insurance agreement to pool its liability for ~~resident patient~~ trust funds with one or more other facilities in accordance with rules adopted by the department. Funds contained in the pool shall run to any resident suffering financial loss as a result of the violation by the facility of the provisions of this section. Such funds shall be awarded to any resident in an amount equal to the amount that the resident can establish by affidavit or other adequate evidence was deposited in trust with the facility and which could not be paid to the resident within 30 days of the resident's request. The department shall promulgate rules with regard to the establishment, organization, and operation of such self-insurance pools. Such rules shall include, but shall not be limited to, requirements for monetary reserves to be maintained by such self-insurers to assure their financial solvency.

(d) If, at any time during the period for which a license is issued, a facility that has not purchased a surety bond or entered into a self-insurance agreement, as provided in paragraphs (b) and (c), is requested to provide safekeeping for the personal funds of a resident, the facility shall notify the department of the request and make application for a surety bond or for participation in a self-insurance agreement within 7 days of the request, exclusive of weekends and holidays. Copies of the application, along with written documentation of related correspondence with an insurance agency or group, shall be maintained by the facility for review by the department and the nursing home and long-term care facility ombudsman ~~council~~ *committee*.

(e) Moneys or securities received as advance payment for care shall at no time exceed the cost of care for a 6-month period.

(f) At least every 3 months, the facility shall furnish the resident and the guardian, trustee, or conservator, if any, for the resident a complete and verified statement of all funds and other property to which this subsection applies, detailing the amounts and items received, together with their sources and disposition. In any event, the facility shall furnish such a statement annually and upon the discharge or transfer of a resident. Any governmental agency or private charitable agency contributing funds or other property on account of a resident also shall be entitled to receive such statement annually and upon discharge or transfer and such other report as it may require pursuant to law.

(6) In the event of a ~~resident's patient's~~ death, a facility shall place all trust funds of the ~~resident patient~~ in an interest-bearing account until such time as the trust funds are disbursed pursuant to the provisions of the Florida Probate Code. *All other property of a deceased resident held in trust by a licensee shall be safeguarded until such time as the property is disbursed pursuant to the provisions of the Florida Probate Code.* ~~The Such~~ trust funds and property of deceased residents shall be kept separate from the funds and the property of the facility and from the funds and property of the residents of the facility. *The nursing home need only maintain one account in which the individual trust funds amounting to less than \$100 of the deceased residents are placed. However, it shall be the obligation of the nursing home to maintain adequate records to permit compilation of interest due on each individual resident's account. Separate accounts shall be maintained of trust funds for deceased residents equal to or in excess of \$100.* In the event the trust funds of the deceased ~~resident patient~~ are not disbursed pursuant to the provisions of the Florida Probate Code within 2 years of the ~~resident's patient's~~ death, the trust funds shall be deposited in the *Resident Patient Protection Trust Fund* and expended as provided for in s. 400.063, *notwithstanding the provisions of any other Florida law. Any other property of a deceased resident held in trust by a licensee which is not disbursed in accordance with the provisions of the Florida Probate Code shall escheat to the state as provided by law.*

Section 20. Section 400.165, Florida Statutes, is created to read:

400.165 Itemized resident billing, form and content prescribed by the department.—

(1) Within 7 days following discharge or release from confinement or admittance in a nursing home, or within 7 days after the earliest date at which the loss or expense from the confinement or service may be determined, which in the case of long-term confinement may be the monthly charge, the nursing home providing the service shall submit to the resident, or to his survivor or legal guardian as may be appropriate, an itemized statement detailing in language comprehensible to an ordinary layman the specific nature of charges or expenses incurred by the resident, which in the initial billing shall contain a statement of specific services received and expenses incurred for such items of service, enumerating in detail the constituent components of the services received within each department of the nursing home and including unit-price data on rates charged by the nursing home as may be prescribed by the department.

(2) Each statement shall:

(a) Not include charges of nursing home-based physicians if billed separately.

(b) Not include any generalized category of expenses such as "other" or "miscellaneous" or similar categories.

(c) List drugs by brand or generic name and shall not refer to drug code numbers when referring to drugs of any sort.

(d) Specifically identify therapy treatment as to the date, type, and length of treatment when therapy treatment is a part of the statement. The person receiving a statement pursuant to this section shall be fully and accurately informed as to each charge and service provided by the institution preparing the statement.

(3) On a random-sample basis, as approved by the department, a copy of the itemized bill shall be given to the resident's physician. The random sample shall include not less than 10 itemized bills per year.

(4) On each such itemized statement there shall appear the words "A FOR-PROFIT (or NOT-FOR-PROFIT or PUBLIC) NURSING HOME LICENSED BY THE STATE OF FLORIDA" or substantially similar words sufficient to identify clearly and plainly the ownership status of the nursing home.

(5) In any billing for services subsequent to the initial billing for such services, the resident, or his survivor or legal guardian, may elect, at his option, to receive a copy of the detailed statement of specific services received and expenses incurred for each such item of service as provided in subsection (1).

(6) No physician, dentist, or nursing home may add to the price charged by any third party except for a service or handling charge representing a cost actually incurred as an item of expense; however, the physician, dentist, or nursing home is entitled to fair compensation for all professional services rendered. The amount of the service or handling charge, if any, shall be set forth clearly in the bill to the resident.

Section 21. Section 400.17, Florida Statutes, is amended to read:

400.17 Bribes, kickbacks, certain solicitations prohibited.—

(1) As used in this section:

(a) "Kickback" means that part of the payment for items or services which is returned to the payor by the provider of such items or services with the intent or purpose to induce the payor to purchase the items or services from the provider.

(b) "Bribe" means any consideration corruptly given, received, promised, solicited, or offered to any individual with intent or purpose to influence the performance of any act or omission.

(2) Whoever furnishes items or services directly or indirectly to a nursing home *resident patient* and solicits, offers, or receives any:

(a) Kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment; or

(b) Return of part of an amount given in payment for referring any such individual to another person for the furnishing of such items or services;

shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, or by fine not exceeding \$5,000, or both.

(3) No person shall, in connection with the solicitation of contributions to nursing homes, willfully misrepresent or mislead anyone, by any manner, means, practice, or device whatsoever, to believe that the receipts of such solicitation will be used for charitable purposes, if such is not the fact.

(4) Solicitation of contributions of any kind in a threatening, coercive, or unduly forceful manner by or on behalf of nursing homes by any agent, employee, owner, or representative of a nursing home shall be grounds for denial, suspension, or revocation of the license for any nursing home on behalf of which such contributions were solicited.

(5) The admission, maintenance, or treatment of a nursing home *resident patient* whose care is supported in whole or in part by state funds shall not be made conditional upon the receipt of any manner of contribution or donation from any person. However, this shall not be construed to prohibit the offer or receipt of contributions or donations to a nursing home which are not related to the care of a specific *resident patient*. Contributions solicited or received in violation of this subsection shall be grounds for denial, suspension, or revocation of a license for any nursing home on behalf of which such contributions were solicited.

Section 22. Section 400.176, Florida Statutes, is amended to read:

400.176 Rebates prohibited; penalties.—

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any physician, surgeon, organization, agency, or person, either directly or indirectly, for *residents patients* referred to a nursing home licensed under this *part chapter*.

(2) The Department of Health and Rehabilitative Services shall adopt rules which assess administrative penalties for acts prohibited by subsection (1). In the case of an entity licensed by the department, such penalties may include any disciplinary action available to the department under the appropriate licensing laws. In the case of an entity not licensed by the department, such penalties may include:

(a) A fine not to exceed \$1,000;

(b) If applicable, a recommendation by the department to the appropriate licensing board that disciplinary action be taken.

Section 23. Section 400.179, Florida Statutes, is amended to read:

400.179 Sale or transfer of ownership of a nursing facility.—

(1) It is the intent of the Legislature to protect the rights of nursing home *residents patients* and the security of public funds when a nursing facility is sold or the ownership is transferred.

(2) Whenever a nursing facility is sold or the ownership is transferred, including leasing, the transferee shall make application to the department for a new license at least 60 days prior to the date of transfer of ownership.

(3) The transferor shall notify the department in writing at least 60 days prior to the date of transfer of ownership. The transferor shall be responsible and liable for the lawful operation of the nursing facility and the welfare of the *residents patients* domiciled in the facility until the date the transferee is licensed by the department. The transferor shall be liable for any and all penalties imposed against the facility for violations occurring prior to the date of transfer of ownership and for any outstanding liability to the state, unless the transferee has agreed, as a condition of sale or transfer, to accept the outstanding liabilities and to guarantee payment therefor. However, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability. If the penalty imposed is a moratorium on admissions, and the threat to the health, safety, or welfare of the *residents patients* continues unabated, the moratorium shall remain in full force and effect after the transfer of ownership, or it may be grounds for denial of a license to the transferee in accordance with chapter 120.

(4) The transferor shall, prior to transfer of ownership, repay or make arrangements to repay to the department any amounts owed to the department. Should the transferor fail to repay or make arrangements to repay the amounts owed to the department prior to the transfer of ownership, the issuance of a license to the transferee shall be delayed until repayment or until arrangements for repayment are made.

~~(5) If chapter 400 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 this act shall also be repealed on the same date as is therein provided.~~

Section 24. Section 400.18, Florida Statutes, 1982 Supplement, is amended to read:

400.18 Closing of nursing facility.—

(1) Whenever a facility voluntarily discontinues operation, and during the period when it is preparing for such discontinuance, it shall inform the department not less than 90 days prior to the discontinuance of operation. The facility also shall inform the *resident patient* or the next of kin, legal representative, or agency acting on the *resident's patient's* behalf of the fact, and the proposed time, of such discontinuance and give at least 90 days' notice so that suitable arrangements may be made for the transfer and care of the *resident patient*. In the event any *resident patient* has no such person to represent him, the facility shall be responsible for securing a suitable transfer of the *resident patient* prior to the discontinuance of operation. The department shall be responsible for arranging for the transfer of those *residents patients* requiring transfer who are receiving assistance under s. 409.266.

(2) A representative of the department shall be placed in a facility 30 days prior to the voluntary discontinuance of operation, or immediately

upon the determination by the department that the facility is discontinuing operation or that existing conditions or practices represent an immediate danger to the health, safety, or security of the residents in the facility, to:

- (a) Monitor the transfer of *residents patients* to other facilities.
 - (b) Ensure that the rights of *residents patients* are protected.
 - (c) Observe the operation of the facility.
 - (d) Assist the management of the facility by advising the management on compliance with state and federal laws and rules.
 - (e) Recommend further action by the department.
- (3) The department shall discontinue the monitoring of a facility pursuant to subsection (2) when:
- (a) All *residents patients* in the facility have been relocated; or
 - (b) The department determines that the conditions which gave rise to the placement of a representative of the department in the facility no longer exist and the department is reasonably assured that those conditions will not recur.
 - (4) Immediately upon discontinuance of operation of a facility, the owner shall surrender the license therefor to the department, and the license shall be canceled.

Section 25. Section 400.19, Florida Statutes, 1982 Supplement, is amended to read:

400.19 Right of entry and inspection.—

(1) The department and any duly designated officer or employee thereof or a member of the State Nursing Home and Long-Term Care Facility Ombudsman *Council Committee* or the district nursing home and long-term care facility ombudsman *council committee* shall have the right to enter upon and into the premises of any facility licensed pursuant to this *part chapter* at any reasonable time in order to determine the state of compliance with the provisions of this *part chapter* and rules in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the department has reason to believe is being operated or maintained as a facility without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing same. Any application for a facility license or renewal thereof, made pursuant to this *part chapter*, shall constitute permission for and complete acquiescence in any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints.

(2) The department shall coordinate nursing home facility licensing activities and responsibilities of any duly designated officer or employee involved in nursing home facility inspection to assure necessary, equitable, and consistent supervision of inspection personnel without unnecessary duplication of inspections, consultation services, or complaint investigations. To facilitate such coordination, all rules *adopted and regulations promulgated or enforced by the state pursuant to this part and other related statutes shall be compiled into a single packet* by the department *other than emergency rules shall be distributed 30 days prior to implementation and made available* to nursing homes licensed under s. 400.062 and to applicants for such licensure.

(3) The department shall annually conduct at least one unannounced inspection to determine compliance by the nursing home facility with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of *residents patients*. The department shall verify through subsequent inspection that any deficiency identified during the annual inspection is corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the department to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter 110.

(4) The department shall conduct ~~four or more~~ unannounced onsite facility reviews within a 12-month period following written verification of facility noncompliance in instances where a nursing home ombudsman

~~council committee~~, pursuant to ss. 400.311 and 400.317, has received a complaint and has documented deficiencies in *resident patient* care or in the physical plant of the facility that threaten the health, safety, or security of residents, or when the department documents through inspection that conditions in a facility present a direct or indirect threat to the health, safety, or security of *residents patients*. *However, the department shall conduct four or more unannounced onsite reviews of facilities with conditional ratings.* Deficiencies related to physical plant shall not require follow-up reviews after the department determines that correction of the deficiency has been accomplished and that the correction is of the nature that continued compliance can be reasonably expected.

Section 26. Section 400.191, Florida Statutes, 1982 Supplement, is amended to read:

400.191 Availability, distribution, and posting of reports and records.—

(1) The department shall, within 60 days from the date of an annual inspection visit or within 30 days from the date of any interim visit, forward the results of all inspections of nursing home facilities to:

(a) The district ombudsman *council committee* in whose district the inspected facility is located.

(b) At least one public library or, in the absence of a public library, the county seat in the county in which the inspected facility is located.

(c) The district administrator of the department in whose district the inspected facility is located.

(d) The board.

(2) Each nursing home facility shall maintain as public information, available upon request, records of all cost and inspection reports pertaining to that facility that have been filed with, or issued by, any governmental agency. Copies of such reports shall be retained in said records for not less than 5 years from the date the reports are filed or issued.

(3) Any records, reports, or documents which by state or federal law or regulation are deemed confidential shall not be distributed or made available for purposes of compliance with this section unless and until such confidential status expires.

(4) Any records of a nursing home facility determined by the department to be necessary and essential to establish lawful compliance with any rules or standards shall be made available to the department on the premises of the facility.

(5) Every nursing home shall:

(a) Post, in a sufficient number of prominent positions in the nursing home so as to be accessible to all residents and to the general public, a concise summary of the last inspection report pertaining to the nursing home and issued by the department, with references to the page numbers of the full reports, noting any deficiencies found by the department and the actions taken by the nursing home to rectify such deficiencies and indicating in such summaries where the full reports may be inspected in the nursing home.

(b) Upon request, provide to any person who has completed a written application with an intent to be admitted to, or to any resident of, such nursing home, or to any relative, spouse, or guardian of such person, a copy of the last inspection report pertaining to the nursing home and issued by the department, provided the person requesting the report agrees to pay a reasonable charge to cover copying costs.

Section 27. Section 400.211, Florida Statutes, 1982 Supplement, is amended to read:

400.211 *Certification of nursing assistants* ~~Persons employed as nursing assistants; certification requirement.~~—

(1) *No person who is not certified pursuant to this section, other than a registered nurse or practical nurse licensed in accordance with the provisions of chapter 464, or an applicant for such licensure who is permitted to practice nursing in accordance with rules promulgated by the Board of Nursing pursuant to chapter 464, shall serve as a nursing assistant in any nursing home. The Department of Education shall issue a certificate to any person who:*

(a) *Is at least 18 years of age; and*

(b) *Has demonstrated to the Department of Education, through such procedures as that department may develop, that he is competent and capable of providing services as a nursing assistant at a nursing home. If testing is used to assess the competency and skill of an applicant for certification, an oral examination shall be administered upon request.*

(2) *Any candidate for certification who, prior to receiving instruction, satisfactorily demonstrates the competency and skill required for certification shall be exempt from related classroom attendance requirements.*

(3)(4) *After September 30, 1986 1984, no person shall be employed as a nursing assistant in a nursing home unless he is certified in accordance with this section ~~s. 468.1801~~ or is enrolled or agrees to enroll in the next certification program approved by the Department of Education for nursing assistants offered in his community or in the community where the nursing home is located. Within 7 24 working days hours of employing an uncertified aide or one who is not enrolled in an approved program leading to certification, the nursing home shall submit to the district school board an application to enroll the new employee in a certification program. A copy of such application shall be retained in the employee's file*

(4)(2) *The Department of Education may adopt such rules as are necessary to carry out this section.*

Section 28. Section 400.23, Florida Statutes, is amended to read:

400 23 Rules; minimum standards; evaluation and rating system; fee for review of plans.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this ~~part chapter~~ shall include standards by which a reasonable and consistent quality of ~~resident patient~~ care may be insured and the results of such ~~resident patient~~ care can be measured and by which safe and sanitary nursing homes can be provided. It is further intended that a minimum amount of the time of professionals providing nursing home care be required to insure compliance with the reporting requirements of these rules.

(2) Pursuant to the intention of the Legislature, the department shall publish and enforce rules to implement the provisions of this ~~part chapter~~, which shall include reasonable and fair minimum standards in relation to:

(a) The location and construction of the facility; including *fire and life safety*, plumbing, heating, lighting, ventilation, and other housing conditions which will insure the health, safety, and comfort of residents, including an adequate call system. *In making such rules, the department shall be guided by standards recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The department shall update or revise such standards as the need arises. All nursing homes must comply with those life safety code requirements and building code standards applicable at the time of their construction plan approval. The department may require alterations to a building if it determines that an existing condition constitutes a distinct hazard to life, health or safety. The department shall promulgate fair and reasonable rules setting forth conditions under which existing facilities undergoing additions, alterations, conversions, renovations, or repairs shall be required to comply with the most recent updated or revised standards. Separate standards shall be provided for physical plant of new and existing facilities. The department shall enforce the applicable uniform firesafety standards established by the State Fire Marshal pursuant to s. 633.05(8).*

(b) The number and qualifications of all personnel, including management, medical, and nursing personnel, and aides, orderlies and support personnel, having responsibility for any part of the care given residents.

(c) All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene which will insure the health and comfort of residents.

(d) The equipment essential to the health and welfare of the residents.

(e) A uniform accounting system.

(f) The care, treatment, and maintenance of residents and measurement of the quality and adequacy thereof.

(3) The department shall, at least annually, evaluate all nursing home facilities and make a determination as to the degree of compliance by each facility with minimum standards under this part and the rules promulgated thereunder as a basis for assigning a rating to that facility. The department shall base its evaluation on the most recent annual inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

(a) A facility shall be assigned a superior rating if the department determines that the facility is in compliance with the minimum standards under this part and the rules promulgated thereunder and the facility exceeds minimum standards in the following areas as provided for in paragraph (b):

1. Nursing service;
2. Staffing ratio of aides and orderlies;
3. Preservice training of aides and orderlies;
4. Inservice training of aides and orderlies;
5. Dietary or nutritional services;
6. Physical environment;
7. Housekeeping and maintenance;
8. Physical and restorative therapy;
9. Recreational therapy;
10. Social services;
11. Self-help activities;
12. Professional consultant services;
13. Activities and volunteer services; and
14. Notification and monitoring of visitation by physicians.

(b) The department shall categorize areas listed in paragraph (a) into two levels. Areas designated by the department as "Level I" shall be those areas which are essential to maintaining the health, safety, or security of ~~residents patients~~. Areas designated by the department as "Level II" shall be those areas which are less directly related to the health, safety, or security of ~~residents patients~~ but which are important to the overall quality of care and services provided by nursing home facilities. In promulgating any rules pursuant to the provisions of this section, the department may divide the areas listed in paragraph (a) into subareas for the purpose of appropriate categorization according to Levels I and II. In order to achieve a superior rating, a facility shall exceed minimum standards established for all Level I areas and a majority of Level II areas and shall comply with minimum standards for the remaining Level II areas. Within a reasonable period specified by the department, deficient Level II areas shall be corrected by a facility in order to qualify for a superior rating. The department's assessment of the degree of compliance by a facility with this paragraph shall take into consideration the needs and limitations of ~~residents patients~~ residing in the facility. ~~Residents' Patients'~~ needs and limitations shall be determined by the department after consultation with the nursing home facility.

(c) In making its determination as to the degree of compliance with the areas specified in paragraph (a) and the overall quality of care and services, the department shall consider the results of interviews and surveys of a representative sampling of ~~residents patients~~, families of ~~residents patients~~, ombudsman ~~council committee~~ members in the district in which the facility is located, guardians of ~~residents patients~~, and staff of the nursing home facility.

(d) A facility receiving a superior rating shall have the words "superior facility" marked in block letters not less than 1 inch in height on its license. A facility which meets, but does not exceed, minimum standards in all areas ~~prescribed by the department~~ shall receive a ~~standard an~~ ~~unrated~~ license. A facility which is not in compliance with minimum standards shall receive a conditional rating and shall have the words "conditional rating" marked in block letters not less than 1 inch in height on its license. A list of the deficiencies of the facility in terms of not meeting minimum standards shall be posted in a prominent place that is in clear

and unobstructed public view at or near the place where patients are being admitted to that facility. Facilities receiving a conditional rating shall prepare, within 10 working days of rating, a plan for correction of all deficiencies and shall submit the plan to the department for approval. Correction of all deficiencies, within the period approved by the department, shall result in termination of the conditional rating. Failure to correct the deficiencies, within a reasonable period approved by the department, shall be grounds for the imposition of sanctions pursuant to this part.

(e) Each facility shall post its license in a prominent place that is in clear and unobstructed public view at or near the place where *residents patients* are being admitted to the facility. A facility with a superior rating may advertise its rating in any nonpermanent medium and in accordance with rules adopted by the department. A list of the facilities receiving a superior rating shall be distributed to the state and district ombudsman *councils committees*.

(f) Not later than January 1, 1981, the department shall adopt rules which:

1. Establish uniform procedures for the evaluation of facilities;
2. Provide minimum standards in the areas referenced in paragraph (a);
3. Provide criteria for determining when a facility has exceeded minimum standards; and
4. Address other areas necessary for carrying out the intent of this section.

(g) A superior rating shall automatically expire after 1 year from date of issuance. A superior rating may be revoked at any time for failure to exceed minimum standards specified for any Level I area. Deficient Level II areas shall be corrected to the point of meeting or exceeding minimum standards as provided for in paragraph (b) within a reasonable period determined by the department, or the superior rating shall be revoked.

(h) A superior rating is not transferable to another license.

(4) ~~Not later than December 1, 1976,~~ The department shall promulgate rules to provide that, when the minimum standards established under subsection (2) are not met, such deficiencies shall be classified according to the nature of the deficiency. The department shall indicate the classification on the face of the notice of deficiencies as follows:

(a) Class I deficiencies are those which the department determines present an imminent danger to the *residents patients* or guests of the nursing home facility or a substantial probability that death or serious physical harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the department, is required for correction. Notwithstanding the provisions of s. 400.121(8), a class I deficiency is subject to a civil penalty in an amount not less than \$1,000 and not exceeding \$5,000 for each and every deficiency. A fine may be levied notwithstanding the correction of the deficiency.

(b) Class II deficiencies are those which the department determines have a direct or immediate relationship to the health, safety, or security of the nursing home facility *residents patients*, other than class I deficiencies. A class II deficiency is subject to a civil penalty in an amount not less than \$500 and not exceeding \$1,000 for each and every deficiency. A citation for a class II deficiency shall specify the time within which the deficiency is required to be corrected. If a class II deficiency is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(c) Class III deficiencies are those which the department determines to have an indirect or potential relationship to the health, safety, or security of the nursing home facility *residents patients*, other than class I or II deficiencies. A class III deficiency shall be subject to a civil penalty of not less than \$100 and not exceeding \$500 for each and every deficiency. A citation for a class III deficiency shall specify the time within which the deficiency is required to be corrected. If a class III deficiency is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(5) Civil penalties paid by any nursing home facility under the provisions of subsection (4) shall be deposited in the *Resident Patient* Protection Trust Fund and expended as provided in s. 400.063.

(6) The department shall approve or disapprove the plans and specifications within 60 days after receipt of the plans review fee payment, as required in subsection (7). The department may be granted one 15-day extension for the review period, if the secretary of the department so approves. If the department fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the department disapproves plans and specifications, it shall set forth in writing the reasons for disapproval. Necessary conferences and consultations may be provided as necessary.

(7) The department is authorized to charge a fee, not to exceed 0.5 percent of the estimated construction cost or the actual cost of review, whichever is less, for services rendered in conducting the review of plans and specifications for each new project, in an amount sufficient to cover the costs of purchasing necessary additional architectural and engineering services to meet the requirements of this section. Fee payment shall accompany the initial submission of final plans and specifications. Notwithstanding any other provisions of law to the contrary, all money received by the department pursuant to the provisions of this section shall be deemed to be trust funds, to be held and applied solely for the operations required under this section.

(8) When the department determines that a county or municipality is qualified to inspect and review plans and specifications, the department may delegate to that county or municipality the authority to review and approve plans and specifications based upon the statewide standards of the department. The time limits for approval or disapproval of plans and specifications by the department established in subsection (6) shall apply to the county or municipality. When such county or municipal approval is used in lieu of departmental approval, the fees charged by the department for such services shall be waived.

Section 29. Section 400.241, Florida Statutes, is amended to read:

400.241 Prohibited acts; penalties for violations.—

(1) It is unlawful for any person or public body to establish, conduct, manage, or operate a home as defined in this *part chapter* without obtaining a valid current license.

(2) It is unlawful for any person or public body to offer or advertise to the public, in any way by any medium whatever, nursing home care or service or custodial services without obtaining a valid current license. It shall be unlawful for any holder of a license issued pursuant to the provisions of this *part chapter* to advertise or hold out to the public that it holds a license for a facility other than that for which it actually holds a license.

(3) Violation of any provision of this *part chapter* or of any minimum standard, rule, or regulation adopted pursuant thereto shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of a continuing violation shall be considered a separate offense.

Section 30. Section 400.25, Florida Statutes, is amended to read:

400.25 Educational program authorized.—The Department of Health and Rehabilitative Services may conduct a clinic or seminar at such times and places as shall be convenient for the greatest number at which information may be offered in the general field of health education, management, and other subjects that will increase the knowledge and efficiency of applicants or licensees hereunder. ~~The board must approve the educational content of such clinic or seminar if it is intended to satisfy the educational requirements of the board.~~

Section 31. Section 400.29, Florida Statutes, is amended to read:

400.29 Annual report of nursing home facilities.—~~On or before January 1, 1977, and annually thereafter,~~ The department shall publish an *annual a report on or before January 1 of each year*, available to the public, which shall include, but not be limited to:

- (1) A list by name and address of all nursing home facilities in this state.
- (2) Whether such nursing home facilities are proprietary or nonproprietary.
- (3) The rating of each nursing home facility.
- (4) The name of the owner or owners.
- (5) The total number of beds.

- (6) The number of private and semiprivate rooms.
- (7) The religious affiliation, if any, of such nursing home facility.
- (8) The languages spoken by the administrator and staff of such nursing home facility.
- ~~(9) The number of full-time employees and their professions.~~
- (9)(10) Whether or not such nursing home facility accepts Medicare or Medicaid patients.
- (10)(11) Recreational and other programs available.

Section 32. Section 400.301, Florida Statutes, 1982 Supplement, is amended to read:

400.301 Legislative intent.—

(1) The Legislature finds and declares that conditions in nursing homes in Florida are such that the personal and health care needs of residents are not insured either by regulation of the Department of Health and Rehabilitative Services or the good faith of the nursing home industry. Furthermore, there is no formal mechanism whereby a nursing home resident or his representative may make a complaint against a nursing home facility or its employees. The Legislature declares further that concerned citizens are more effective advocates of the rights of others than government agencies. It is the intent of the Legislature, therefore, to provide an alternative to the present method of correcting nursing home deficiencies, by establishing voluntary citizen ombudsman *councils* ~~committees~~ at the state and district levels to discover, investigate, and determine the presence of abuse or neglect in nursing home facilities and to receive, investigate, and resolve complaints against nursing home facilities. To ensure that the effectiveness and efficiency of such investigations are not impeded by advance notice or delay, the Legislature intends that ombudsman *councils* ~~committees~~ shall not be required to obtain warrants in order to enter into or to conduct administrative inspections of nursing home facilities. It is the intent of the Legislature that the environment in nursing home facilities should be conducive to the dignity and independence of residents and that investigations by ombudsman *councils* ~~committees~~ should further the enforcement of laws and regulations that safeguard the health, safety, and welfare of residents.

(2) The Legislature further finds that procedures for discovering and investigating the presence of abuse or neglect and for receiving and investigating complaints through the mechanism of the state and district ombudsman *councils* ~~committees~~ should be extended to include complaints relating to adult congregate living facilities and adult foster homes. These facilities shall hereinafter be referred to as "long-term care facilities."

Section 33. Section 400.304, Florida Statutes, 1982 Supplement, is amended to read:

400.304 Establishment of a State Nursing Home and Long-Term Care Facility Ombudsman *Council* ~~Committee~~; duties; membership.—

(1) There is hereby created in the office of the Governor a State Nursing Home and Long-Term Care Facility Ombudsman *Council* ~~Committee~~.

(2) The duties of the state ombudsman *council* ~~committee~~ shall be to:

(a) Help establish and coordinate the district ombudsman *councils* ~~committees~~ throughout the state.

(b) Serve as an appellate body in receiving from the district ombudsman *councils* ~~committees~~ complaints not resolved at the district level. The state ombudsman *council* ~~committee~~ may enter any nursing home or long-term care facility involved in an appeal, pursuant to the conditions specified in s. 400.307(3). *Members associated with a nursing home or long-term care facility under investigation by a council shall not participate in the investigation or in an appeal.*

(c) Develop procedures to discover, investigate, and determine the existence of abuse or neglect in any nursing home or long-term care facility. Investigations may consist, in part, of one or more onsite administrative inspections.

(d) Develop procedures for eliciting, receiving, responding to, and resolving complaints made by, and on behalf of, nursing home and long-term care facility residents.

(e) Elicit and coordinate state, local, and voluntary organizational assistance for the purpose of improving the care received by residents of a nursing home or long-term care facility.

(f) Prepare an annual report to the President of the Senate, the Speaker of the House, and the Governor containing an appraisal of the problems of nursing home and long-term care facility residents and recommendations for improving nursing home and long-term care facility care and treatment.

(3) The state ombudsman *council* ~~committee~~ shall be composed of 12 members appointed by the Governor, to include the following: one physician who includes elderly patients in his practice; one registered nurse *who has geriatric experience, if possible*; one nursing home administrator; one licensed pharmacist; one dietitian; two representatives who are, or who represent, nursing home residents; one representative who is a resident of, or who represents residents of, an adult congregate living facility; one representative who is a resident of, or who represents residents of, an adult foster home; one owner or operator of an adult congregate living facility; one attorney; and one professional social worker. In no case shall an employee of the Department of Health and Rehabilitative Services serve as a member or as an ex officio member of the *council* ~~committee~~. The Governor shall elicit nominations from related professional organizations. Except for the nursing home administrator, the adult congregate living facility owner or operator, the registered nurse, and the licensed pharmacist, each member of the state ombudsman *council* ~~committee~~ shall certify to having no association with a nursing home or long-term care facility for reward or profit.

(4) All members shall serve for 2-year terms. A member may be reappointed thereafter. Any vacancy which occurs shall be filled by the Governor. If an appointment is not made within 120 days after a vacancy occurs, the vacancy shall be filled by a majority vote of the *council* ~~committee~~. The term of any member missing three consecutive regular meetings without cause shall be declared vacant.

(5) The state ombudsman *council* ~~committee~~ shall elect from its second-year members a chairman for a term of 1 year. ~~Effective November 1, 1980,~~ In no case shall a person who is an owner, administrator, operator, or employee of a nursing home or long-term care facility, as defined in s. 400.301(2), be elected as chairman of the *council* ~~committee~~. The chairman shall select a secretary from among the members. The secretary shall chair the *council* ~~committee~~ in the absence of the chairman.

(6) The state ombudsman *council* ~~committee~~ shall meet upon the call of the chairman, at least quarterly or more frequently as needed.

(7)(a) Members shall receive no compensation but shall be reimbursed for per diem and travel expenses as provided for in s. 112.061.

(b) The department shall make a separate and distinct request for an appropriation for all expenses for the *council* ~~committee~~. Such request may be combined into a specific appropriation for *council* ~~committee~~ expenses or included in a specific appropriation with other expenses in the Governor's recommended budget or in the appropriations acts. If a legislative appropriation for such expenses is made, the department shall reimburse expenses for individual advisory councils and committees in strict accordance with the appropriations and intent of the Legislature. The provisions of s. 216.292 notwithstanding, no transfer of appropriations shall be made which increases the appropriation made by the Legislature for advisory council and committee expenses.

(8) The state ombudsman *council* ~~committee~~ is authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties, including assistance from any adult protective services programs of the department as provided for under ss. 409.026 and 828.043.

(9) The state ombudsman *council* ~~committee~~ shall enter into a cooperative agreement with the statewide and district human rights advocacy committees, as defined in s. 20.19(6) and (7), for the purpose of coordinating advocacy services provided to residents of nursing home and long-term care facilities.

Section 34. Section 400.307, Florida Statutes, 1982 Supplement, is amended to read:

400.307 District nursing home and long-term care facility ombudsman *councils* ~~committees~~; duties; membership.—

(1) There shall be at least one nursing home and long-term care facility ombudsman *council committee* in each of the districts of the department.

(2) The duties of the district ombudsman *council committee* are:

(a) To serve as a third-party mechanism for protecting the health, safety, welfare, and civil and human rights of residents of a nursing home or long-term care facility.

(b) To discover, investigate, and determine the existence of abuse or neglect in any nursing home or long-term care facility and to use the procedures provided for in s. 827.09 when applicable. Investigations may consist, in part, of one or more onsite administrative inspections.

(c) To elicit, receive, respond to, and resolve complaints made by, or on behalf of, nursing home or long-term care facility residents.

(d) To review, for their effect on the rights of nursing home or long-term care facility residents, all existing or proposed rules and regulations relating to nursing home or long-term care facilities.

(e) To review Medicaid patients' personal property and money accounts pursuant to an investigation to obtain information regarding a specific complaint or problem.

(3) In order to carry out the duties specified in subsection (2), the district ombudsman *council committee* is authorized, pursuant to ss. 400.19(1) and 400.434, to enter any nursing home or long-term care facility without notice or first obtaining a warrant, subject to the provisions of s. 400.314(5).

(4) Each district ombudsman *council committee* shall be composed of 15 members from the district, to include the following: one physician licensed pursuant to chapter 458 or chapter 459 whose practice includes a substantial number of geriatric patients; one registered nurse *who has geriatric experience, if possible*; one nursing home administrator; one owner or operator of an adult congregate living facility; one licensed pharmacist; one dietitian; five nursing home residents or representative consumer advocates for nursing home residents; two long-term care facility residents or representative consumer advocates for long-term care facility residents; one attorney; and one professional social worker. In no case shall an employee of the Department of Health and Rehabilitative Services serve as a member or as an ex officio member of a *council committee*. Except for the nursing home administrator, adult congregate living facility owner or operator, pharmacist, and nurse, each member of the committee shall certify to having no association with a nursing home or long-term care facility for reward or profit. *Members associated with a nursing home or long-term care facility under investigation by a council shall not participate in the investigation.*

(5) All members shall serve 2-year terms. A member may be reappointed thereafter. Upon expiration of a term and in case of any other vacancy, the *council committee* shall appoint a replacement by majority vote of the *council committee*, subject to the approval of the Governor. If no action is taken by the Governor to approve or disapprove the replacement of a member within 30 days after the *council committee* has notified the Governor of the appointment, the appointment of the replacement shall be considered approved. The term of any member missing three consecutive regular meetings without cause shall be declared vacant.

(6) The district ombudsman *council committee* shall elect from its second-year members a chairman for a term of 1 year. In no case shall a person who is an owner, administrator, operator, or employee of a nursing home or long-term care facility, as defined in s. 400.301(2), be elected as chairman of the *council committee*. The chairman shall select a secretary from among the members of the *council committee*. The secretary shall chair the *council committee* in the absence of the chairman.

(7) The district ombudsman *council committee* shall meet upon the call of the chairman, at least once a month or more frequently as needed to handle emergency situations.

(8)(a) A member of a district ombudsman *council committee* shall receive no compensation but shall be reimbursed for travel expenses both within and outside the county of residence in accordance with the provisions of s. 112.061.

(b) The department shall make a separate and distinct request for an appropriation for all expenses for each *council committee* which shall

indicate the proposed distribution of such expenses among districts. Such request may be combined into a specific appropriation for *council committee* expenses or included in a specific appropriation with other expenses in the Governor's recommended budget or in the appropriations acts. If a legislative appropriation for such expenses is made, the department shall reimburse expenses for individual advisory councils and committees in strict accordance with the appropriations and intent of the Legislature. The provisions of s. 216.292 notwithstanding, no transfer of appropriations shall be made which increases the appropriation made by the Legislature for advisory council and committee expenses.

(9) The district ombudsman *councils committees* are authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of their duties. All state agencies shall cooperate with the district ombudsman *councils committees* in providing requested information and agency representatives at *council committee* meetings.

Section 35. Section 400.311, Florida Statutes, 1982 Supplement, is amended to read:

400.311 Procedures for receiving complaints.—

(1) The State Ombudsman *Council Committee* shall establish state and district procedures for receiving complaints against a nursing home or long-term care facility or its employee.

(2) These procedures shall be posted in full view in every nursing home or long-term care facility. Every resident or representative of a resident shall receive, upon admission to a nursing home or long-term care facility, a printed copy of the procedures of the state and the district ombudsman *councils committees*.

Section 36. Section 400.314, Florida Statutes, is amended to read:

400.314 Investigations by state and district nursing home and long-term care facility ombudsman *councils committees*.—

(1) A district ombudsman *council committee* shall investigate any complaint of a resident or resident's representative based on an action by an administrator or employee of a nursing home or long-term care facility which might be:

(a) Contrary to law.

(b) Unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law.

(c) Based on a mistake of fact.

(d) Based on improper or irrelevant grounds.

(e) Unaccompanied by an adequate statement of reasons.

(f) Performed in an inefficient manner.

(g) Otherwise erroneous.

(2) In an investigation, both the state and district ombudsman *councils committees* have the authority to hold hearings.

(3) Subsequent to an appeal from a district ombudsman *council committee*, the state ombudsman *council committee* may investigate any nursing home or long-term care facility.

(4) In addition to any specific investigation made pursuant to a complaint, the district ombudsman *council committee* shall conduct, at least annually, an investigation, which shall consist, in part, of an onsite administrative inspection, of each nursing home or long-term care facility within its jurisdiction.

(5) Any onsite administrative inspection conducted by an ombudsman *council committee* shall be subject to the following:

(a) All inspections shall be at times and for durations necessary to produce the information required to carry out the duties of the *council committee*.

(b) No advance notice of an inspection shall be provided to any nursing home or long-term care facility, except that notice of follow-up inspections on specific problems may be provided.

(c) Inspections shall be conducted in a manner which will impose no unreasonable burden on nursing homes or long-term care facilities, consistent with the underlying purposes of this part. Unnecessary duplication of efforts among *council committee* members or the *councils committees* shall be reduced to the extent possible.

(d) Any ombudsman *council committee* member physically present for the inspection shall identify himself and the statutory authority for his inspection of the facility.

(e) Inspections shall not unreasonably interfere with the programs and activities of clients within the facility. Ombudsman *council committee* members shall respect the rights of residents.

(f) All inspections shall be limited to compliance with parts I and II of chapter 400 and 42 U.S.C. s. 1396(a) et seq. and any rules or regulations promulgated pursuant to such laws.

(g) No ombudsman *council committee* member shall enter a single-family residential unit within a long-term care facility without the permission of the resident or the resident's representative.

(h) Any inspection resulting from a specific complaint made to an ombudsman *council committee* concerning a facility shall be conducted within a reasonable time after the complaint is made.

(6) An inspection may not be accomplished by forcible entry. Refusal of a nursing home or long-term care facility to allow entry of any ombudsman *council committee* member constitutes a violation of part I or part II of this chapter.

Section 37. Section 400.317, Florida Statutes, 1982 Supplement, is amended to read:

400.317 Procedures for resolving a complaint.—

(1) Any complaint, including any problem identified by an ombudsman *council committee* as a result of an investigation, deemed valid and requiring remedial action by the district ombudsman *council committee* shall be identified and brought to the attention of the nursing home or long-term care facility administrator in writing. Upon receipt of such document, the administrator, in concurrence with the district ombudsman *council committee* chairman, shall establish target dates for taking appropriate remedial action. If, by the target date, the remedial action is not completed or forthcoming, the district ombudsman *council committee* may:

(a) Extend the target date if the *council committee* has reason to believe such action would facilitate the resolution of the complaint.

(b) Make public the complaint, the *council's committee's* recommendations, and the response of the nursing home or long-term care facility; however, in no case shall the names of individuals involved in the complaint be disclosed.

(c) Refer the complaint to the state ombudsman *council committee*.

(2) Upon referral from the district ombudsman *council committee*, the state ombudsman *council committee* shall assume the responsibility for the disposition of the complaint. If a nursing home or long-term care facility fails to take action on a complaint found valid by the state ombudsman *council committee*, the state *council committee* may:

(a) Make public the complaint, the *council's committee's* recommendations, and the response of the nursing home or long-term care facility; however, in no case shall the names of the individuals involved in the complaint be disclosed.

(b) Recommend to the department a series of facility reviews pursuant to s. 400.19(4) to assure correction and nonrecurrence of conditions that give rise to complaints against a nursing home facility.

(c) Recommend to the department changes in rules and regulations for inspecting and licensing or certifying nursing home or long-term care facilities.

(d) Refer the complaint to the state attorney for prosecution if there is reason to believe the nursing home or long-term care facility or its employee is guilty of a criminal act.

(e) Recommend to the department that the nursing home no longer receive payments under the State Medical Assistance Program (Medicaid).

(f) Recommend that the Department of Health and Rehabilitative Services initiate procedures for revocation of license in accordance with chapter 120.

Section 38. Section 400.321, Florida Statutes, 1982 Supplement, is amended to read:

400.321 Confidentiality.—

(1) All matters before the state or a district ombudsman *council committee* concerning abuse or denial of rights of an individual client of a nursing home or long-term care facility shall be confidential and exempt from the provisions of chapter 119. All other matters before the *council committee* shall be open to the public and subject to chapter 119.

(2) Members of any state or district ombudsman *council committee* shall not be required to testify in any court with respect to matters held to be confidential under s. 400.414 except as may be necessary to enforce the provisions of this act.

Section 39. Section 400.3221, Florida Statutes, is created to read:

400.3221 Emergency medication kits.—

(1) Other provisions of this part or of chapter 465, chapter 500, or chapter 893 to the contrary notwithstanding, each nursing home operating pursuant to a license issued by the Department of Health and Rehabilitative Services may maintain an emergency medication kit for the purpose of storing medicinal drugs to be administered under emergency conditions to residents residing in such facility.

(2) The Department of Health and Rehabilitative Services shall adopt such rules as it may deem appropriate to the effective implementation of this act, including, but not limited to, rules which:

(a) Define "emergency medication kit."

(b) Describe the medicinal drugs eligible to be placed in emergency medication kits.

(c) Establish requirements for the storing of medicinal drugs in emergency medication kits and the maintenance of records with respect thereto.

(d) Establish requirements for the administration of medicinal drugs to residents under emergency conditions from emergency medication kits.

Section 40. Section 400.402, Florida Statutes, 1982 Supplement, is amended to read:

400.402 Definitions.—When used in this part, unless the context otherwise requires:

(1) "Adult congregate living facility," hereinafter referred to as "facility," means any building or buildings, *section of a building or distinct part of a building*, residence, private home, boarding home, home for the aged, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a period exceeding 24 hours, housing, food service, and one or more personal services for four or more adults, not related to the owner or *administrator operator* by blood or marriage, who require such services. A facility offering personal services for fewer than four adults shall be within the meaning of this definition if it formally or informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services.

(2) "Applicant" means any facility owner, or if a business entity, a person appointed by such entity to make application for a license.

(3) "Department" means the Department of Health and Rehabilitative Services.

(4) "Emergency" means a situation, physical condition, or method of operation which presents imminent danger of death or serious physical or mental harm to facility residents.

(5) "Guardian" means a person to whom the law has entrusted the custody and control of the person or property, or both, of a *person adjudicated an* incompetent.

(6) "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to ensure the well-being of a resident, and by such omission, forbearance, or failure, to significantly impair or jeopardize the physical or emotional health of a resident.

(7) "Administrator" ~~"Operator"~~ means an individual who has general administrative charge of an adult congregate living facility.

(8) "Personal services" include, but are not limited to, such services as: individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing, and ambulation; supervision of self-administered medication, and other similar services which the department may define. "Personal services" shall not be construed to mean the provision of medical, dental, nursing, or mental health services by the staff of a facility, except as provided in subsection (11). ~~"Personal services" includes, but is not limited to, such services as: individual assistance with eating, bathing, grooming, dressing, ambulation, and housekeeping; supervision of self-administered medication; arrangement for or provision of social and leisure services; arrangement for appropriate medical, dental, nursing, or mental health services; and other similar services which the department may define. "Personal services" shall not be construed to mean the provision of medical, nursing, dental, or mental health services by the staff of a facility, except as provided in subsection (11). "Assistance with eating, bathing, grooming, dressing, ambulation, and housekeeping" shall not be construed to mean that any resident must be able to perform any of these functions unassisted.~~

(9) "Resident" means a person 18 years of age or older, residing in and receiving care from a facility.

(10) "Resident's representative or designee" means a person other than the owner, or an agent or employee of the facility, designated in writing by the resident, if legally competent, to receive notice of changes in the contract executed pursuant to s. 400.424; to receive notice of and to participate in meetings between the resident and the facility owner, administrator ~~operator~~, or staff concerning the rights of the resident; to assist the resident in contacting the ombudsman council committee if the resident has a complaint against the facility; or to bring legal action on behalf of the resident pursuant to s. 400.429, ~~or to participate in meetings of the ad hoc committee on adult congregate living facilities pursuant to s. 400.437(1).~~

(11) "Supervision of self-administered medication" means reminding residents to take medication, opening bottle caps for residents, reading the medication label to residents, observing residents while they take medication, checking the self-administered dosage against the label of the container, reassuring residents that they have obtained and are taking the ~~correct~~ dosage as prescribed, keeping daily records of when residents receive supervision pursuant to this subsection, and immediately reporting noticeable changes in a resident's condition ~~effects and side effects of medication~~ to the resident's physician. Supervision of self-administered medication shall not be construed to mean that a facility staff shall provide such supervision to residents who are capable of administering their own medication. *Persons under contract to the facility, facility staff, or volunteers, who are licensed according to chapter 464 or those persons exempt under s. 464.022(1) are limited in their practice in an adult congregate living facility to the administration of medication to residents.* ~~This subsection does not prohibit the administration of medication by qualified licensed staff or other qualified personnel licensed according to the provisions of chapter 464 to residents who are not in need of any other nursing intervention from facility staff.~~

(12) "Supplemental security income," Title XVI of the Social Security Act, means a program through which the Federal Government guarantees a minimum monthly income to every person who is age 65 or older, or disabled, or blind and meets the income and asset requirements.

(13) "Supervision of activities of daily living" means reminding residents to engage in personal hygiene and other self-care activities and, when necessary, observing or assisting residents while they attend to such activities to assure their health, safety, and welfare.

Section 41. Paragraph (e) is added to subsection (2) of section 400.404, Florida Statutes, to read:

400.404 Facilities to be licensed; exemptions.—

(2) The following shall be exempt from the provisions of this part:

(e) Any home or facility approved by the Veterans Administration as a residential care home where care is provided exclusively to three or fewer veterans.

Section 42. Subsection (8) is added to section 400.407, Florida Statutes, to read:

400.407 License required; fee, display.—

(1) It is unlawful to operate or maintain a facility without first obtaining from the department a license authorizing such operation.

(8) Any person found guilty of violating subsection (1) who, upon notification by the department, fails to apply for a license shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 43. Section 400.411, Florida Statutes, 1982 Supplement, is amended to read:

400.411 Initial application for license.—

(1) Application for license shall be made to the department on forms furnished by it and shall be accompanied by the appropriate license fee. The application shall contain sufficient information, as required by rules of the department, to establish that the applicant facility can provide adequate care. ~~If during the period for which a license is issued, the facility changes operators, the owner shall notify the department of the change within 30 days. In addition, any facility which employs or contracts for the services of personnel licensed under chapter 464 shall notify the department within 7 days of such action.~~

(2) The application shall be under oath and shall contain the following:

(a) The name and address of the applicant if an individual; if the applicant is a firm, partnership, or association, the name and address of every member thereof; if the applicant is a corporation, its name and address and the name and address of its director and officers and of each person having at least a 10 percent interest in the corporation; and the name by which the facility is to be known.

(b)(a) Information which establishes the suitable character and competency ~~moral character~~ of the applicant and, if applicable, of the administrator including the name and address of any long-term care facility with which the applicant or the administrator has been affiliated through ownership or employment within 5 years of the date of the application for a license.

(c)(b) The names and addresses of other persons of whom the department may inquire as to the character, reputation, and financial responsibility of the applicant and if applicable, of the administrator.

(d)(e) Information pertaining to any arrest for, or adjudication or conviction of, a crime by the applicant and administrator, if applicable, which relates to providing care in a facility or the ability to operate a facility.

(3) The applicant shall furnish satisfactory proof of financial ability to operate and conduct the facility in accordance with the requirements of this part. An applicant applying for an initial license shall submit a balance sheet setting forth assets and liabilities of the owner and a statement of operation of the facility projecting revenues, expenses, taxes, extraordinary items, and other credits or charges for the first 6 months of operation.

(4) If the applicant offers continuing care agreements as defined in chapter 651, proof shall be furnished that such applicant has obtained a certificate of authority as required for operation under that chapter.

(5) The applicant shall provide proof of liability insurance.

(6) If during the period for which a license is issued, the facility changes administrators, the department shall be notified of the change within 30 days. In addition, any owner who enters into any contract for services with, employs, or otherwise utilizes any person licensed under chapter 464, including volunteers, for the purpose of administering drugs shall notify the department within 30 days of such action.

Section 44. Section 400.412, Florida Statutes, is created to read:

400.412 Sale or transfer of ownership of a facility.—

(1) It is the intent of the Legislature to protect the rights of adult congregate living facilities residents and when a facility is sold or the ownership is transferred.

(2) Whenever a facility is sold or the ownership is transferred, including leasing, the transferee shall make application to the department for a new license at least 30 days prior to the date of transfer of ownership.

(3) The transferor shall notify the department in writing at least 30 days prior to the date of transfer of ownership. The transferor shall be responsible and liable for the lawful operation of the facility and the welfare of the residents domiciled in the facility until the date the transferee is licensed by the department. The transferor shall be liable for any and all penalties imposed against the facility for violations occurring prior to the date of transfer of ownership and for any outstanding liability to the state, unless the transferee has agreed, as a condition of sale or transfer, to accept the outstanding liabilities and to guarantee payment therefor. However, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability.

(4) The transferor shall, prior to transfer of ownership, pay or make arrangements to pay to the department any amounts owed to the department prior to the transfer of ownership, and the issuance of a license to the transferee shall be delayed until payment or until arrangements for payment are made.

Section 45. Section 400.414, Florida Statutes, is amended to read:

400.414 Denial, suspension, revocation of license; grounds.—

(1) The department may deny, revoke, or suspend a license or impose an administrative fine in the manner provided in chapter 120.

(2) Any of the following actions by a facility or its employee shall be grounds for action by the department against a facility:

(a) An intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(b) The determination by the department that the facility owner or administrator is not of suitable character and competency or that the owner operator is of questionable moral character or lacks the financial ability to provide continuing adequate care to residents, pursuant to the information obtained through s. 400.411, s. 400.417, or s. 400.434.

(c) Misappropriation or conversion of the property of a resident of the facility.

(3) *The department may impose an immediate moratorium on admissions to any facility when the department determines that any condition in the facility presents a potential threat to the health, safety, or welfare of the residents in the facility.*

Section 46. Section 400.417, Florida Statutes, 1982 Supplement, is amended to read:

400.417 Expiration of license; renewal; conditional license; *provisional license* or ~~permit~~.—

(1) Licenses issued for the operation of a facility, unless sooner suspended or revoked, shall expire automatically 1 year from the date of issuance. *The department shall notify the facility by certified mail 120 days prior to the expiration of the license that relicensure is necessary to continue operation.* Ninety days prior to the expiration date, an application for renewal shall be submitted to the department. A license shall be renewed upon the filing of an application on forms furnished by the department if the applicant has first met the requirements established under this part and all rules promulgated hereunder. The failure to file a timely application shall result in a late fee charged to the facility in an amount equal to 50 percent of the fee in effect on the last preceding regular renewal date. Late fees shall be deposited into the trust fund established by s. 400.418. The facility shall file with the application satisfactory proof of ability to operate and conduct the facility in accordance with the requirements of this part. An applicant for renewal of a license who has complied on the initial license application with the provisions of s. 400.411 with respect to proof of financial ability to operate shall not be required to provide proof of financial ability on a renewal application unless the facility has demonstrated financial instability as evidenced by bad checks, delinquent accounts, nonpayment of withholding taxes, utility expenses, and other essential services. *However in addition,* the department shall have access to books, records, and any other financial documents maintained by the facility to the extent necessary to carry out the purpose of this section.

(2) A licensee against whom a revocation or suspension proceeding is pending at the time of license renewal may be issued a conditional license effective until final disposition by the department of such proceeding. If judicial relief is sought from the final disposition, the court having jurisdiction may issue a conditional license ~~permit~~ for the duration of the judicial proceeding.

(3) A conditional license ~~may shall~~ be issued to a facility which has changed ownership pending final license approval, if the facility is occupied by residents and, in such instance, conditions in the facility do not present a direct or indirect threat to the health, safety, or welfare of residents. The conditional license shall be for a single period not to exceed 90 days.

(4) *A provisional license may be issued to an applicant making initial application for licensure for a newly constructed or renovated facility that fails to meet all standards and requirements for licensure. A provisional license shall be limited to a specific period of time, not to exceed 6 months, as determined by the department and shall be accompanied by an approved corrective action plan.*

(5) *A conditional license may be issued to an applicant for license renewal when the applicant fails to meet all standards and requirements for licensure. A conditional license shall be limited in duration to a specific period of time, not to exceed 6 months, as determined by the department and shall be accompanied by an approved corrective action plan.*

Section 47. Section 400.418, Florida Statutes, 1982 Supplement, is amended to read:

400.418 Disposition of fees and administrative fines.—

(1) ~~The office of the Comptroller shall establish an Aging and Adult Licensure Congregate Living Facilities Trust Fund for the purpose of collecting and disbursing funds generated pursuant to ss. 400.407, 400.417, and 400.419. Income from license fees, late fees, and administrative fines authorized herein shall be deposited in the trust fund. Such funds shall be directed to and used by the department for the following purposes:~~

(1)(a) Up to 50 percent of the trust funds accrued each fiscal year may be used to offset the expenses of receivership, pursuant to s. 400.422, if the court determines that the income and assets of the facility are insufficient to provide for adequate management and operation.

(2)(b) Up to \$5,000 of the trust funds accrued each year may be used to pay for inspection-related physical examinations requested by the department pursuant to s. 400.426 for residents who are either recipients of supplemental security income or have monthly incomes not in excess of the maximum combined federal and state cash subsidies available to supplemental security income recipients, as provided for in s. 409.212.

(3)(e) The balance of trust funds accrued each year may be used to offset the costs of the licensure program, including the costs of conducting background investigations, verifying information submitted, and defraying the costs of processing the names of applicants.

~~(2) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 48. Section 400.419, Florida Statutes, is amended to read:

400.419 Violations; penalties.—

(1)(a) If the department determines that a facility is not in compliance with standards promulgated pursuant to the provisions of this part, including the operation of a facility without a license, the department, as an alternative to or in conjunction with an administrative action against a facility, shall make a reasonable attempt to discuss each violation and recommended corrective action with the owner or administrator operator of the facility, prior to written notification thereof. The department, as an alternative to ~~instead of~~ fixing a period within which the facility shall enter into compliance with standards, may request a ~~plan of~~ corrective action plan from the facility which demonstrates a good faith effort to remedy each violation by a specific date, subject to the approval of the department.

(b) Any facility owner or operator found to be in violation of this part shall be liable to a fine, set and levied by the department.

(c) *Failure to correct the violation by the date set by the department or failure to comply with the approved corrective action plan is a separate violation for each day such failure continues, unless the depart-*

~~ment approves an extension to a specific date. Each day during which any person violates any such provision after the date fixed for termination of the violation, as ordered by the department, shall constitute an additional, separate, and distinct violation.~~

(d) Any action taken to correct a violation shall be documented in writing by the ~~administrator~~ operator of the facility and verified through follow-up visits by licensing personnel of the department.

(e) If a facility desires to appeal any departmental action under this section, ~~it shall send a written request for a hearing to the department within 15 days of receipt of notice of the action of the department. and if the fine is upheld, the violator shall pay the fine, plus interest at the legal rate as specified in s. 687.01, for each day beyond the date set by the department for payment of the fine.~~

(2) In determining if a penalty is to be imposed and in fixing the amount of the penalty to be imposed, if any, for a violation, the department shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a resident will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated.

(b) Actions taken by the owner or ~~administrator~~ operator to correct violations.

(c) Any previous violations.

(d) The financial benefit to the facility of committing or continuing the violation.

(3) Each violation shall be classified according to the nature of the violation and the gravity of its probable effect on facility residents. The department shall indicate the classification of each violation on the face of the notice of the violation as follows:

(a) Class "I" violations ~~are those conditions or occurrences include overt resident abuse and negligence~~ related to the operation and maintenance of a facility ~~or to the personal care of residents~~ which the department determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the department, is required for correction. A class I violation is subject to a civil penalty in an amount not less than \$1,000 and not exceeding \$5,000 for each violation. A fine may be levied notwithstanding the correction of the violation.

(b) Class "II" violations are those conditions or occurrences related to the operation and maintenance of a facility ~~or to the personal care of residents~~ which the department determines directly threaten the physical or emotional health, safety, or security of the facility residents, other than class I violations. A class II violation is subject to a civil penalty in an amount not less than \$500 and not exceeding \$1,000 for each violation. A citation for a class II violation shall specify the time within which the violation is required to be corrected. If a class II violation is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(c) Class "III" violations are those conditions or occurrences related to the operation and maintenance of a facility ~~or to the personal care of residents~~ which the department determines indirectly or potentially threaten the physical or emotional health, safety, or security of facility residents, other than class I or II violations. A class III violation shall be subject to a civil penalty of not less than \$100 and not exceeding \$500 for each violation. A citation for a class III violation shall specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.

(4) The department may set and levy a fine not to exceed \$500 for each violation which cannot be classified according to subsection (3). In no event shall such fine in the aggregate exceed \$5,000.

(5) Civil penalties paid by any facility under the provisions of ~~this section subsection (3)~~ shall be deposited into the *Aging and Adult Licensure Adult Congregate Living Facilities* Trust Fund, and expended as provided in s. 400.418.

(6) The department shall maintain a current list containing the names and addresses of all facilities with one or more violations for which a corrective action plan, in accordance with the period approved or set by the department, has not been carried out. The list shall specify the number and class of each violation. Upon request, a copy of the list of violators shall be made available to facilities, residents, and potential residents, and to persons and agencies which make referrals to such facilities. A facility shall be removed from the list when a corrective action plan for all violations is approved by the department or when all corrections are made.

~~(7) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 49. Section 400.420, Florida Statutes, is created to read:

400.420 Certain solicitation prohibited.—

(1) No person shall, in connection with the solicitation of contributions to adult congregate living facilities misrepresent or mislead anyone, by any manner, means, practice, or device whatsoever, to believe that the receipts of such solicitation will be used for charitable purposes, if such is not the fact.

(2) Solicitation of contributions of any kind in a threatening, coercive, or unduly forceful manner by or on behalf of adult congregate living facilities by any agent, employee, owner, or representative of any adult congregate living facility shall be grounds for denial, suspension, or revocation of the license for such adult congregate living facility on behalf of which such contributions were solicited.

(3) The admission or maintenance, of adult congregate living facility resident whose care is supported in whole or in part by state funds shall not be made conditional upon the receipt of any manner of contribution or donation from any person. Contributions solicited or received in violation of this subsection shall be grounds for denial, suspension, or revocation of a license as indicated in s. 400.414 for any adult congregate living facility on behalf of which such contributions were solicited.

Section 50. Section 400.422, Florida Statutes, is amended to read:

400.422 Receivership proceedings.—

(1) As an alternative to or in conjunction with injunctive proceedings, the department may petition a court of competent jurisdiction for the appointment of a receiver, if suitable alternate placements are not available, when any of the following conditions exist:

(a) The facility is operating without a license and refuses to make application for a license as required by s. 400.407.

(b) The facility is closing or has informed the department that it intends to close and adequate arrangements have not been made for relocation of the residents within 7 days, exclusive of weekends and holidays, of the closing of the facility.

(c) The department determines there exist in the facility conditions which present an imminent danger to the health, safety, or welfare of the residents of the facility or a substantial probability that death or serious physical harm would result therefrom.

(d) The facility cannot meet its financial obligation for providing food, shelter, care, and utilities.

(2) Petitions for receivership shall take precedence over other court business unless the court determines that some other pending proceeding, having similar statutory precedence, shall have priority. A hearing shall be conducted within 5 days of the filing of the petition, at which time all interested parties shall have the opportunity to present evidence pertaining to the petition. The department shall notify the owner or ~~administrator~~ operator of the facility named in the petition of its filing and the date set for the hearing. The court shall grant the petition only upon finding that the health, safety, or welfare of facility residents would be threatened if a condition existing at the time the petition was filed is permitted to continue. A receiver shall not be appointed ex parte unless the court determines that one or more of the conditions in subsection (1)

exist; that the facility owner or ~~administrator operator~~ cannot be found; that all reasonable means of locating the owner or the ~~administrator operator~~ and notifying him of the petition and hearing have been exhausted; or that the owner or ~~administrator operator~~ after notification of the hearing chooses not to attend. After such findings, the court may appoint any qualified person as a receiver, except it shall not appoint any owner or affiliate of the facility which is in receivership. The receiver may be selected from a list of persons qualified to act as receivers developed by the department and presented to the court with each petition for receivership. Under no circumstances shall the department or designated departmental employee be appointed as a receiver for more than 60 days; however, the receiver may petition the court, one time only, for a 30-day extension. The court shall grant the extension upon a showing of good cause.

(3) The receiver shall make provisions for the continued health, safety, and welfare of all residents of the facility and:

(a) Shall exercise those powers and perform those duties set out by the court.

(b) Shall operate the facility in such a manner as to assure safety and adequate health care for the residents.

(c) Shall take such action as is reasonably necessary to protect or conserve the assets or property of the facility for which the receiver is appointed, or the proceeds from any transfer thereof, and may use them only in the performance of the powers and duties set forth in this section and by order of the court.

(d) May use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed. The receiver shall collect payments for all goods and services provided to residents or others during the period of the receivership at the same rate of payment charged by the owners at the time the petition for receivership was filed, or at a fair and reasonable rate otherwise approved by the court.

(e) May correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety or health of residents while they remain in the facility, provided the total cost of correction does not exceed \$2,000. The court may order expenditures for this purpose in excess of \$2,000 on application from the receiver after notice to the owner and a hearing.

(f) May let contracts and hire agents and employees to carry out the powers and duties of the receiver.

(g) Shall honor all leases, mortgages, and secured transactions governing the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of the receivership, or which, in the case of a purchase agreement, become due during the period of the receivership.

(h) Shall have full power to direct and manage and to discharge employees of the facility, subject to any contract rights they may have. The receiver shall pay employees at the rate of compensation, including benefits, approved by the court. Receivership does not relieve the owner of any obligation to employees made prior to the appointment of a receiver and not carried out by the receiver.

(i) Shall be entitled to and take possession of all property or assets of residents which are in the possession of a facility or its owner. The receiver shall preserve all property, assets, and records of residents of which the receiver takes possession and shall provide for the prompt transfer of the property, assets, and records to the new placement of any transferred resident. An inventory list certified by the owner and receiver shall be made immediately at the time the receiver takes possession of the facility.

(4)(a) A person who is served with notice of an order of the court appointing a receiver and of the receiver's name and address shall be liable to pay the receiver for any goods or services provided by the receiver after the date of the order if the person would have been liable for the goods or services as supplied by the owner. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit accounts received in a separate account and shall use this account for all disbursements.

(b) The receiver may bring an action to enforce the liability created by paragraph (a).

(c) A payment to the receiver of any sum owing to the facility or its owner shall discharge any obligation to the facility to the extent of the payment.

(5)(a) A receiver may petition the court that he not be required to honor any lease, mortgage, secured transaction, or other wholly or partially executory contract entered into by the owner of the facility if the rent, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rent, price, or rate of interest at the time the contract was entered into, or if any material provision of the agreement was unreasonable, when compared to contracts negotiated under similar conditions. Any relief in this form, provided by the court, shall be limited to the life of the receivership, unless otherwise determined by the court.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage, or security interest which the receiver has obtained a court order to avoid under paragraph (a), and if the real estate or goods are necessary for the continued operation of the facility under this section, the receiver may apply to the court to set a reasonable rental, price, or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on the application within 15 days. The receiver shall send notice of the application to any known persons who own the property involved at least 10 days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease, security interest, or mortgage involved by any person who received such notice, but the payment does not relieve the owner of the facility of any liability for the difference between the amount paid by the receiver and the amount due under the original lease, security interest, or mortgage involved.

(6) The court shall set the compensation of the receiver, which will be considered a necessary expense of a receivership.

(7) A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts, or breach of fiduciary duty.

(8) The court may require a receiver to post a bond.

(9) The court may direct the department to allocate funds from the ~~Aging and Adult Licensure Congregate Living Facilities~~ Trust Fund to the receiver, subject to the provisions of s. 400.418(1)(a).

(10) The court may terminate a receivership when:

(a) The court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist or the department grants the facility a new license; or

(b) All of the residents in the facility have been transferred or discharged.

(11) Within 30 days after termination, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected, and of the expenses of the receivership.

(12) Nothing in this section shall be deemed to relieve any owner, administrator, or employee of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, administrator, or employee prior to the appointment of a receiver; nor shall anything contained in this section be construed to suspend during the receivership any obligation of the owner, administrator, or employee for payment of taxes or other operating and maintenance expenses of the facility or of the owner, administrator, employee, or any other person for the payment of mortgages or liens. The owner shall retain the right to sell or mortgage any facility under receivership, subject to approval of the court which ordered the receivership.

~~(13) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 51. Subsections (1) and (2) of section 400.424, Florida Statutes, are amended to read:

400.424 Contracts.—

(1) The presence of each resident in a facility shall be covered by a contract, executed at the time of admission or prior thereto, between the facility and the resident or his designee or legal representative. Each party to the contract shall be provided with a duplicate original thereof, and the facility shall keep on file *in the facility* all such contracts. The facility shall not destroy or otherwise dispose of any such contract until 5 years after its expiration, or such longer period as may be provided in the rules of the department.

(2) Each contract shall contain express provisions specifically setting forth the services and accommodations to be provided by the facility; the rates or charges; *the provision for at least 30 days notice of a rate increase*; the rights, duties, and obligations of the residents, other than those specified in s. 400.428; and other matters which the parties deem appropriate. The purpose of any advance payment and a refund policy for such payment *including any advance payments for meals, lodging, or personal services*, shall be covered in the contract.

Section 52. Section 400.426, Florida Statutes, is amended to read:

(Substantial rewording of section See s. 400.426, F.S., for present text.)

(1) The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility.

(2) No physician employed by an adult congregate living facility to provide initial examination for admission purposes shall have any financial interest in said facility.

(3) Where possible, each resident shall have been examined by a licensed physician or a licensed nurse practitioner within 60 days prior to admission to a facility. The signed and completed medical examination report shall be submitted to the owner or administrator of the facility who shall utilize the information contained therein to assist in the determination of the appropriateness of admission of the resident to the facility. The medical examination report shall become a permanent part of the resident's record at the facility and shall be made available to the department during inspection or upon request.

(4) If a medical examination has not been completed within 60 days prior to the resident's admission to the facility, a licensed physician or licensed nurse practitioner shall examine the resident and complete a medical examination form provided by the department within 30 days following the resident's admission to the facility to enable the facility owner or administrator to determine the appropriateness of the admission. The medical examination form shall become a permanent part of the resident's record at the facility and shall be made available to the department during inspection by the department or upon request.

(5) Any resident accepted in a facility upon discharge from a state institution shall have been examined by medical personnel of the institution within 30 days prior to discharge from the state institution, and findings pursuant to such examination shall be recorded on the medical examination form provided by the department. The completed form shall be submitted to the facility owner or administrator and a copy thereof shall be provided to the department's district licensure office.

(6) The department may require an annual physical examination for supplemental security income recipients residing in facilities.

(7) If, at any time after admission to a facility, a resident appears to need care beyond that which the facility is licensed to provide, the department shall direct the facility owner or administrator to require the resident to be physically examined by a licensed physician or licensed nurse practitioner, which physical examination shall be paid for by the resident with personal funds, except as provided in s. 400.418(1)(b). Pursuant to such examination, the examining physician or licensed nurse practitioner shall complete and sign a medical form provided by the department. The completed medical form shall be submitted to the department within 30 days from the date the facility owner or administrator is notified by the department that the physical examination is required. After consultation with the physician or licensed nurse practitioner who performed the examination, the medical review team designated by the department shall then determine whether the resident is appropriately residing in the facility, and the determination shall be final

and binding upon the facility and the resident. Any resident who is determined by the medical review team to be inappropriately residing in a facility shall be given 30 days' written notice to relocate by the owner or administrator unless the resident's continued residence in the facility presents an imminent danger to the health, safety, or welfare of the resident or a substantial probability exists that death or serious physical harm would result to the resident if allowed to remain in the facility.

Section 53. Subsections (1), (2), (5), and (7) of Section 400.427, Florida Statutes, 1982 Supplement, are amended to read:

400.427 Property and personal affairs of residents.—

(1) The admission of a resident to a facility and his presence therein shall not confer on the facility or its owner, *administrator operator*, employees, or representatives any authority to manage, use, or dispose of any property of the resident; nor shall such admission or presence confer on any of such persons any authority or responsibility for the personal affairs of the resident, except that which may be necessary for the safe and orderly management of the facility or for the safety of the resident.

(2) A facility, or an owner, *administrator operator*, employee, or representative thereof, may not act as the court-appointed guardian, trustee, or conservator for any resident of the facility or any of such resident's property. Any facility whose owner, *administrator operator*, staff, or representative thereof serves as representative payee or is granted power of attorney for any resident of the facility shall file a surety bond with the department in an amount equal to twice the average monthly aggregate income or personal funds due to residents, or expendable for their account, which are received by a facility. The bond shall be executed by the facility as principal and a surety company authorized and licensed to do business in the state as surety. The bond shall be conditioned upon the faithful compliance of the facility with this section and shall run to the department for the benefit of any resident who suffers a financial loss as a result of the misuse or misappropriation by a facility of funds held pursuant to this subsection. Any surety company which cancels or does not renew the bond of any licensee shall notify the department in writing, not less than 30 days in advance of such action, giving the reason for the cancellation or nonrenewal. The department, in cooperation with insurance companies, associations, and organizations representing facilities licensed under this part and the Department of Insurance shall develop procedures to implement the bonding requirements of this subsection.

(5) Any personal funds available to facility residents shall be used by residents as they choose to obtain clothing, personal items, leisure activities, and other supplies and services for their personal use when these services and supplies are not otherwise provided by the facility. A facility shall not demand, require, or contract for payment of all or any part of the personal funds in satisfaction of the facility rate for supplies and services and shall not charge the individual or the account for any supplies or services that the facility is by law, rule, or agreement with the individual required to provide. Any service or supplies provided by the facility, which are charged to the individual or the account, shall be provided only with the specific *written* consent of the individual, who shall be furnished in advance of the provision of the services or supplies with an itemized written statement to be attached to the contract setting forth the charges for the services or supplies.

(7) In the event of a resident's death, the facility shall place all funds belonging to the resident in an interest-bearing account until such time as the funds are disbursed pursuant to the Florida Probate Code. Such funds shall be kept separate from the funds and property of the facility and other residents of the facility. In the event the funds of the deceased resident are not disbursed pursuant to the provisions of the Florida Probate Code within 2 years of the resident's death, the funds shall be deposited in the *Aging and Adult Licensure Congregate Living Facilities Trust Fund* as provided in s. 400.418.

Section 54. Section 400.428, Florida Statutes, is amended to read:

400.428 Resident bill of rights.—

(1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States solely by reason of status as a resident of a facility. Every resident of a facility shall have the right to:

(a) Live in a safe and decent living environment, free from abuse and neglect.

(b) Be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy.

(c) Retain and use his own clothes and other personal property in his immediate living quarters, so as to maintain individuality and personal dignity, except when the facility can demonstrate that such would be unsafe, impractical, or an infringement upon the rights of other residents.

(d) Unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his choice, at any time between the hours of 9 a.m. and 9 p.m. at a minimum ~~8 p.m.~~

(e) Freedom to participate in and benefit from community services and activities and to achieve the highest possible level of independence, autonomy, and interaction within the community.

(f) Manage his own financial affairs unless he or his guardian authorizes the ~~administrator~~ operator of the facility to provide safekeeping for funds as provided in s. 400.427.

(g) Share a room with his spouse if both are residents of the facility.

(h) Reasonable opportunity for regular exercise several times a week and to be outdoors at regular and frequent intervals.

(i) Exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, nor any attendance at religious services, shall be imposed upon any resident.

(j) Access to adequate and appropriate health care consistent with established and recognized standards within the community.

(k) At least 30 days' notice of relocation or termination of residency from the facility unless, for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care or the resident engages in a pattern of conduct that is harmful or offensive to other residents. In the case of a resident who has been adjudicated mentally incompetent, the guardian shall be given at least 30 days' notice of a nonemergency relocation or residency termination. Reasons for relocation shall be set forth in writing. In order for a facility to terminate the residency of an individual without notice as provided herein, the facility shall show good cause in a court of competent jurisdiction.

(1) Present grievances and recommend changes in policies, procedures, and services to the facility's staff, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups.

(2) The ~~administrator~~ operator of a facility shall ensure that a written notice of the rights, obligations, and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. This notice shall include the name, address, and telephone numbers of the district ombudsman committee and adult abuse register where complaints may be lodged.

(3) In order to determine whether the facility is adequately protecting residents' rights, the annual inspection of the facility shall include private informal conversations with a sample of residents and consultation with the ombudsman committee in the district in which the facility is located to discuss residents' experiences within the facility with respect to rights specified in this section and general compliance with standards.

(4) The facility shall not hamper or prevent residents from exercising their rights as specified in this section.

(5) No facility or employee of a facility shall serve notice upon a resident to leave the premises or take any other retaliatory action against any person who:

(a) Exercises any right set forth in this section.

(b) Appears as a witness in any hearing, inside or outside the facility.

(c) Files a civil action alleging a violation of the provisions of this part or notifies a state attorney or the Attorney General of a possible violation of such provisions.

(6) Any facility which terminates the residency of an individual who participated in activities specified in subsection (5) shall show good cause in a court of competent jurisdiction.

(7) Any person who submits or reports a complaint concerning a suspected violation of the provisions of this part or concerning services and conditions in facilities, or who testifies in any administrative or judicial proceeding arising from such a complaint, shall have immunity from any civil or criminal liability therefor, unless such person has acted in bad faith or with malicious purpose or the court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party.

(8) Any person specified in s. 410.106 who suspects that a resident is subject to abuse, maltreatment, or exploitation shall report or cause reports to be made to the department in accordance with s. 827.09.

~~(9) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 55. Section 400.429, Florida Statutes, is amended to read:

400.429 Civil actions to enforce rights.—

(1) Any person or resident whose rights as specified in this part are violated shall have a cause of action against any facility owner, ~~administrator~~ operator, or staff responsible for the violation. The action may be brought by the resident or his guardian or by a person or organization acting on behalf of a resident with the consent of the resident or his guardian, to enforce such rights. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual damages, and punitive damages when malicious, wanton, or willful disregard of the rights of others can be shown. Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith, with malicious purpose, and that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident or to the department.

~~(2) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 56. Subsection (3) of section 400.431, Florida Statutes, is amended to read:

400.431 Closing of facility.—

(1) Whenever a facility voluntarily discontinues operation, it shall inform the department in writing at least 90 days prior to the discontinuance of operation. The facility shall also, at such time, inform each resident or the next of kin, legal representative, or agency acting on each resident's behalf, of the fact and the proposed time of such discontinuance. In the event a resident has no person to represent him, the facility shall be responsible for referral to an appropriate social service agency for placement.

(2) Immediately upon the department's notice of voluntary or involuntary termination of such operation, the department shall monitor the transfer of residents to other facilities and ensure that residents' rights are being protected. The department shall be responsible for relocating all supplemental security income recipients affected by the facility's termination.

(3) All charges shall be prorated as of the date on which the facility discontinues operation, and if any payments have been made in advance, the payments for services not received shall be refunded to the resident or the resident's guardian *within 7 days of the facility's closing*.

(4) Immediately upon discontinuance of the operation of a facility, the owner shall surrender the license therefor to the department, and the license shall be canceled.

Section 57. Section 400.434, Florida Statutes, 1982 Supplement, is amended to read:

400.434 Right of entry and inspection; ~~random sample auditing~~ —

(1) Any duly designated officer or employee of the department, the state or local fire marshal, or a member of the state or district nursing home and long-term care facility ombudsman committee shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part and of rules or standards in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the department has reason to believe are being operated or maintained as a facility without a license; but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing same. Any application for a facility license or renewal thereof made pursuant to this part shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints.

~~(2) The provisions of this section or of any other section in this part shall not be deemed to permit random sample auditing of persons licensed pursuant to this part unless the solvency of the facility has been questioned or the Legislature requests cost-of-care data.~~

Section 58. Section 400.435, Florida Statutes, is amended to read:

400.435 Maintenance of records; reports.—

(1) Every facility shall maintain, as public information available for public inspection under such conditions as the department shall prescribe, records containing copies of all inspection reports pertaining to the facility that have been issued by the department to the facility. Copies of inspection reports shall be retained in the records for 5 years from the date the reports are filed or issued.

(2) Within 60 days from the date of the annual inspection visit or within 30 days from the date of any interim visit, the department shall forward the results of the inspection to the district ombudsman *council* ~~committee~~ in whose district the facility is located.

(3) Every facility shall post a copy of the last inspection report of the department for that facility in a prominent location within the facility so as to be accessible to all residents and to the public. Upon request, the facility shall also provide an applicant for admission to the facility with a copy of such report.

~~(4) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 59. Paragraph (g) is added and paragraph (f) of subsection (1) of section 400.441, Florida Statutes, is amended to read:

(f) The care and maintenance of residents *which shall include, but not be limited to, the provision of or arrangement for social and leisure activities, and the arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents.*

(g) *The establishment of specific criteria to define appropriateness of admission and continued residency.*

Section 60. Section 400.452, Florida Statutes, is amended to read:

400.452 Staff training and educational programs.—

(1) The department may provide, or cause to be provided, training and educational programs for the *administrator, operators* and staff of facilities to better enable them to appropriately respond to the needs of residents and to meet licensure requirements. Such programs may be available to facility staff at least annually. Facility *administrators, operators* and their staff shall participate in training and educational opportunities developed by or in cooperation with the department.

~~(2) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 61. Section 400.454, Florida Statutes, is amended to read:

400.454 Collection of information; local subsidy.—

(1) To enable the department to collect the information requested by the Legislature regarding the actual cost of providing room, board, and personal care in facilities, the department is authorized to conduct field visits and audits of facilities as may be necessary. The owners of randomly sampled facilities shall submit such reports, audits, and accountings of cost as the department may require by rule; provided that such reports, audits, and accountings shall be the minimum necessary to implement the provisions of this section. Any facility selected to participate in the study shall cooperate with the department by providing cost of operation information to interviewers.

(2) Local governments or organizations may contribute to the cost of care of local facility residents by further subsidizing the rate of state authorized payment to such facilities. Implementation of local subsidy shall require departmental approval and shall not result in reductions in the state supplement.

~~(3) If chapter 400 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 this act shall also be repealed on the same date as is therein provided, or if ss. 400.304 and 400.307 are repealed in accordance with the intent expressed in the Sundown Act, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.~~

Section 62. Section 400.551, Florida Statutes, is amended to read:

400.551 Definitions.—When used in this part, unless the context otherwise requires:

(1) "Department" means the Department of Health and Rehabilitative Services.

(2) "Operator" ~~"Owner/operator"~~ means any individual who has general administrative charge of an adult day care center.

(3) "Adult day care center," hereinafter referred to as "Center," means an adult day care center consisting of any building or buildings, or distinct part of a building ~~other place~~, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the 24-hour day, basic services to three or more adults, not related to the owner or operator ~~owner/operator~~ by blood or marriage, who require such services.

(4) "Basic services" shall include, but not be limited to, providing a protective setting, social activities, leisure-time activities, self-care training, rest, nutritional services, and, when possible, speech and physical therapy.

(5) "Supportive and optional services" include, but are not limited to, direct transportation services, legal consultation, consumer education, and referrals for follow-up services.

~~(6) "Participant and program data" shall include, but not be limited to, number of participants, frequency of participation, distance traveled, hours of operation, number of referrals from a center to other programs, facilities or institutions, and incidence of illness.~~

Section 63. Subsections (3) and (4) of section 400.553, Florida Statutes, are amended to read:

400.553 Exemptions.—The following shall be exempt from the provisions of this part:

(3) Any adult congregate living facility licensed by the state *and offering adult day care services exclusively to its own residents.*

(4) Any nursing home facility licensed by the state *and offering adult day care services exclusively to its own residents.*

Section 64. Section 400.555, Florida Statutes, is amended to read:

400.555 Application for license.—

(1) Application for license shall be made to the department on forms furnished by it and shall be accompanied by the appropriate license fee unless the applicant is exempt from payment of the fee as provided in s. 400.554(4).

(2) *The application shall be under oath and shall contain the following:*

(a) *Information concerning the employment experience of the applicant including the name and address of any long-term care facility with which he has been affiliated through ownership or employment within 5 years before the date of the application.*

(b) *The names and addresses of other persons to whom the department may inquire regarding the character, reputation, and financial responsibility of the applicant.*

(c) *Information pertaining to any arrest, adjudication, or conviction of a crime relating to providing care in a center or the ability to operate such a facility.*

(3)(2) The applicant for licensure shall furnish satisfactory proof of financial ability to operate and conduct the center in accordance with the requirements of this part.

(4)(3) The applicant for licensure shall furnish proof of adequate liability insurance coverage.

Section 65. Subsection (1) of section 400.556, Florida Statutes, is amended to read:

400.556 Denial, suspension, revocation of license; grounds.—

(1) The department may deny, revoke, or suspend a license or impose an administrative fine in the manner provided in chapter 120.

Section 66. Section 400.5565, Florida Statutes, is created to read:

400.5565 Administrative fines.—

(1)(a) If the department determines that a center is not in compliance with rules adopted under this part, including the operation of a center without a license, the department, notwithstanding any other administrative action it takes, shall make a reasonable attempt to discuss each violation and recommended corrective action with the owner of the center prior to written notification thereof. The department, as an alternative to fixing a period within which the center must comply, may request a corrective action plan from the center which demonstrates a good faith effort to remedy each violation by a specific date, subject to the approval of the department.

(b) A center or employee found in violation of rules adopted under this part may be fined by the department. A fine shall not exceed \$500 for each violation. In no event, however, shall such fine in the aggregate exceed \$5,000.

(c) Failure to correct a violation by the date set by the department or failure to comply with an approved corrective action plan is a separate violation for each day such failure continues, unless the department approves an extension to a specific date.

(d) If a center desires to appeal any departmental action under this section and the fine is upheld, the violator shall pay the fine, plus interest at the legal rate as specified in s. 687.01, for each day beyond the date set by the department for payment of the fine.

(2) In determining if a fine is to be imposed and in fixing the amount of any fine, the department shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a resident will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated.

(b) Actions taken by the owner or operator to correct violations.

(c) Any previous violations.

(d) The financial benefit to the center of committing or continuing the violation.

Section 67. Subsection (1) of section 400.557, Florida Statutes, is amended to read:

400.557 Expiration of license; renewal; conditional license as permit.—

(1) A license issued for the operation of a center, unless sooner suspended or revoked, shall expire 1 year from the date of issuance. *The department shall notify the center by certified mail 120 days prior to the expiration of the license that relicensure is necessary to continue operation. Ninety At least 60 days prior to the expiration date, an application for renewal shall be submitted to the department. Licenses shall be renewed, upon the filing of an application on forms furnished by the department, if the applicant has first met the requirements established under this part and all rules adopted promulgated hereunder. The center shall file with the application satisfactory proof of financial ability to operate and conduct the facility in accordance with the requirements of this part.*

Section 68. Section 400.5575, Florida Statutes, is created to read:

400.5575 Disposition of fees and administrative fines.—Fees and fines received by the department under this part shall be deposited in the Aging and Adult Licensure Trust Fund. These funds may be used to offset the costs of the licensure program, including the costs of conducting background investigations, verifying information submitted, and defraying the costs of processing applications.

Section 69. Subsection (1) of section 400.558, Florida Statutes, is amended to read:

400.558 Injunction proceedings authorized.—

(1) The department may institute injunction proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of this part or any standard, rule, or order issued or entered into pursuant thereto; or

(b) Terminate the operation of a center where any of the following exist:

1. Failure to take preventive or corrective measures in accordance with any order of the department.

2. Failure to abide by any final order of the department once it has become effective and binding.

3. Violation of any provision of this part or of any rule or standard adopted promulgated pursuant thereto, which violation constitutes an emergency requiring immediate action or which materially affects the health, safety, or welfare of participants in the center.

Section 70. Subsection (1) of section 400.562, Florida Statutes, is amended to read:

400.562 Rules establishing standards.—

(1) Pursuant to the intention of the Legislature to provide safe and sanitary facilities and healthful programs, the department, ~~within 1 year of July 1, 1978, shall adopt promulgate and publish~~ rules to implement the provisions of this part, which shall include reasonable and fair standards. Any conflict between these standards and those that may be set forth in local, county, or city ordinances shall be resolved in favor of those having statewide effect. Such standards shall relate to:

(a) The maintenance of centers, not in conflict with the provisions of chapter 553, and based upon the size of the structure and number of participants, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate meeting space, which will insure the health, safety, and comfort of participants and protection from fire hazard.

(b) The number and qualifications of all personnel having responsibility for the care of participants.

(c) All sanitary conditions within the center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will insure the health and comfort of participants.

(d) Programs and basic services promoting and maintaining the health of participants and encouraging leisure and recreational activities, interaction, and communication among participants.

(e) Transportation and other supportive and optional services.

(f) *Participant and program data, including but not limited to, number of participants, frequency of participation, distance traveled, hours of operation, number of referrals from a center to other programs, facilities or institutions, and unusual incidences of illness or accidents.*
~~Data and information relative to participants and programs.~~

Section 71. Subsection (2) of section 400.559, Florida Statutes, is amended to read:

400.559 Closing of center.—

(2) Immediately upon discontinuance of the operation of a center, the ~~owner or operator~~ ~~owner/operator~~ shall surrender the license therefor to the department and the license shall be canceled.

Section 72. Section 400.56, Florida Statutes, is amended to read:

400.56 Right of entry and inspection.—Any duly designated officer or employee of the department shall have the right to enter upon and into the premises of any center licensed pursuant to this part, at any reasonable time, in order to determine the state of compliance with the provisions of this part and of rules or standards in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the department has reason to believe are being operated or maintained as a center without a license, but no such entry or inspection of any premises shall be made without the permission of the *owner or operator* ~~owner/operator~~ in charge thereof unless a warrant is first obtained from the circuit court authorizing same. Any application for a center license or renewal made pursuant to this part shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application.

Section 73. Subsection (4) of section 400.606, Florida Statutes, is amended to read:

400.606 License; application; renewal; conditional license or permit.—

(4) The department shall not issue a license to a hospice which fails to receive a certificate of need under the provisions of ss. 381.493-381.499 ~~381.497, as amended by ch. 79-186, Laws of Florida.~~

Section 74. Section 400.608, Florida Statutes, is amended to read:

400.608 General requirements for hospice programs.—

(1) A hospice care program shall coordinate its services with those of the patient's primary or attending physicians.

(2) A hospice shall coordinate its services with professional and non-professional services already in the community. A hospice program may contract out for some elements of its services for a patient and family; however, direct patient care must be maintained with the patient and the hospice care team so that overall coordination of services, which is responsive and appropriate to the patient and family needs, can be maintained by the hospice care team. A majority of hospice services available through an individual hospice shall be provided directly by the licensee. Any contract entered into between a hospice and a health care facility or service provider shall specify that the hospice retain the responsibility for planning, coordinating, and prescribing hospice services and care on behalf of a hospice patient and his family. No hospice which contracts for any hospice service shall charge fees for services provided directly by the hospice care team which are duplicative of contractual services provided to the individual patient or his family.

(3) Licensed beds designated for inpatient hospice care through contract between an existing health care facility and a hospice shall not be required to be delicensed from one type of health care in order to enter into a contract with a hospice. Hospices contracting for inpatient hospice care shall not be required to obtain an additional certificate of need for the number of such designated beds. Such beds shall remain licensed to the health care facility and be subject to the appropriate inspections. Under no circumstance shall a hospice contract for the use of a licensed bed in a health care facility or another hospice that has, or has had within the last 18 months, a conditional license, accreditation, or rating. *Contractual arrangements for existing licensed health care facility beds for hospice inpatient care shall not be approved if the monthly average number of contracted beds used exceeds 20 percent of the monthly average number of terminally ill persons receiving hospice care within the individual hospice. The department shall establish limits on contrac-*

tual beds for new hospices applying for a license until such time as the applicant can demonstrate a need for additional beds The inpatient hospice care component of a hospice which is a freestanding facility or part of a facility, which is primarily engaged in providing inpatient care and related services, and which is not licensed as a health care facility shall also be required to obtain a certificate of need.

(4)(3) A hospice care team shall be responsible for inpatient, outpatient, and home-care aspects of care.

(5)(4) Any inpatient component of care shall be under the direct administration of the hospice program.

(6)(5) Hospice care shall provide symptom control provided by a hospice care team skilled in medical and psychosocial management of distressing signs and symptoms.

(7)(6) The hospice shall have a medical director, licensed pursuant to chapter 458 or chapter 459, who shall have responsibility for medical direction of the care and treatment of patients and their families rendered by the hospice care teams.

(8)(7) Hospice care will be available 24 hours a day, 7 days a week.

(9)(8) A hospice program shall have a bereavement program which shall provide a continuum of supportive and therapeutic services for the family, including formal and informal individual, family, and group treatment modalities used as needed to support the bereaved family.

(10)(9) A hospice program shall foster independence of the patient and his family by providing training, encouragement, and support so that the patient and family can care for themselves as much as possible.

(11)(10) The unit of care in a hospice program shall be the patient and family.

(12)(11) A hospice program will provide a continuum of care and a continuity of care givers throughout the length of care for the patient and to the family through the bereavement period.

(13)(12) A hospice program of care shall not impose the dictates of any value or belief system on its patients and their families.

(14)(13) Admission to a hospice program shall be made by a physician licensed pursuant to chapter 458 or chapter 459 and shall be dependent on the expressed request and informed consent of the patient and family.

(15)(14) Accurate and current records shall be kept on all patients and their families.

(16)(15) A professional nurse licensed pursuant to chapter 464 shall be employed on a full-time basis by the hospice as a patient care coordinator to supervise and coordinate the palliative and supportive care for patients and families provided by a hospice care team.

Section 75. Subsection (2) of section 400.609, Florida Statutes, is amended to read:

400.609 Components of hospice programs of care.—Each hospice program shall consist of three components or modes of care which afford the terminally ill individual and the family of the terminally ill individual a range of service delivery which can be tailored to specific needs and preferences of the patient and family at any point in time. These three components are:

(2) INPATIENT HOSPICE CARE.—The inpatient component of care is an adjunct to hospice home care and shall primarily be used only for short-term stays. The facility or rooms within a facility used for the hospice inpatient component of care shall be arranged, administered, and managed in such a manner to provide privacy, dignity, comfort, warmth, and safety for the terminally ill patient and the family. Every possible accommodation shall be made to create as homelike an atmosphere as practicable. To facilitate overnight family visitation within the facility, rooms shall be limited to no more than double occupancy, and both occupants shall be hospice patients *whenever possible*. There shall be a continuum of care and a continuity of care givers between the hospice home program and the inpatient aspect of care to the extent practicable and compatible with the preferences of the patient and his family. Fees charged for inpatient hospice care, whether provided directly by the hospice or through contract, shall be made available upon request to the Hospital Cost Containment Board created in s. 395.503. The hours for

daily operation and the location of the place where the services are provided shall be determined, to the extent practicable, by the accessibility of such services to the patients and families served by the hospice program.

Section 76. Section 400.6115, Florida Statutes, is amended to read:

400.6115 Licensure application review; ~~annual inspections.~~—~~The department shall appoint a task force consisting of, but not limited to, members of the Office of Licensure and Certification, State Health Planning and Development Agency, Health Program Office, Aging and Adult Services Program Office, and Health System Agency to review license applications, as well as to serve as an inspection team to conduct annual licensure inspections.~~ The department task force shall establish criteria to evaluate licensure applications, as well as develop standards for annual licensure renewal. The criteria shall include, but not be limited to, the need for, and supply of, services in the area; the methodology for reviewing contractual agreements and their impact on local health care delivery; and a review of the quality of components of care delivered by the hospice. ~~Contractual arrangements which designate existing licensed health care facility beds for hospice inpatient care shall not be approved if the number of contracted beds exceeds 20 percent of the monthly average number of terminally ill persons receiving hospice care within the individual hospice. The task force shall establish limits on contractual beds for new hospices applying for a license until such time as the applicant can demonstrate a need for additional beds.~~ The department shall promulgate rules, based on the criteria developed by the task force, to ensure the availability of a continuum of quality hospice care which enables the patient to remain at home for most or all of his illness. *The department shall involve several offices, including, but not limited to, the Office of Licensure and Certification, the Office of Health Planning and Development, the Health Program Office, and the Aging and Adult Services Program Office in developing the rules.*

Section 77. Subsection (1) of section 400.615, Florida Statutes, 1982 Supplement, is amended to read:

400.615 Rules.—

(1) Except as restricted in subsection (2), the department shall, ~~by January 1, 1982,~~ promulgate applicable rules and standards in furtherance of the purpose of this act and may amend such rules as may be necessary. The rules shall include, but not be limited to, the following:

- (a) The qualifications of professional and ancillary personnel in order to adequately furnish hospice care;
- (b) Standards for the organization and quality of patient care;
- (c) Procedures for maintaining records; and
- (d) Provision for contractual arrangements for the inpatient component of hospice care and for other professional and ancillary hospice services.

Section 78. Section 468.1801, Florida Statutes, as created by chapter 82-163, Laws of Florida, is hereby repealed.

Section 79. Notwithstanding the provisions of the Regulatory Sunset Act, chapter 400, Florida Statutes, shall not stand repealed on October 1, 1983, as scheduled by such act, but such chapter, as amended, is hereby revived and readopted, except that sections 400.261, 400.4175, 400.425, 400.437, 400.561, and 400.565, Florida Statutes, shall stand repealed on October 1, 1983, as scheduled by the Regulatory Sunset Act.

Section 80. Chapter 400, Florida Statutes, is repealed on October 1, 1993, and shall be reviewed pursuant to section 11.61, Florida Statutes.

Section 81. This act shall take effect October 1, 1983.

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to nursing homes and related health care facilities; revising, reviving, and readopting, notwithstanding the Regulatory Sunset Act, chapter 400, Florida Statutes; amending ss. 400.011, 400.021, 400.023, 400.041, 400.051, 400.063, 400.071, 400.102, 400.121, 400.125, 400.126, 400.141, 400.151, 400.17, 400.176, 400.179, 400.23, 400.241, 400.25, 400.29, 400.314, 400.414, 400.419, 400.422, 400.424(1), (2), 400.426, 400.428, 400.429, 400.431(3), 400.435, 400.441(1)(f), 400.452, 400.454, 400.551, 400.553(3), (4), 400.555, 400.556(1), 400.557(1), 400.558(1), 400.559(2), 400.56, 400.562(1), 400.606(4), 400.608, 400.609(2), 400.6115, Florida Statutes; amending ss. 20.19(6)(f), (7)(g). 400.022, 400.062, 400.111, 400.162,

400.18, 400.19, 400.191, 400.211, 400.301, 400.304, 400.307, 400.311, 400.317, 400.321, 400.402, 400.411, 400.417, 400.418, 400.427(1), (2), (5), (7), 400.434, 400.615(1), Florida Statutes, 1982 Supplement; adding s. 400.404(2)(e), 400.407(8), 400.441(g), Florida Statutes; creating ss. 400.0625, 400.165, 400.3221, 400.412, 400.420, 400.5565, 400.5575, Florida Statutes; providing purpose and intent; providing definitions; changing the term "patient" to "resident"; revising rights of residents with respect to transfer or discharge when the source of payment for care changes; providing rights with respect to the bed reservation policy for hospitalization; revising license fees and disposition thereof; providing minimum standards for test and X-ray results; deleting obsolete language; revising provisions relating to establishment of the Resident Protection Trust Fund, deposits therein and use of such funds; authorizing the Department of Health and Rehabilitative Services to establish, without advance approval, a separate bank account for each facility subject to its intervention for the deposit of moneys received from the trust fund; providing for security and accounting; authorizing the department to requisition moneys from the trust fund in advance of need; providing that certain license renewal applications received after the filing date shall not be subject to the fine; providing for judicial relief; providing that failure to relocate residents by a certain date are not grounds for receivership; establishing prima facie evidence that a facility cannot meet its obligations; revising provisions relating to conditions for appointment and qualifications of a receiver; providing for notice of changes in contracts; directing the department to specify an alternate method for notification to parties to the contract of changes in cost of supplies; revising provisions relating to trust funds and other property of deceased residents; providing billing requirements; providing for distribution of rules; providing for certification of nursing assistants; providing extension of certification; providing for construction standards; providing for standard rating; providing for educational programs; providing for annual reports; providing for ombudsman councils; providing exemptions; providing for a penalty; revising application requirements; requiring notice of personnel changes; providing for sale or transfer of facility; providing for a moratorium on admissions under certain circumstances; authorizing conditional and provisional licensure; deleting obsolete language; changing the name of a trust fund; specifying violations and penalties; prohibiting certain solicitation; requiring notices to residents; specifying rights of residents; providing for refund; relating to examination of ACLF residents; providing responsibility of owner or administrator; providing a restriction upon the employment of physicians; modifying provisions relating to physical examination of admittees; providing for medical records; authorizing annual examination of supplemental security income recipients; providing for examination of certain residents at their own expense; providing for determination of appropriateness of residency; providing for mandatory relocation of residents deemed to be inappropriately in residence; deleting prohibition of random sample auditing; specifying minimum standards; clarifying exemptions; requiring that applications be under oath and include specific information; requiring notification by the department of licensure renewal; expanding grounds for injunctive relief; authorizing the imposition of administrative fines; authorizing the department to request a corrective action plan; including factors to be considered when setting the amount of the fine; providing for deposit and use of fees and fines; providing limits on contractual arrangements for licensed beds; providing for double occupancy; deleting provision for appointment of a task force by the Department of Health and Rehabilitative Services; providing for rules; requiring the department to involve specified offices in development of rules; repealing s. 468.1801, Florida Statutes, as created by chapter 82-163, Laws of Florida, relating to certification of nursing assistants; allowing to stand repealed under the Regulatory Sunset Act ss. 400.261, 400.4175, 400.425, 400.437, 400.561, 400.565, Florida Statutes, relating to an advisory board, test and X-ray standards, patient billing, ad hoc committees, and time for compliance with rules; providing for legislative review; providing an effective date.

On motion by Senator D. Childers, by two-thirds vote CS for HB 434 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Crawford	Grizzle	Johnston
Beard	Dunn	Hair	Kirkpatrick
Carlucci	Frank	Henderson	Langley
Castor	Gersten	Hill	Malchon
Childers, D.	Gordon	Jenne	Margolis
Childers, W. D.	Grant	Jennings	Maxwell

McPherson	Rehm	Thurman
Myers	Stuart	Vogt
Neal	Thomas	Weinstein

Nays—None

Vote after roll call:

Yea—Fox

CS for CS for SB 57—A bill to be entitled An act relating to fair housing; creating the Fair Housing Act, ss. 23.168-23.179, Florida Statutes; providing definitions; prohibiting discriminatory housing practices; providing for exemptions; prohibiting discrimination in the provision of brokerage services; requiring that the authority and responsibility for administering the act be in the Florida Commission on Human Relations; authorizing issuance of subpoenas; providing for judicial and administrative remedies; providing a criminal penalty; providing for actual damages, court costs and attorney fees; providing an effective date.

—was read the second time by title.

Senator Hair moved the following amendment which was adopted:

Amendment 1—On page 12, strike all of lines 21 and 22 and insert: damages, together with and may award court costs and reasonable attorney fees in the case of to a prevailing party; provided, that the said prevailing party in the opinion of the court is not financially able to assume said attorney fees.

On motion by Senator Meek, by two-thirds vote CS for CS for SB 57 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	Jenne	Myers
Barron	Gersten	Jennings	Neal
Beard	Girardeau	Kirkpatrick	Rehm
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Margolis	Thomas
Crawford	Hair	Maxwell	Thurman
Dunn	Henderson	McPherson	Vogt
Fox	Hill	Meek	Weinstein

Nays—None

CS for SB 739—A bill to be entitled An act relating to banking; adding subsection (3) to s. 655.071, Florida Statutes; requiring any state-licensed banking organization to notify the Department of Banking and Finance of its intention to establish an international banking facility; amending s. 658.73(4) and (5), Florida Statutes, 1982 Supplement, and adding subsection (6) thereto; prescribing examination fees and assessments to be paid by international bank agencies, representative offices and international administrative offices; amending s. 663.01, Florida Statutes; making the definition of "representative office" consistent with an international banking corporation's having more than one representative office; defining "international administrative office"; amending s. 663.02(1), Florida Statutes; providing that international banking agencies shall not be subject to state law governing liquidity reserves; amending s. 663.04(2), Florida Statutes; permitting the department to license an international banking corporation to engage in banking business if the international banking corporation could be licensed to operate a federal agency; amending s. 663.06(1) and (5), Florida Statutes, 1982 Supplement; permitting an international banking corporation to establish multiple, separately licensed international bank agencies or representative offices; permitting an international banking corporation to receive certain types of deposits; amending s. 663.07(1), (2), and (4), Florida Statutes, 1982 Supplement, and adding subsection (5) thereto; providing new asset maintenance and capital equivalency requirements for international banking corporations; requiring international banking corporations to file certain reports with the department; amending s. 663.08, Florida Statutes; relating to certificate of capital accounts; creating s. 663.15, Florida Statutes; providing certain limits on the amounts of the acceptances which an international banking corporation's international bank agencies may create in relation to the corporation's unimpaired capital and surplus and on the amount of liabilities of any one person to the agencies in relation to the corporation's unimpaired capital and surplus; providing for the applicability of certain state laws to loans and investments by international bank agencies; creating s. 663.16, Florida Statutes; permit-

ting any international banking corporation to establish an international administrative office for certain limited purposes; establishing certain licensing and fee requirements for establishing and maintaining an international administrative office; providing for regular examinations of international administrative offices by the department; providing an effective date.

—was read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1—On page 16, between lines 11 and 12, insert:

Section 11. Subsection (1) of section 665.0311, Florida Statutes, 1982 Supplement, is amended to read:

665.0311 Power to reorganize, merge, or consolidate.—

(1) 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 association, and as adequately protecting the interests of the association, its members or stockholders, its savings account holders, and the public, an association shall have power to reorganize or merge or consolidate with another association or federal association within this state its primary lending area, provided the plan of such reorganization, merger, or consolidation is 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 eligible to be cast. In all cases the corporate continuity of the resulting association shall possess the same incidents as that of an association which has converted in accordance with this chapter.

Section 12. The catchline of section 665.034, Florida Statutes, 1982 Supplement, is amended and subsection (5) is added to said section to read:

665.034 Acquisition of majority control over an existing association.—

(5)(a) For purposes of this subsection, the term "financial institution" means a savings association, bank, industrial savings bank, trust company, international bank agency or representative office, credit union, or savings bank.

(b) Except in a supervisory case, no financial institution the operations of which are principally conducted outside this state, or business organization as defined in s. 658.27(1)(b), which directly or indirectly controls a financial institution the operations of which are principally conducted outside this state, shall acquire, directly or indirectly, all or substantially all of the assets of, or control over, or establish any association having its principal business or home office in this state.

(c) This subsection shall not apply to mergers by an association subject to section 123 of Public Law 97-320.

Section 13. Subsections (1) and (2) of Section 665.1001, Florida Statutes, are amended to read:

665.1001 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 or savings bank, 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 or savings bank within this state or maintain an office in this state for the purpose of doing such business, including, but not limited to, the establishment of a branch office. 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.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 2, strike "banking" and insert: financial institutions

Amendment 3—On page 3, line 2, after “department;” insert: amending ss. 665.034, 665.0311, and 665.1001, Florida Statutes; limiting the acquisition of control over associations under certain circumstances;

On motion by Senator Margolis, by two-thirds vote CS for SB 739 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

Barron	Gersten	Jennings	Plummer
Beard	Girardeau	Kirkpatrick	Rehm
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, W. D.	Grizzle	Margolis	Thomas
Crawford	Hair	Maxwell	Thurman
Dunn	Henderson	McPherson	Vogt
Fox	Hill	Myers	Weinstein
Frank	Jenne	Neal	

Nays—None

SB 344—A bill to be entitled An act relating to public deposits; amending ss. 18.10(1), 18.101, 18.102, 18.15, 18.16, 280.02(1), 280.03, 280.04(1), (2), 280.05, 280.11, 280.13, 280.14, 280.16, Florida Statutes; creating ss. 280.09, 280.10, Florida Statutes; providing uniform terminology; authorizing use of out-of-state depositories; providing exemptions from security requirements; providing uniform method for valuing collateral; providing for disqualification of depositories; providing for verification of reports; providing for withdrawal; creating a trust fund for deposit of proceeds from the sale of collateral; providing for payment of losses of public depositors; specifying effect of merger or acquisition; specifying eligible collateral and requiring bonds to be rated by one investment rating service; requiring reports; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Grant and adopted:

Amendment 1—On page 1, after the enacting clause insert:

Section 1. Subsection (2) of section 18.02, Florida Statutes, is amended to read:

18.02 Moneys paid on warrants.—

(2) However, the Treasurer is authorized to *operate furnish* a personal check-cashing service or a *remote financial service unit* at the capitol for the benefit of state employees and other responsible persons who properly identify themselves.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 6, after “Statutes;” insert: amending s. 18.02(2), Florida Statutes, authorizing the Treasurer to operate a remote financial service unit at the capitol;

Pending further consideration of SB 344 as amended, on motion by Senator Grant, the rules were waived and by two-thirds vote HB 648 was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Grant—

HB 648—A bill to be entitled An act relating to deposits of public funds; amending s. 18.02(2), Florida Statutes, authorizing the Treasurer to operate a remote financial service unit at the capitol; amending s. 18.10(1), Florida Statutes, requiring the Treasurer to deposit the money of the state in qualified public depositories pursuant to chapter 280, Florida Statutes; amending s. 18.101(1) and (2), Florida Statutes, and adding a new subsection, requiring authorized clearing accounts and revolving accounts to be held by qualified public depositories and authorizing the establishment of clearing and revolving accounts outside the state; amending s. 18.102, Florida Statutes, requiring the deposit of public moneys in qualified public depositories; amending s. 18.15, Florida Statutes, providing that the interest earned on state moneys held by qualified public depositories shall be payable to the State Treasurer; amending s. 18.16, Florida Statutes, providing that it is unlawful for the State Treasurer to deposit or keep money not deposited in accordance with s. 18.10, Florida Statutes, in any qualified public depository without the consent of the Governor and Comptroller; amending s. 280.02(1), Florida Stat-

utes, revising the definition of “public deposit”; amending s. 280.03, Florida Statutes, creating exceptions; amending s. 280.04(1) and (2), Florida Statutes, changing the authorization for the transfer of registered securities; changing the circumstances in which the Treasurer may require an increase in required collateral for a violation of the act; changing the methods of valuation of collateral securities; amending s. 280.05, Florida Statutes, authorizing a reduction in the reported value of collateral to ensure the pledging of sufficient marketable collateral; authorizing the disqualification of a public depository that has violated the act; authorizing the Treasurer to verify reports of public deposits; creating s. 280.09, Florida Statutes, establishing the Public Deposit Security Trust Fund; creating s. 280.10, Florida Statutes, providing for the acquisition or merger of a qualified public depository; amending s. 280.11, Florida Statutes, extending the collateral and reporting requirements after withdrawal from the public deposit security program; providing for the return of pledged collateral; amending s. 280.13, Florida Statutes, limiting types of eligible collateral and requiring bonds to be rated by only one investment rating service; amending s. 280.14, Florida Statutes, limiting types of eligible collateral and requiring bonds to be rated by only one investment rating service; amending s. 280.16, Florida Statutes, requiring copies of reports of condition to be filed with the Treasurer; providing an effective date.

—a companion measure, was substituted for SB 344 and read the second time by title. On motion by Senator Grant, by two-thirds vote HB 648 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Barron	Gersten	Jennings	Rehm
Carlucci	Girardeau	Kirkpatrick	Stuart
Castor	Gordon	Langley	Thomas
Childers, D.	Grant	Malchon	Thurman
Childers, W. D.	Grizzle	Maxwell	Vogt
Crawford	Hair	McPherson	Weinstein
Dunn	Henderson	Meek	
Fox	Hill	Myers	
Frank	Jenne	Plummer	

Nays—None

SB 344 was laid on the table.

On motion by Senator Thomas—

HB 436—A bill to be entitled An act relating to the payment of state funds; amending s. 17.075, Florida Statutes, deleting obsolete language, deleting the requirement that warrants be countersigned by the Governor; establishing accounting and record-keeping requirements; requiring the Department of Banking and Finance to adopt rules; amending s. 17.076, Florida Statutes, redefining the term “beneficiary”; requiring the department to establish a direct deposit program; deleting obsolete language; amending s. 18.02(1), Florida Statutes, providing that the Treasurer may disburse money from the treasury by electronic or other means pursuant to the order of the Comptroller; deleting the requirement that warrants be countersigned by the Governor; directing that conforming changes be made in the Florida Statutes; providing an effective date.

—a companion measure was substituted for SB 234 and read the second time by title. On motion by Senator Thomas, by two-thirds vote HB 436 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Frank	Hill	Myers
Beard	Gersten	Jenne	Plummer
Carlucci	Girardeau	Jennings	Rehm
Castor	Gordon	Kirkpatrick	Stuart
Childers, D.	Grant	Langley	Thomas
Childers, W. D.	Grizzle	Malchon	Thurman
Crawford	Hair	Margolis	Vogt
Fox	Henderson	Maxwell	Weinstein

Nays—None

SB 234 was laid on the table.

On motion by Senator Carlucci, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

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

CS for SB 120—A bill to be entitled An act relating to the Department of Banking and Finance; amending s. 17.03(2), Florida Statutes; authorizing the Comptroller to delegate certain authority relating to state warrants; amending s. 17.041(1), (2), (4), (6), (7), Florida Statutes; providing the department with certain duties in settling and adjusting certain accounts and claims; amending s. 17.076(4), Florida Statutes; providing for filing certain authorizations with a designee of the department; amending ss. 17.10, 17.11, Florida Statutes; providing for recording warrants issued and reporting disbursements made; amending s. 17.20, Florida Statutes; providing for collection of certain claims; providing for payment of certain fees; creating s. 17.29, Florida Statutes; authorizing the Comptroller to prescribe certain rules; creating s. 17.30, Florida Statutes; authorizing the Comptroller to disseminate certain information; amending s. 20.12, Florida Statutes; establishing certain divisions within the department; repealing s. 17.18, Florida Statutes, relating to a requirement that the Comptroller provide a full statement of all defaulters; amending s. 18.101(2), Florida Statutes; providing for authorization of revolving funds by the Comptroller; amending s. 216.271(1), (2), Florida Statutes; providing for establishment of revolving funds only upon approval by the Comptroller; authorizing the Comptroller to limit uses of revolving funds; creating s. 17.31, Florida Statutes; providing for preaudit review under certain circumstances; repealing s. 287.062(2), Florida Statutes, relating to the authority of the Comptroller to perform certain preaudit reviews; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 8, lines 20-26, strike all of said lines, and renumber subsections

Amendment 2—On page 8, line 16 after the period, insert:

Section 13. Subsection (3) of section 250.24, Florida Statutes, 1982 Supplement, is amended to read:

250.24 Pay and expenses; appropriation; procedures.—

(3) Notwithstanding the provision of s. 216.271, moneys for pay and allowances of the troops ordered out in active service of the state shall be deposited in a separate revolving fund, which fund shall be approved by the Comptroller Executive Office of the Governor and shall be subject to the provisions of s. 18.101(2). The Department of Military Affairs shall administer such fund. Frequency of payments to such troops shall be at the discretion of the Adjutant General. The Department of Military Affairs shall present to the Comptroller audit documentation of such payments. The Department of Military Affairs shall maintain all employee records relating to payments made pursuant to this subsection and shall furnish to the Comptroller the information necessary to update each employee's payroll master record.

Renumber subsequent sections.

Amendment 3—On page 2, in the title, line 2 after the semicolon, insert: amending s. 250.24(3), Florida Statutes, 1982 Supplement, providing for approval by the Comptroller of revolving funds administered by the Department of Military Affairs;

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

CS for SB 120 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Barron	Frank	Jenne	Plummer
Beard	Gersten	Jennings	Scott
Carlucci	Girardeau	Kirkpatrick	Stuart
Castor	Gordon	Langley	Thomas
Childers, D.	Grant	Malchon	Thurman
Childers, W. D.	Grizzle	Margolis	Vogt
Crawford	Hair	Maxwell	Weinstein
Dunn	Henderson	Myers	
Fox	Hill	Neal	

Nays—None

The bill was ordered engrossed and then enrolled.

SPECIAL ORDER, continued

Consideration of HB 673 and CS for SB 549 was deferred.

CS for SB 556—A bill to be entitled An act relating to building codes; adding s. 553.79(5), Florida Statutes; prohibiting the issuance of certain building permits unless the applicant provides certain documents signed, dated and stamped by a registered professional engineer; amending s. 471.003(2)(i), Florida Statutes, 1982 Supplement; providing criteria for construction projects for which certain persons need not register as a professional engineer; providing an effective date.

—was read the second time by title.

Senator Vogt moved the following amendment:

Amendment 1—On page 1, line 15, strike everything after the enacting clause and insert:

Section 1. Subsection (2) of section 125.56, Florida Statutes, is amended to read:

125.56 Adoption of building code; inspection fees; inspectors; etc.—

(2) The board of county commissioners of each of the several counties may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the provisions of this act, and of any building code adopted pursuant to the terms of this act, ~~providing said schedule of fees shall not in any event exceed 0.2 percent of the total costs of the construction, erection, alteration or repair, as the case may be, of any building or proposed building.~~

Section 2. The governing body of a municipality may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the provisions of its building code.

Section 3. Paragraph (i) of subsection (2) of section 471.003, Florida Statutes, 1982 Supplement, is amended to read:

471.003 Qualifications for practice, exemptions.—

(2) The following persons are not required to register under the provisions of ss. 471.001-471.039 as a registered engineer:

(i) Any electrical, plumbing, air-conditioning, or mechanical contractor whose practice includes the design and fabrication of electrical, plumbing, air-conditioning, or mechanical systems, respectively, which he installs by virtue of a license issued under chapter 489, under part I of chapter 553, or under any special act or ordinance when working on any construction project other than one for which a document is required under s. 553.79(5) or which has:

1. Requires an electric or plumbing or air-conditioning and refrigeration system with a value of \$50,000 or less and:

a. Requires an electrical system with an aggregate service capacity of less than 400 amperes (240 volts) in residential construction or less than 800 amperes (240 volts) in commercial or industrial construction; or

b. Requires a plumbing system with 250 fixture units or fewer; or

c. Requires a heating, ventilation, and air-conditioning system with a per system capacity of 15 tons or less, or requires a heating, ventilation, or air-conditioning system with greater capacity if the project is designed to accommodate fewer than 100 persons; or

2. Is 5,000 square feet or less in area and is designed for public assembly.

1. A value of \$10,000 or less and requires:

a. An electric service of less than 600 amperes in residential construction and less than 800 amperes three phase in commercial or industrial construction; or

b. A plumbing system of fewer than 125 fixtures; or

2. A value of \$100,000 or less and requires air-conditioning and refrigeration equipment to serve an occupant content of fewer than 100 persons.

Section 4. Subsection (8) is added to section 471.005, Florida Statutes, to read:

471.005 Definitions.—As used in ss. 471.001-471.039:

(8) "Threshold building" means any building or structure which has a total floor area exceeding 25,000 square feet, which is greater than 2 stories or 25 feet in height, which has an assembly occupancy greater than 5,000 square feet, or which is of unusual design or construction as determined by the building official, except residential structures 3 stories or less in height and any building defined in s. 481.203(7), or s. 481.229.

Section 5. Section 471.028, Florida Statutes, is created to read:

471.028 Professional engineer, structural.—No person may sign and seal structural documents for threshold buildings, after October 1, 1986 except those certified by the board as, "professional engineer, structural."

Section 6. Section 471.029, Florida Statutes, is created to read:

471.029 Professional engineer, structural; certification requirements.—

(1) A person shall be entitled to take an examination to determine if he is qualified to practice as a professional engineer, structural, if he:

- (a) Holds a Florida professional engineer's license; and
- (b) Has 3 years of certifiable structural design experience.

(2) To be certified as a professional engineer, structural, an applicant must pass a 16-hour structural engineering examination. The examination shall be composed of 4 sections of 4 hours each and shall cover relevant structural engineering analysis, design and detailing, safety, code compliance, established design criteria, and design liability.

(3) Any professional engineer who, on or before October 1, 1983, has 15 years of certifiable structural design experience may be exempt from taking the examination, provided he applies for such exemption on or before October 1, 1986.

(4) The department and board shall adopt rules to implement this section.

Section 7. Subsection (4) of section 489.105, Florida Statutes, 1982 Supplement, is amended to read:

489.105 Definitions.—As used in this act:

(4) "Qualifying agent" means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business entity with which he is connected, who has the responsibility to supervise, direct, manage, and control construction activities on a job for which he has obtained the building permit, and whose technical and personal qualifications have been determined by investigation and examination as provided in this act, as attested by the department.

Section 8. Subsections (2) and (6) of section 489.119, Florida Statutes, 1982 Supplement, are amended, and subsection (7) is added to said section to read:

489.119 Business organizations; qualifying agents.—

(2) If the applicant proposes to engage in contracting as a partnership, corporation, business trust, or other legal entity, the applicant shall apply through a qualifying agent; the application shall state the name of the partnership and of its partners, the name of the corporation and of its officers and directors, the name of the business trust and its trustees, or the name of such other legal entity and its members; and the applicant shall furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the qualifying agent is legally qualified to act for the business organization in all matters connected with its contracting business and that he has authority to supervise construction undertaken by such business organization. The registration or certification, when issued upon application of a business organization, shall be in the name of the qualifying agent, and the name of the business organization shall be noted thereon. *If there is a change in any information that is required to be stated on the application, the business organization*

shall within 10 days after such change occurs mail the correct information to the department.

(6) Each qualifying agent shall pay the department an amount equal to the original fee for certification or registration of a new business entity. If the qualifying agent for a business entity desires to qualify additional ~~more than two~~ business entities, ~~he may be required by~~ the board shall require him to appear before it ~~the board~~ and present evidence of ability and financial responsibility of each such entity. The issuance of such certification or registration shall be discretionary with the board.

(7) *If a business entity or any of its partners, officers, directors, trustees, or members, is fined for violating s. 489.129(2), the board may, on that basis alone, deny issuance of a certificate or registration to a qualifying agent on behalf of that business entity.*

Section 9. Section 489.129, Florida Statutes, is amended to read:

489.129 Disciplinary proceedings.—

(1) The board may revoke, suspend, or deny the issuance or renewal of the certificate or registration of a contractor or impose an administrative fine not to exceed \$5,000 ~~\$1,000~~, place the contractor on probation, reprimand or censure, a contractor if the contractor, or if the business entity or any general partner, officer, director, trustee, or member of a business entity for which the contractor is a qualifying agent, is found guilty of any of the following acts:

(a) Upon proof that a certificate or registration has been obtained by fraud or misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.

(c) Violation of chapter 455.

(d) Willful or deliberate disregard and violation of the applicable building codes or laws of the state or of any municipalities or counties thereof.

(e) Aiding or abetting any uncertified or unregistered person to evade any provision of this act.

(f) Knowingly combining or conspiring with an uncertified or unregistered person by allowing one's certificate or registration to be used by any uncertified or unregistered person with intent to evade the provisions of this act. When a certificate holder or registrant allows his certificate or registration to be used by one or more companies without having any active participation in the operations, management, or control of said companies, such act constitutes prima facie evidence of an intent to evade the provisions of this act.

(g) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificate holder or registrant as set forth on the issued certificate or registration, or in accordance with the personnel of the certificate holder or registrant as set forth in the application for the certificate or registration, or as later changed as provided in this act.

(h) Diversion of funds or property received for prosecution or completion of a specified construction project or operation when as a result of the diversion the contractor is or will be unable to fulfill the terms of his obligation or contract.

(i) Disciplinary action by any municipality or county, which action shall be reviewed by the state board before the state board takes any disciplinary action of its own.

(j) Failure in any material respect to comply with the provisions of this act.

(k) Abandonment of a construction project in which the contractor is engaged or under contract as a contractor. A project is to be considered abandoned after 90 days if the contractor terminates said project without notification to the prospective owner and without just cause.

(l) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.

(m) Upon proof and continued evidence that the licensee is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting.

(2) *If a contractor disciplined under subsection (1) is a qualifying agent for a business entity, and the violation was performed in connection with a construction project undertaken by that business entity, the board may impose an additional administrative fine not to exceed \$5,000 against the business entity or any partner, officer, director, trustee, or member, if such person participated in the violation or knew or should have known of the violation and failed to take reasonable corrective action.*

(3)(2) The board may specify, by rule, the acts or omissions which constitute violations of this section.

Section 10. Subsection (6) is added to section 553.71, Florida Statutes, to read:

553.71 Definitions.—As used in this part:

(6) *“Threshold building” means any building or structure which has a total floor area exceeding 25,000 square feet, which is greater than 2 stories or 25 feet in height, which has an assembly occupancy greater than 5,000 square feet, or which is of unusual design or construction as determined by the building official, except residential structures 3 stories or less in height and any building defined in s. 481.203(7), or s. 481.229.*

Section 11. Subsection (3) is added to section 553.77, Florida Statutes, to read:

553.77 Specific powers of the board.—

(3) *The board shall conduct a program to certify building code administration and building inspection personnel in this state.*

Section 12. Section 553.781, Florida Statutes, is created to read:

553.781 Certification of building inspection personnel.—

(1) Not later than July 1, 1984, the board shall establish a program to certify persons to administer any building code or to inspect any building on behalf of a state or a local government. The board shall certify any person who meets the requirements of this section and any rule adopted under this section.

(2) The board shall contract with an independent testing agency to develop and administer an examination to determine the competency of any individual seeking certification. Examinations shall be held at such times and places within the state as the board determines necessary. There shall be an examination for each of the categories of certificates which shall pertain to the type of work covered by the certificate. The examination shall cover knowledge of basic principles of the codes and inspection practices applicable to the category for which a certificate is requested. Examinations shall be open book, may consist of multiple-choice, fill-in, true-false, or short-answer questions, and may include or consist of diagrams, plans, or sketches with which the applicant will be required to demonstrate his knowledge and proficiency.

(3) Any person certified, licensed, or registered under:

- (a) The Southern Building Code Congress, International, Inc.;
- (b) The Building Officials Association of Florida;
- (c) Broward County, Florida;
- (d) Dade County, Florida;
- (e) Any local government which has a state-approved certification program or develops such a program; or
- (f) The Council of American Building Officials;

may apply prior to July 1, 1986, for exemption from taking the examination. Engineers licensed under chapter 471, and architects licensed under chapter 481, shall be exempt from the provisions of this section.

(4) The board shall adopt rules providing specific criteria for certification. Such criteria shall include provisions for building, plumbing, electrical, mechanical, gas, and any other specialty certification the board deems appropriate.

(5) The board shall fix and collect the following fees:

- (a) An examination fee which shall not exceed \$50.
- (b) A reexamination fee which shall not exceed \$25.
- (c) An initial biennial certification fee which shall not exceed \$100.
- (d) A biennial certification renewal fee which shall not exceed \$25.
- (6) Fees collected under the provisions of this section shall be deposited in the Building Inspector Certification Trust Fund which is hereby created to be used to administer the certification program.

(7) The board may revoke or suspend the certificate of any person who violates any provision of any rule adopted by the board pursuant to this section. Certificates issued under the provisions of this section shall expire 2 years from the date of issuance.

(8) After July 1, 1986, no person shall administer any building code in this state or inspect any building in this state unless certified to do so or exempt from certification requirements. Any person who administers any building code or who inspects any building and who is not certified as required in 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.

(9) Nothing in this section shall limit the power of a municipality, city, county, special district, or state agency to regulate the quality and character of work performed by inspection personnel or to require additional standards of competency and proficiency of such personnel. Nor shall anything in this section be construed to waive additional requirements imposed by a local government or state agency having jurisdiction in such matters.

Section 13. Subsections (1) and (2) of section 553.79, Florida Statutes, are amended and subsections (5), (6), and (7) are added to said section to read:

553.79 Application.—

(1) After the effective date of the State Minimum Building Codes adopted as herein provided, it shall be unlawful for any person, firm, or corporation to construct, erect, alter, repair, or demolish any building within the state without first obtaining a permit therefor from the appropriate enforcing agency or from such persons as may, by appropriate resolution or regulation of the enforcing agency, be delegated authority to issue said permits, upon the payment of such reasonable fees adopted by the enforcing agency. The enforcing agency shall be empowered to revoke any such permit upon a determination by the agency that the construction, erection, alteration, repair, or demolition of the building for which the permit was issued is in violation of, or not in conformity with, the provisions of the State Minimum Building Codes. *The enforcing agency shall be responsible for reviewing only the plans and specifications required to comply with the provisions of the State Minimum Building Codes.*

(2) After the effective date of the State Minimum Building Codes adopted as herein provided, no enforcing agency shall issue any permit for construction, erection, alteration, repair, or demolition unless it is determined to be in compliance with the State Minimum Building Codes. *The enforcing agency shall issue a permit to construct, erect, alter, repair, or demolish any building for which the plans and specifications for such proposal comply with the provisions of the State Minimum Building Codes.*

(5)(a) *The enforcing agency shall require a special inspector to inspect all structural components of a threshold building which components are related to the public health, safety, or welfare. The inspector shall be present during any time when such components of such building are being constructed.*

(b) *The inspector shall be a person certified, licensed, or registered under the Building Officials Association of Florida, the Southern Building Code Congress, International, chapter 471, as an engineer, chapter 481, as an architect, or the Council of American Building Officials.*

(c) *The owner of a threshold building shall pay all costs of employing a special inspector. The enforcing agency shall determine the amount, method, and procedures for paying such costs.*

(6) *No permit may be issued for any building construction, erection, alteration, repair, or addition project unless the applicant for such permit provides to the enforcing agency which issues the permit any of the following documents which apply to the project:*

(a) *Electrical documents for any new building or addition which requires an aggregate service capacity of 400 amps (240 volts) or more on residential electrical systems or 800 amps (240 volts) or more on commercial or industrial electrical systems and which costs more than \$50,000, or for any structure greater than 5,000 square feet in area which is designed for public assembly.*

(b) *Plumbing documents for any new building or addition which requires a plumbing system with more than 250 fixture units or which costs more than \$50,000 or for any structure greater than 5,000 square feet in area which is designed for public assembly.*

(c) *Fire sprinkler documents for any new building or addition which includes a fire sprinkler system which costs more than \$5,000.*

(d) *Heating, ventilation, and air conditioning documents for any new building or additions which requires more than a 15-ton per system capacity or which is designed to accommodate 100 or more persons or where the system costs more than \$50,000 or for any structure greater than 5,000 square feet in area designed for public assembly. This paragraph shall not include any document for the replacement or repair of existing systems in which the work does not require altering a structural part of the building or for work on residential one, two, three, or four family structures.*

(e) *Any specialized mechanical, electrical, or plumbing document for any new building or addition which includes a medical gas, oxygen, steam, vacuum, toxic air filtration, haylon, fire alarm, or security and security alarm system which costs more than \$5,000.*

No such document shall be valid unless a professional engineer who possesses a valid certificate of registration has signed, dated, and stamped such document as provided in s. 471.025.

(7) *Each local enforcement agency shall require that on all threshold buildings:*

(a) *The owner, upon completion of the building, file a certificate with the local enforcement agency, prepared by an architect or engineer, certifying that, to the best of his knowledge, the construction complies with the applicable codes and the intent and design specified in the permitted documents.*

(b) *Any proposal to install an alternate product or system to which building codes apply, which alternate product or system is installed after October 1, 1983, be submitted to the local enforcement agency for review for compliance with the codes and made part of the local enforcement agency's recorded set of permit documents.*

(c) *All shoring and reshoring procedures, plans, and details prepared after October 1, 1983 be prepared by and sealed by a Florida registered engineer; a signed and sealed copy of all shoring documents, prepared after October 1, 1983, be submitted to the architect and structural engineer and the local enforcement agency; and each shoring and reshoring installation performed after October 1, 1983 be supervised, inspected, and certified to be in compliance with the shoring documents by the general contractor.*

(d) *All plans for buildings and structures required to be signed and sealed by an architect or engineer, which are prepared after October 1, 1983, contain a statement that, to the best of his knowledge, the plans and specifications comply with the applicable minimum building codes.*

(8) *No enforcing agency shall issue a primary building permit for construction of any threshold building except to a licensed general contractor. The named contractor to whom the building permit is issued shall be held responsible for the entire project by the enforcing agency.*

Section 14. Section 553.781, Florida Statutes, is repealed on October 1, 1991, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 15. This act shall take effect October 1, 1983.

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

Amendment 1A—On page 13, lines 3 thru 7, strike all of said lines and insert:

(b) *The inspector shall be any person meeting the requirements of section 553.781.*

On motion by Senator Barron, the Senate recessed at 12:00 noon 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—37:

Mr. President	Girardeau	Kirkpatrick	Rehm
Beard	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Margolis	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Crawford	Henderson	McPherson	Vogt
Dunn	Hill	Meek	Weinstein
Fox	Jenne	Myers	
Frank	Jennings	Neal	
Gersten	Johnston	Plummer	

On motion by Senator Hair, the rules were waived and by two-thirds vote SR 1200 was withdrawn from the Committee on Rules and Calendar.

SR 1200—A resolution honoring the members of the Duval County All Star Brain Brawl Team for their victory in the Third Annual National Academic Super Bowl.

—was read the second time in full. On motion by Senator Hair, SR 1200 was adopted. The vote on adoption was:

Yeas—33

Mr. President	Frank	Jennings	Plummer
Barron	Gersten	Johnston	Stuart
Beard	Girardeau	Kirkpatrick	Thomas
Castor	Gordon	Malchon	Thurman
Childers, D.	Grant	Maxwell	Vogt
Childers, W. D.	Grizzle	McPherson	Weinstein
Crawford	Hair	Meek	
Dunn	Henderson	Myers	
Fox	Jenne	Neal	

Nays—None

Senator Hair moved that a committee be appointed to escort the Brain Brawl Team to the rostrum. The motion was adopted and the President appointed Senators Hair and Girardeau.

The President presented a copy of SR 1200 to each member of the team.

On motion by Senator Johnston, the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Johnston, the rules were waived and by two-thirds vote SB 152, CS for SB 260, SB 665, SB 798, SB 1070 and CS for SB 661 were withdrawn from the Committee on Appropriations.

On motions by Senator Johnston, by two-thirds vote SB 666, CS for SB 1166 and CS for SB 272 were removed from the calendar and referred to the Committee on Appropriations.

CLAIM BILLS

SB 55—A bill to be entitled An act for the relief of Luis S. and Gloria R. Ulloa; providing for an appropriation by the School Board of Palm Beach County to compensate them for the wrongful death of their daughter, Michelle Ulloa, resulting from the negligence of the School Board of Palm Beach County; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Johnston and adopted:

Amendment 1—On page 2, lines 18, 19, 25 and 26, strike “together with postjudgment interest of 12 percent per annum that has accrued thereon.”

On motion by Senator Johnston, by two-thirds vote SB 55 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kirkpatrick	Rehm
Barron	Gordon	Langley	Scott
Beard	Grant	Malchon	Stuart
Castor	Grizzle	Margolis	Thomas
Childers, D.	Hair	Maxwell	Thurman
Childers, W. D.	Henderson	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Dunn	Jenne	Myers	
Fox	Jennings	Neal	
Frank	Johnston	Plummer	

Nays—None

Vote after roll call:

Yea—Gersten

SB 42—A bill to be entitled An act for the relief of Jerry Jetton; providing an appropriation to compensate him for personal injury he sustained due to the negligence of the Jacksonville Electric Authority; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Hair and adopted:

Amendment 1—On page 3, strike all of lines 9-18 and insert:

Section 2. The sum of \$165,826 is appropriated out of the funds of the City of Jacksonville not otherwise appropriated to compensate Jerry Jetton for uncompensated loss sustained in the accident of May 3, 1978.

Section 3. The City Council of the consolidated City of Jacksonville is authorized and directed to draw its warrant in favor of Jerry Jetton in the sum of \$165,826 to compensate him for injuries and damages sustained.

On motion by Senator Hair, by two-thirds vote SB 42 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	Johnston	Plummer
Barron	Gersten	Kirkpatrick	Rehm
Beard	Girardeau	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Margolis	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Crawford	Henderson	McPherson	Vogt
Dunn	Hill	Meek	Weinstein
Fox	Jenne	Myers	

Nays—None

HB 150—A bill to be entitled An act relating to the City of Jacksonville; authorizing and directing the city to provide an appropriation to compensate Herbert C. Seymour, II, for an injury sustained while performing his duties as an apprentice journeyman lineman; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 150 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Kirkpatrick	Rehm
Barron	Gersten	Langley	Scott
Beard	Girardeau	Malchon	Stuart
Castor	Grant	Margolis	Thomas
Childers, D.	Grizzle	Maxwell	Thurman
Childers, W. D.	Hair	McPherson	Weinstein
Crawford	Henderson	Meek	
Dunn	Jenne	Myers	
Fox	Johnston	Plummer	

Nays—None

HB 121—A bill to be entitled An act for the relief of Edward L. Nezelek, Inc.; providing an appropriation to compensate said company for labor and materials furnished to the state in connection with the construction of the Broward Regional Service Center, pursuant to a consent order and agreement; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Dunn and adopted:

Amendment 1—On page 2, strike all of lines 15-17 and insert:

Section 2. The sum of \$75,000 is appropriated from the General Revenue Fund to be paid to

Amendment 2—On page 2, strike all of lines 24 and 25 and insert: \$75,000 from the General Revenue Fund, and the State Treasurer is

On motion by Senator Dunn, by two-thirds vote HB 121 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Frank	Johnston	Plummer
Barron	Gersten	Kirkpatrick	Rehm
Beard	Girardeau	Langley	Stuart
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Weinstein
Crawford	Henderson	McPherson	
Dunn	Hill	Meek	
Fox	Jenne	Myers	

Nays—None

Consideration of HB 247 was deferred.

HB 1114—A bill to be entitled An act relating to Dade County; authorizing and directing the county to compensate Michele Hess, a minor, and Don Hess and Connie Tippet, her parents, for damages suffered as a result of the negligence of the county; providing an effective date.

—was read the second time by title. On motion by Senator Margolis, by two-thirds vote HB 1114 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Johnston	Rehm
Barron	Gersten	Kirkpatrick	Scott
Beard	Girardeau	Langley	Stuart
Carlucci	Grant	Malchon	Thomas
Castor	Grizzle	Margolis	Thurman
Childers, D.	Hair	Maxwell	Vogt
Childers, W. D.	Henderson	McPherson	Weinstein
Crawford	Hill	Meek	
Dunn	Jenne	Myers	
Fox	Jennings	Plummer	

Nays—None

On motion by Senator Carlucci, by unanimous consent—

HB 247—A bill to be entitled An act relating to the Jacksonville Electric Authority; providing for relief of Romulus H. Tucker, to compensate him for personal injuries suffered at the Northside Generating Station docking facility owned by the Jacksonville Electric Authority; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Carlucci, by two-thirds vote HB 247 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Fox	Johnston	Scott
Barron	Frank	Kirkpatrick	Stuart
Beard	Gersten	Langley	Thomas
Carlucci	Girardeau	Margolis	Thurman
Castor	Grant	McPherson	Vogt
Childers, D.	Grizzle	Meek	Weinstein
Childers, W. D.	Hair	Myers	
Crawford	Hill	Plummer	
Dunn	Jennings	Rehm	

Nays—None

HB 1142—A bill to be entitled An act relating to Dade County; authorizing and directing the county to compensate Maria Almira and Joaquin Almira, her husband, for damages suffered as a result of the negligence of the county; providing an effective date.

—was read the second time by title. On motion by Senator Margolis, by two-thirds vote HB 1142 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Fox	Jenne	Plummer
Barron	Frank	Jennings	Rehm
Beard	Gersten	Johnston	Scott
Carlucci	Girardeau	Kirkpatrick	Stuart
Castor	Grant	Malchon	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	Maxwell	Vogt
Crawford	Henderson	McPherson	Weinstein
Dunn	Hill	Myers	

Nays—1

Langley

HB 1141—A bill to be entitled An act relating to Dade County; authorizing and directing the county to compensate Andrea Parker, as personal representative of the estate of Maria Morales, for damages suffered as a result of the negligence of the county; providing an effective date.

—was read the second time by title. On motion by Senator Margolis, by two-thirds vote HB 1141 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Fox	Hill	Myers
Barron	Frank	Jenne	Plummer
Beard	Gersten	Jennings	Rehm
Carlucci	Girardeau	Johnston	Scott
Castor	Gordon	Kirkpatrick	Stuart
Childers, D.	Grant	Malchon	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	Maxwell	Vogt
Dunn	Henderson	McPherson	Weinstein

Nays—1

Langley

On motion by Senator Thomas, by unanimous consent—

HB 673—A bill to be entitled An act relating to retail installment sales; amending s. 520.02(7), (9), and (13), Florida Statutes, and adding a new subsection (10) thereto, amending s. 520.31(9) and (11), Florida Statutes, 1982 Supplement, and adding a new subsection (12) thereto, and amending s. 520.61(9), (11), (13), (15), and (16), Florida Statutes, and adding a new subsection (18) thereto, to redefine certain terms relating to motor vehicles sales finance, retail installment sales, and home improvement sales and finance; amending ss. 520.07(2), 520.34(2), and 520.73(2), Florida Statutes, and adding new subsections (3) thereto, requiring certain disclosures in certain retail installment contracts; amending s. 520.35(2), Florida Statutes, providing an alternate method of compliance with certain revolving account disclosure requirements; amending s. 520.72, Florida Statutes, requiring notice of right to cancel a home improvement sales contract and changing the period in which the contract may be canceled; creating s. 520.961, Florida Statutes, authorizing the Department of Banking and Finance to seek injunctive relief against violators of provisions relating to home improvement sales and finance; providing for review and repeal; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Thomas, by two-thirds vote HB 673 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Beard	Castor	Childers, W. D.
Barron	Carlucci	Childers, D.	Crawford

Dunn	Henderson	Margolis	Stuart
Fox	Hill	McPherson	Thomas
Frank	Jenne	Meek	Thurman
Gersten	Jennings	Myers	Vogt
Girardeau	Johnston	Neal	Weinstein
Grant	Kirkpatrick	Plummer	
Grizzle	Langley	Rehm	
Hair	Malchon	Scott	

Nays—None

On motions by Senator Barron, the rules were waived and by two-thirds vote House Bills 972 and 762 were withdrawn from the Committee on Economic, Community and Consumer Affairs and HB 1047 was withdrawn from the Committee on Commerce.

On motion by Senator Barron, the rules were waived and the Committee on Rules and Calendar was granted permission to meet June 1 at 12:00 noon to consider SJR 118 and SB 119.

On motion by Senator Margolis, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to meet June 1 at 9:15 a.m. to consider SB 763, SB 735 and SB 745.

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB 556—A bill to be entitled An act relating to building codes; adding s. 553.79(5), Florida Statutes; prohibiting the issuance of certain building permits unless the applicant provides certain documents signed, dated and stamped by a registered professional engineer; amending s. 471.003(2)(i), Florida Statutes, 1982 Supplement; providing criteria for construction projects for which certain persons need not register as a professional engineer; providing an effective date.

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

Amendment 1B—On page 3, lines 19-31, and on page 4, lines 1-16, strike Sections 5 and 6 and renumber subsequent sections

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

Amendment 1C—On page 2, line 17, and on page 13, line 18, strike “less than 400” and insert: 600 or less

Senator Henderson moved that the Senate reconsider the vote by which Amendment 1B was adopted. The motion failed.

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

Amendment 1D—On page 9, line 11 through page 11, line 27, strike all of Section 12

The vote was:

Yeas—20

Mr. President	Crawford	Margolis	Rehm
Barron	Gordon	Maxwell	Scott
Beard	Grizzle	Myers	Thomas
Carlucci	Hill	Neal	Thurman
Childers, W. D.	Kirkpatrick	Plummer	Weinstein

Nays—17

Castor	Gersten	Johnston	Stuart
Childers, D.	Grant	Langley	Vogt
Dunn	Hair	Malchon	
Fox	Henderson	McPherson	
Frank	Jennings	Meek	

Vote after roll call:

Nay—Jenne

On motion by Senator Vogt, the Senate reconsidered the vote by which Amendment 1A was adopted. The question recurred on Amendment 1A which failed.

Senator Johnston presiding

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

Amendment 1E—On page 12, lines 15-17, after the period (.) strike all of said lines

Senator Myers moved that the Senate reconsider the vote by which Amendment 1D was adopted.

Senator Neal moved as a substitute motion that further consideration of CS for SB 556 be deferred. The motion failed.

Senator Myers withdrew the motion to reconsider Amendment 1D.

Amendment 1 as amended was adopted.

Senator Vogt moved the following amendment:

Amendment 2—In title, on page 1, lines 1-11, strike everything before the enacting clause and insert: A bill to be entitled An act relating to building construction; amending s. 125.56(2), Florida Statutes; removing a limitation on the fee a county may collect for building inspection and requiring such fee to be reasonable; authorizing municipalities to provide a schedule of reasonable inspection fees; amending s. 471.003(2)(i), Florida Statutes, 1982 Supplement; providing criteria for construction projects for which certain persons need not register as a professional engineer; adding s. 471.005(8), Florida Statutes; providing a definition of "threshold building"; amending ss. 489.105(4), 489.119(2), (6), Florida Statutes, 1982 Supplement, and adding subsection (7) to said section; defining "qualifying agent"; requiring business entities to report to the Department of Professional Regulation changes in certain information required on license applications; requiring approval by the Construction Industry Licensing Board before a qualifying agent for a business entity may qualify additional business entities; amending s. 489.129, Florida Statutes; providing for disciplinary action against qualifying agents for violations committed by the business entity or certain persons associated with the business entity; increasing the maximum allowable administrative fine and permitting the board to levy such fine on a business entity or certain persons associated with it, as well as on a qualifying agent; providing that the board may refuse to issue certification or registration on behalf of an entity subject to such fine; adding s. 553.71(6), Florida Statutes; providing a definition; adding s. 553.77(3), Florida Statutes; amending s. 553.79(2), Florida Statutes, and adding subsections (5)-(7) to said section; providing certain duties of building code enforcing agencies; requiring the enforcing agencies to issue certain permits under certain circumstances; providing for a special inspector under certain circumstances; providing for payment of the costs of employing a special inspector; adding s. 553.79(6), Florida Statutes; prohibiting the issuance of certain building permits unless the applicant provides certain documents signed, dated and stamped by a registered professional engineer; requiring certain professionals to certify that such buildings comply with certain codes and documents; requiring certain documents to be filed with local enforcement agencies; requiring enforcing agencies to issue construction permits for threshold buildings only to licensed general contractors; making such contractors responsible for the entire project; providing for repeal and review of s. 553.781, Florida Statutes, in accordance with the Sundown Act; providing an effective date.

Senator Stuart moved the following amendment to Amendment 2 which was adopted:

Amendment 2A—On page 1, lines 25-31, and on page 2, line 1, strike all of said lines and insert: definition of "threshold building"; amending ss.

Amendment 2 as amended was adopted.

On motion by Senator Vogt, by two-thirds vote CS for SB 556 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26

Beard	Grizzle	Kirkpatrick	Plummer
Castor	Hair	Malchon	Stuart
Dunn	Henderson	Margolis	Thomas
Fox	Hill	Maxwell	Vogt
Frank	Jenne	McPherson	Weinstein
Gersten	Jennings	Meek	
Girardeau	Johnston	Myers	

Nays—8

Childers, W. D.	Grant	Neal	Scott
Crawford	Langley	Rehm	Thurman

Vote after roll call:

Nay—Carlucci

On motion by Senator Margolis, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 794 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Commerce and Representative Kutun—

CS for HB 794—A bill to be entitled An act relating to financial institutions; adding subsection (3) to s. 655.071, Florida Statutes; requiring any state-licensed banking organization to notify the Department of Banking and Finance of its intention to establish an international banking facility; amending s. 658.73(4) and (5), Florida Statutes, 1982 Supplement, and adding subsection (6) thereto; prescribing examination fees and assessments to be paid by international bank agencies, representative offices and international administrative offices; amending s. 663.01, Florida Statutes; making the definition of "representative office" consistent with an international banking corporation's having more than one representative office; defining "international administrative office"; amending s. 663.02(1), Florida Statutes; providing that international banking agencies shall not be subject to state law governing liquidity reserves; amending s. 663.04(2), Florida Statutes; permitting the department to license an international banking corporation to engage in banking business if the international banking corporation could be licensed to operate a federal agency; amending s. 663.06(1) and (5), Florida Statutes, 1982 Supplement; permitting an international banking corporation to establish multiple, separately licensed international bank agencies or representative offices; permitting an international banking corporation to receive certain types of deposits; amending s. 663.07(1), (2), and (4), Florida Statutes, 1982 Supplement, and adding subsection (5) thereto; providing new asset maintenance and capital equivalency requirements for international banking corporations; requiring international banking corporations to file certain reports with the department; amending s. 663.08, Florida Statutes; relating to certificate of capital accounts; creating s. 663.15, Florida Statutes; providing certain limits on the amounts of the acceptances which an international banking corporation's international bank agencies may create in relation to the corporation's unimpaired capital and surplus and on the amount of liabilities of any one person to the agencies in relation to the corporation's unimpaired capital and surplus; providing for the applicability of certain state laws to loans and investments by international bank agencies; creating s. 663.16, Florida Statutes; permitting any international banking corporation to establish an international administrative office for certain limited purposes; establishing certain licensing and fee requirements for establishing and maintaining an international administrative office; providing for regular examinations of international administrative offices by the department; amending s. 665.0311(1), Florida Statutes, 1982 Supplement, restricting the authority of savings associations to reorganize, merge, or consolidate; amending the catchline to s. 665.034, Florida Statutes, 1982 Supplement, and adding a subsection, restricting the authority of financial institutions or certain business organizations outside the state to acquire control of savings associations in the state; amending s. 665.1001, Florida Statutes, expanding the prohibition against foreign associations doing business in the state; providing an effective date.

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

On motions by Senator Margolis, by two-thirds vote CS for HB 794 was withdrawn from the Committee on Commerce and by two-thirds vote placed on the special order calendar.

On motions by Senator Margolis by unanimous consent, CS for HB 794 was taken up out of order and by two-thirds vote 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—34

Barron	Frank	Kirkpatrick	Plummer
Beard	Girardeau	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Margolis	Thomas
Childers, D.	Hair	Maxwell	Thurman
Childers, W. D.	Henderson	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnston	Neal	

Nays—None

Vote after roll call:

Yea—Gersten

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 563 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Metcalf—

HB 563—A bill to be entitled An act relating to historic preservation; designating Sunset Drive as a historic highway; providing definitions; prohibiting the use of state funds for certain physical changes on or near Sunset Drive; requiring the approval of the Division of Archives, History and Records Management of the Department of State for other specified changes; limiting the erection of signs; authorizing the division to erect markers and to obtain historic easements in property along the road; providing an effective date.

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

On motions by Senator Fox, by two-thirds vote HB 563 was withdrawn from the Committee on Commerce and by two-thirds vote placed on the special order calendar.

On motions by Senator Fox, by unanimous consent HB 563 was taken up out of order and by two-thirds vote 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—36

Barron	Frank	Jennings	Neal
Beard	Gersten	Johnston	Plummer
Carlucci	Girardeau	Kirkpatrick	Rehm
Castor	Grant	Langley	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Maxwell	Thomas
Crawford	Henderson	McPherson	Thurman
Dunn	Hill	Meek	Vogt
Fox	Jenne	Myers	Weinstein

Nays—None

On motion by Senator Hair, the House was requested to return HB 470.

On motions by Senator Scott, by two-thirds vote HB 1023 was withdrawn from the Committee on Commerce and by two-thirds vote placed on the special order calendar.

SPECIAL ORDER, continued

On motions by Senator Scott—

HB 1023—A bill to be entitled An act relating to insurance; amending s. 627.351(2)(c), Florida Statutes, 1982 Supplement, relating to the wind-storm insurance risk apportionment plan; limiting assessments against certain insurers; providing an effective date.

—a companion measure was substituted for SB 1104 and read the second time by title. On motion by Senator Scott, by two-thirds vote HB 1023 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gersten	Kirkpatrick	Rehm
Barron	Girardeau	Langley	Scott
Beard	Grant	Malchon	Stuart
Carlucci	Grizzle	Margolis	Thomas
Castor	Hair	Maxwell	Thurman
Childers, D.	Henderson	McPherson	Vogt
Childers, W. D.	Hill	Meek	Weinstein
Crawford	Jenne	Myers	
Fox	Jennings	Neal	
Frank	Johnston	Plummer	

Nays—None

SB 1104 was laid on the table.

On motion by Senator Scott, by unanimous consent—

CS for CS for SB's 6, 18 and 287—A bill to be entitled An act relating to mobile homes; creating ss. 83.7710, 83.7720, and 83.7730, Florida Statutes; providing for mobile home owners' associations and providing association powers; providing for maintenance of records and for inspection thereof; providing for association bylaws; providing for a governing board and providing its powers and duties; requiring mobile home park owners to notify the association of intent to sell, under certain circumstances; providing exceptions; requiring such associations to record certain documents under specified circumstances; creating a Mobile Home Study Commission and specifying its membership and duties; providing an exception to application of the act under certain circumstances; providing an effective date.

—was taken up out of order. On motions by Senator Scott, by two-thirds vote CS for CS for SB's 6, 18 and 287 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—39

Mr. President	Frank	Jennings	Neal
Barron	Gersten	Johnston	Plummer
Beard	Girardeau	Kirkpatrick	Rehm
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Margolis	Thomas
Childers, W. D.	Hair	Maxwell	Thurman
Crawford	Henderson	McPherson	Vogt
Dunn	Hill	Meek	Weinstein
Fox	Jenne	Myers	

Nays—None

On motion by Senator Jenne, the House was requested to return SB 40.

On motion by Senator Myers, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES*The Honorable Curtis Peterson, President*

I am directed to inform the Senate that the House of Representatives has passed CS for HB 770 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Transportation and Representative Nergard and others—

CS for HB 770—A bill to be entitled An act relating to expressway authorities; creating part VI of chapter 348, Florida Statutes; creating the St. Lucie County Expressway Authority Law; providing definitions; providing for the creation of the St. Lucie County Expressway Authority; providing for the purposes and powers of the authority; providing for bonds; providing for a lease-purchase agreement between the authority and the Department of Transportation; providing that the department may be appointed by the Division of Bond Finance of the Department of General Services as the division's agent for certain purposes; providing for the acquisition of land and property; providing for cooperation; providing for the covenant of the state; providing an effective date.

—was read the first time by title. On motions by Senator Myers, the rules were waived and by two-thirds vote the bill was placed on the special order calendar.

SPECIAL ORDER, continued

On motion by Senator Myers, by two-thirds vote CS for HB 770, a companion measure, was substituted for CS for SB 478. On motions by Senator Myers, by two-thirds vote CS for HB 770 was read the second time by title.

Senator Stuart moved the following amendments which were adopted:

Amendment 1—On page 12, between lines 30 and 31, insert:

Section 2. Paragraph (a) of subsection (1) of section 112.3145, Florida Statutes, 1982 Supplement, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires:

(a) "Local officer" means:

1. Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. Any appointed member of a board, commission, authority, including any expressway authority or transportation authority established by general law, community college district board of trustees, or council of any political subdivision of the state, excluding any member of an advisory body. A governmental body with land-planning, zoning, or natural resources responsibilities shall not be considered an advisory body.

3. Any person holding one or more of the following positions, by whatever title, including persons appointed to act directly in such capacity, but excluding assistants and deputies unless specifically named herein: clerk of the circuit court; clerk of the county court; county or city manager; political subdivision chief; county or city administrator; county or city attorney; chief county or city building inspector; county or city water resources coordinator; county or city pollution control director; county or city environmental control director; county or city administrator, with power to grant or deny a land development permit; chief of police; fire chief; city or town clerk; district school superintendent; community college president; or purchasing agent having the authority to make any purchase exceeding \$100 for any political subdivision of the state or any entity thereof.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 16, after the semicolon (;) insert: amending s. 112.3145(1)(a), Florida Statutes, 1982 Supplement; requiring members of expressway and transportation authorities to file a statement of financial interest;

On motion by Senator Myers, by two-thirds vote CS for HB 770 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnston	Plummer
Barron	Gersten	Kirkpatrick	Rehm
Beard	Girardeau	Langley	Scott
Carlucci	Grant	Malchon	Stuart
Castor	Grizzle	Margolis	Thomas
Childers, D.	Hair	Maxwell	Thurman
Childers, W. D.	Henderson	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Dunn	Jenne	Myers	
Fox	Jennings	Neal	

Nays—None

CS for SB 478 was laid on the table.

On motion by Senator Myers, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed HB 129 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Watt and others—

HB 129—A bill to be entitled An act relating to expressway authorities; creating part VI of chapter 348, Florida Statutes; creating the Palm Beach Expressway Authority Law; providing definitions; providing for the creation of the Palm Beach Expressway Authority; providing for the purposes and powers of the authority; providing for bonds; providing for a lease-purchase agreement between the authority and the Department of Transportation; providing that the department may be appointed by the Division of Bond Finance of the Department of General Services as the division's agent for certain purposes; providing for the acquisition of land and property; providing for cooperation; providing for the covenant of the state; providing an effective date.

—was read the first time by title. On motion by Senator Myers, the rules were waived and by two-thirds vote the bill was placed on the special order calendar.

SPECIAL ORDER, continued

On motion by Senator Myers, by two-thirds vote HB 129, a companion measure, was substituted for SB 861. On motions by Senator Myers, by two-thirds vote HB 129 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—35

Mr. President	Gersten	Johnston	Plummer
Barron	Girardeau	Kirkpatrick	Rehm
Carlucci	Grant	Langley	Scott
Castor	Grizzle	Malchon	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Henderson	Maxwell	Thurman
Crawford	Hill	McPherson	Vogt
Fox	Jenne	Myers	Weinstein
Frank	Jennings	Neal	

Nays—None

SB 861 was laid on the table.

Consideration of SB 985 was deferred.

On motion by Senator Barron, the rules were waived and by two-thirds vote CS for SB's 677 and 567 was withdrawn from the Committee on Rules and Calendar.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 30 was corrected and approved.

CO-INTRODUCER

Senator McPherson—SB 952 and CS for CS for SB's 6, 18 and 287

On motion by Senator Barron, the Senate adjourned at 4:00 p.m. to reconvene at 10:00 a.m., Wednesday, June 1.