



Journal of the Senate

Number 3—Special Session H

Thursday, June 4, 1992

CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—35:

Madam President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	

Excused: Senators Crotty, Gordon and Walker

PRAYER

The following prayer was offered by James C. Vaughn, Jr., Reading Clerk:

Spirit of the living God, fall afresh upon this legislative body. Spirit of the living God, we have paused to ask for your divine guidance this day.

Heavenly Father, we humbly petition you to lead these women and men, teach them, strengthen them and focus them, till they become such a statesperson that you'd have them be.

Lord, set them free from faith and hope in lesser things. Set them free from the commitments of their own blueprints for their own political careers. Set them free for faith and hope in giving of their best for the citizens of Florida. Set them free to live, work and serve without blemish so that they may continue to navigate Florida's future into the 21st century.

Then Heavenly Father, may these Senators be forever reminded of the poignant and perennial words of Victor Hugo: "Where darkness is a reality, crimes will be committed. But the guilty one is not he who commits the crime, but rather he who causes the darkness." This we fervently submit in your name. Amen.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Jenne, by two-thirds vote **CS for SB 96-H** was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Gardner, by two-thirds vote **CS for SB 96-H** was withdrawn from the Committee on Appropriations.

MOTIONS

On motion by Senator Dudley, by two-thirds vote **SB 156-H** was placed on the Special Order Calendar this day.

On motion by Senator Jenne, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to meet at 10:30 a.m., in lieu of 11:00 a.m. this day.

LOCAL BILLS

SB 4-H—A bill to be entitled An act relating to Lake County; providing for liens in favor of operators of hospitals in that county, or in favor of governmental agencies paying for hospital charges or medical treatment of individuals in that county, upon causes of actions, suits, claims, counterclaims, and demands accruing to patients therein, or their legal representatives, and upon judgments, settlements, and settlement agreements, on account of illnesses or injuries of such patients, for all reason-

able charges for hospital care, treatment, and maintenance necessitated by such illnesses or injuries; providing a method of perfecting and enforcing such liens; providing for recovery of costs, including attorney's fees, and where suits thereon may be maintained; requiring claims of lien to be recorded; providing for fees for the recording of claims of lien; providing that a release or satisfaction is not valid against the lien unless the lienholder joins therein or executes a release thereof; providing that acceptance of a release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment and any settlement, in the absence of a release or satisfaction of lien, prima facie constitutes impairment of such lien, and giving the lienholder a right of action for damages on account of such impairment, and providing for recovery from one accepting release or satisfaction or making settlement; prohibiting recovery of damages for hospital care, treatment, and maintenance unless the claimant therefor has paid the costs thereof except in certain cases; providing for intervention by the lienholder and verdict and judgment in favor of the lienholder in certain cases; exempting from provisions of this act matters within the purview of the Workers' Compensation Law; providing severability; providing an effective date.

—was read the second time by title.

Senator Langley moved the following amendment which was adopted:

Amendment 1—On page 3, line 2, after "maintenance or" insert: two-thirds of

On motion by Senator Langley, by two-thirds vote **SB 4-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 16-H—A bill to be entitled An act relating to Citrus County, Homosassa Special Water District; amending section 2 of chapter 59-1177, Laws of Florida, as amended; increasing the membership of the board of commissioners of the district from three to five; providing for an election for the additional members; decreasing the maximum amount of compensation that may be provided to the members of the board; providing for an increase in such compensation upon approval by the electors of the district; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote **SB 16-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 28-H—A bill to be entitled An act relating to the Jacksonville Port Authority, Duval County; amending chapter 63-1447, Laws of Florida, as amended, the Charter of the Jacksonville Port Authority; repealing provisions that require that the Council of the City of Jacksonville must approve the removal of an Authority member from office; amending provisions regarding voting requirements for lease approval; eliminating language no longer applicable regarding payment of expenses; eliminating invalid authorization to issue industrial development bonds; expanding authorization to enter into joint ventures for development; eliminating necessity to record leases as they are already public records; eliminating duplication of appraisals and simplifying language regarding intergovernmental contracts; eliminating references to general obligation bonds and revising reference to chapter 159, F.S.; removing transition language no longer applicable; creating provisions concerning rights of bondholders and rights of employees; revising provisions to reflect current practice and eliminate redundancy of oath of office; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote **SB 28-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 104-H—A bill to be entitled An act relating to Hillsborough County; repealing ch. 84-449, Laws of Florida, relating to the Northdale Maintenance District; abolishing the present district, transferring its assets and obligations to the county or to a successor district created by ordinance, and providing for assumption of the present district's obligations and liabilities by the county or the successor district; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **SB 104-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 124-H—A bill to be entitled An act relating to the North Lake County Hospital District; reconstituting the board of trustees of the district; prescribing the number and qualifications of trustees; providing for election of trustees; prescribing terms of office of trustees; extending the terms of certain trustees presently serving; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote **SB 124-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SPECIAL ORDER

SB 18-H—A bill to be entitled An act relating to civil rights; amending section 14 of chapter 92-177, Laws of Florida, changing the effective date of that law; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendment which was moved by Senator Girardeau:

Amendment 1 (with Title Amendment)—On page 1, line 9, insert:

Section 1. Subsection (8) of section 760.10, Florida Statutes, as amended by section 7 of chapter 92-177, Laws of Florida, is amended to read:

760.10 Unlawful employment practices.—

(8) Notwithstanding any other provision of this section, it is not an unlawful employment practice under ss. 760.01-760.10 for an employer, employment agency, labor organization, or joint labor-management committee to:

(a) Take or fail to take any action on the basis of religion, sex, national origin, age, handicap, or marital status in those certain instances in which religion, sex, national origin, age, absence of a particular handicap, or marital status is a bona fide occupational qualification reasonably necessary for the performance of the particular employment to which such action or inaction is related.

(b) Observe the terms of a bona fide seniority system, a bona fide employee benefit plan such as a retirement, pension, or insurance plan, or a system which measures earnings by quantity or quality of production, which is not designed, intended, or used to evade the purposes of ss. 760.01-760.10. However, no such employee benefit plan or system which measures earnings shall excuse the failure to hire, and no such seniority system, employee benefit plan, or system which measures earnings shall excuse the involuntary retirement of, any individual on the basis of any factor not related to the ability of such individual to perform the particular employment for which such individual has applied or in which such individual is engaged. This subsection shall not be construed to make unlawful the rejection or termination of employment when the individual applicant or employee has failed to meet bona fide requirements for the job or position sought or held or to require any changes in any bona fide retirement or pension programs or existing collective bargaining agreements during the life of the contract, or for 2 years after October 1, 1981, whichever occurs first, nor shall this act preclude such physical and medical examinations of applicants and employees as an employer may require of applicants and employees to determine fitness for the job or position sought or held.

(c) Take or fail to take any action on the basis of age, pursuant to law or regulation governing any employment or training program designed to benefit persons of a particular age group.

(d) Take or fail to take any action on the basis of marital status if that status is prohibited under its antinepotism policy.

Section 2. Section 8 of chapter 92-177, Laws of Florida, is amended to read:

Section 8. Effective October 1, 1992, section 760.11, Florida Statutes, is created to read:

760.11 Administrative and civil remedies; construction.—

(1) Any person aggrieved by a violation of ss. 760.01-760.10 may file a complaint with the commission within 365 days of the alleged violation, naming the employer, employment agency, labor organization, or joint labor-management committee, or, in the case of an alleged violation of s. 760.10(5), the person responsible for the violation and describing the violation. Any person aggrieved by a violation of s. 509.092 may file a complaint with the commission within 365 days of the alleged violation naming the person responsible for the violation and describing the violation. The commission, a commissioner, or the Attorney General may in like manner file such a complaint. On the same day the complaint is filed with the commission, the commission shall clearly stamp on the face of the complaint the date the complaint was filed with the commission. The complaint shall contain a short and plain statement of the facts describing the violation and the relief sought. The commission may require additional information to be in the complaint. The commission, within 5 days of the complaint being filed, shall by registered mail send a copy of the complaint to the person who allegedly committed the violation. The person who allegedly committed the violation may file an answer to the complaint within 25 days of the date the complaint was filed with the commission. Any answer filed shall be mailed to the aggrieved person by the person filing the answer. Both the complaint and the answer shall be verified.

(2) In the event that any other agency of the state or of any other unit of government of the state has jurisdiction of the subject matter of any complaint filed with the commission and has legal authority to investigate the complaint, the commission may refer such complaint to such agency for an investigation. Referral of such a complaint by the commission shall not constitute agency action within the meaning of s. 120.52(2). In the event of any referral under this subsection, the commission shall accord substantial weight to any findings and conclusions of any such agency. The referral of a complaint by the commission to a local agency does not divest the commission's jurisdiction over the complaint.

(3) Except as provided in subsection (2), the commission shall investigate the allegations in the complaint. Within 180 days of the filing of the complaint, the commission shall determine if there is reasonable cause to believe that discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992. When the commission determines whether or not there is reasonable cause, the commission by registered mail shall promptly notify the aggrieved person and the respondent of the reasonable cause determination, the date of such determination, and the options available under this section.

(4) In the event that the commission determines that there is reasonable cause to believe that a discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992, the aggrieved person may either:

(a) Bring a civil action against the person named in the complaint in any court of competent jurisdiction; or

(b) Request an administrative hearing under s. 120.57.

The election by the aggrieved person of filing a civil action or requesting an administrative hearing under this subsection is the exclusive procedure available to the aggrieved person pursuant to this act.

(5) In any civil action brought under this section, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the practice, including back pay. The court may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages. The provisions of ss. 768.72 and 768.73 do not apply to this section. The judgment for the total amount of punitive damages awarded under this section to an aggrieved person shall not

exceed \$100,000. In any action or proceeding under this subsection, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. The right to trial by jury is preserved in any such private right of action in which the aggrieved person is seeking compensatory or punitive damages and any party may demand a trial by jury. The commission's determination of reasonable cause is not admissible into evidence in any civil proceeding, including any hearing or trial, except to establish for the court the right to maintain the private right of action. A civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission. The commencement of such action shall divest the commission of jurisdiction of the complaint, except that the commission may intervene in the civil action as a matter of right. Notwithstanding the above, the state and its agencies and subdivisions shall not be liable for punitive damages. The total amount of recovery against the state and its agencies and subdivisions shall not exceed the limitation as set forth in s. 768.28(5).

(6) Any administrative hearing brought pursuant to paragraph (4)(b) shall be conducted under s. 120.57. The commission may hear the case provided that the final order is issued by members of the commission who did not conduct the hearing or the commission may request that it be heard by a hearing officer pursuant to s. 120.57(1)(b)3. If the commission elects to hear the case, it may be heard by a commissioner. If the commissioner, after the hearing, finds that a violation of the Florida Civil Rights Act of 1992 has occurred, the commissioner shall issue an appropriate proposed order in accordance with chapter 120 prohibiting the practice and providing affirmative relief from the effects of the practice, including back pay. If the hearing officer, after the hearing, finds that a violation of the Florida Civil Rights Act of 1992 has occurred, the hearing officer shall issue an appropriate recommended order in accordance with chapter 120 prohibiting the practice and providing affirmative relief from the effects of the practice, including back pay. Within 90 days of the date the recommended or proposed order is rendered, the commission shall issue a final order by adopting, rejecting, or modifying the recommended order as provided under s. 120.57. The 90-day period may be extended with the consent of all the parties. An administrative hearing pursuant to paragraph (4)(b) must be requested no later than 35 days after the date of determination of reasonable cause by the commission. In any action or proceeding under this subsection, the commission, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action.

(7) If the commission determines that there is not reasonable cause to believe that a violation of the Florida Civil Rights Act of 1992 has occurred, the commission shall dismiss the complaint. The aggrieved person may request an administrative hearing under s. 120.57, but any such request must be made within 35 days of the date of determination of reasonable cause and any such hearing shall be heard by a hearing officer and not by the commission or a commissioner. If the aggrieved person does not request an administrative hearing within the 35 days, the claim will be barred. If the hearing officer finds that a violation of the Florida Civil Rights Act of 1992 has occurred, he or she shall issue an appropriate recommended order to the commission prohibiting the practice and recommending affirmative relief from the effects of the practice, including back pay. Within 90 days of the date the recommended order is rendered, the commission shall issue a final order by adopting, rejecting, or modifying the recommended order as provided under s. 120.57. The 90-day period may be extended with the consent of all the parties. In any action or proceeding under this subsection, the commission, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. In the event the final order issued by the commission determines that a violation of the Florida Civil Rights Act of 1992 has occurred, the aggrieved person may bring, within 1 year of the date of the final order, a civil action under subsection (5) as if there has been a reasonable cause determination or accept the affirmative relief offered by the commission, but not both.

(8) In the event that the commission fails to conciliate or determine whether there is reasonable cause on any complaint under this section within 180 days of the filing of the complaint, an aggrieved person may proceed under subsection (4), as if the commission determined that there was reasonable cause.

(9) No liability for back pay shall accrue from a date more than 2 years prior to the filing of a complaint with the commission.

(10) A judgment for the amount of damages and costs assessed pursuant to a final order by the commission may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(11) If a complaint is within the jurisdiction of the commission, the commission shall simultaneously with its other statutory obligations attempt to eliminate or correct the alleged discrimination by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent civil proceeding, trial, or hearing. The commission may initiate dispute resolution procedures, including voluntary arbitration, by special masters or mediators. The commission may adopt rules as to the qualifications of persons who may serve as special masters and mediators.

(12) All complaints filed with the commission and all records and documents in the custody of the commission, which relate to and identify a particular person, including, but not limited to, a complainant, employer, employment agency, labor organization, or joint labor-management committee shall be confidential and shall not be disclosed by the commission, except to the parties or in the course of a hearing or proceeding under this section. The restriction of this subsection shall not apply to any record or document which is part of the record of any hearing or court proceeding.

(13) Final orders of the commission are subject to judicial review pursuant to s. 120.68. The commission's determination of reasonable cause is not final agency action that is subject to judicial review. Unless specifically ordered by the court, the commencement of an appeal does not suspend or stay the order of the commission, except as provided in the Rules of Appellate Procedure. *In an appeal under this subsection, the court, in its discretion, may award to an aggrieved person who prevails a reasonable attorney's fee as part of the costs. This provision for attorney's fees shall be interpreted in a manner consistent with federal case law involving a Title VII action.* ~~In the event the aggrieved person is the prevailing party on any appeal, he or she shall be entitled to reasonable attorney's fees and costs.~~ In the event the order of the court determines that a violation of the Florida Civil Rights Act of 1992 has occurred, the court shall remand the matter to the commission for appropriate relief. The aggrieved party has the option to accept the relief offered by the commission or may bring, within 1 year of the date of the court order, a civil action under subsection (5) as if there has been a reasonable cause determination.

(14) The commission may adopt, promulgate, amend, and rescind rules to effectuate the purposes and policies of this section and to govern the proceedings of the commission under this section.

(15) In any civil action or administrative proceeding brought pursuant to this section a finding that a person employed by the state or any governmental entity or agency has violated s. 760.10 shall as a matter of law constitute just or substantial cause for such person's discharge.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 3 and insert: s. 760.10, F.S., relating to unlawful employment practices; providing an exception for an action based on marital status prohibited under an antinepotism policy; amending s. 8, ch. 92-177, Laws of Florida; providing that the award of attorney's fees in an appeal be interpreted in a certain manner; amending s. 14 of ch. 92-177, Laws of Florida,

Senator Girardeau moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 9, strike all of lines 17-22 and insert: provided in the Rules of Appellate Procedure. *In any action or proceeding under this subsection, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the cost. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action.* ~~In the event the aggrieved~~

Amendment 1 as amended was adopted.

Senator Girardeau moved the following amendments which were adopted:

Amendment 2 (with Title Amendment)—On page 1, line 8, insert:

Section 1. Section 760.04, Florida Statutes, as amended by section 4 of chapter 92-177, Laws of Florida, is amended to read:

760.04 Commission on Human Relations, assigned to *Department of Administration Executive Office of the Governor*.—The commission created by s. 760.03 is assigned to the *Department of Administration Executive Office of the Governor*. The commission, in the performance of its duties pursuant to the Florida Civil Rights Act of 1992, shall not be subject to control, supervision, or direction by the *Department of Administration Executive Office of the Governor*.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 5, before "providing" insert: amending s. 760.04, F.S.; providing for the assignment of the Commission on Human Relations to the Department of Administration;

Amendment 3 (with Title Amendment)—On page 1, between lines 12 and 13, insert:

Section 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 5, before "providing" insert: providing for severability;

On motion by Senator Girardeau, by two-thirds vote **SB 18-H** 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 Nays—None

SB 20-H—A bill to be entitled An act relating to definitions pertaining to health care; amending s. 408.07, F.S.; providing that the definitions contained in that section do not apply with respect to the Health Facility and Services Development Act; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote **SB 20-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motion by Senator Johnson, by two-thirds vote—

CS for SB 68-H—A bill to be entitled An act relating to taxation; requiring the Department of Revenue to develop and implement a limited-duration tax amnesty program for certain state taxes; providing definitions; providing conditions for participation in such program; amending s. 72.011, F.S.; providing conditions for filing an action to contest assessment or denial of refund; amending s. 196.011, F.S.; requiring that forms prescribed by the Department of Revenue include specific information; requiring homestead exemption applications to include the social security numbers of the property owner and spouse before a property appraiser may issue or renew the homestead exemption; providing requirements for homestead exemption renewal applications; amending ss. 198.15, 198.18, F.S.; increasing penalties and interest for estate taxes due; amending s. 199.062, F.S.; requiring security dealers and investment advisers to file certain statements regarding customers' securities; allowing the department to require property appraisers to send intangible tax brochures to property owners; authorizing the department to require state-registered security dealers and investment advisers to transmit once every 2 years a copy of the department's intangible tax brochure to certain clients; amending s. 199.282, F.S.; increasing penalties and interest for intangible taxes due; requiring a person applying upon initial application or annual renewal for homestead exemption to certify in writing whether such person is required to file an annual intangible tax return in this state; providing a penalty; amending ss. 201.17, 203.01, 203.06, F.S., relating to

the documentary stamp tax and the gross receipts tax on utility services, to increase the interest and penalties on those taxes due; amending ss. 206.06, 206.08, 206.44, 206.87, 207.007, 211.076, 211.33, F.S., relating to motor and special fuel taxes, motor and special fuel use tax and the severance tax, to increase the interest and penalties on those taxes due; amending s. 212.03, F.S.; requiring condominium associations or other persons responsible for the rental of condominium units to annually submit to the department certain information on rental units; providing a penalty; amending ss. 212.04, 212.085, F.S.; providing for increases in penalties on sales and use taxes due; amending s. 212.12, F.S.; providing for increases in interest and penalties on sales and use taxes due; amending s. 212.18, F.S.; providing that a state or local agency, board, or commission may not issue a license to any person engaged in any business without first ensuring that such person possesses a valid state sales tax registration certificate; providing an additional registration fee under certain circumstances; amending s. 213.051, F.S.; authorizing the department to issue subpoenas or subpoenas duces tecum under certain circumstances; amending s. 213.29, F.S.; increasing the penalty for failure to collect certain taxes; amending s. 213.30, F.S.; providing for compensation by the department to persons who provide information regarding a taxpayer not in compliance with registration requirements; creating s. 213.36, F.S.; requiring in-state manufacturer's or distributor's representatives to register annually with the department; providing definitions; requiring representatives to submit annually a current list of their clients and certain information to the department; providing a penalty; creating s. 213.50, F.S.; providing for the revocation of a corporate charter under certain circumstances; prohibiting the Division of Corporations of the Department of State from issuing or reinstating a corporate charter under certain circumstances; creating s. 213.67, F.S.; authorizing the Department of Revenue to garnish property under certain circumstances; creating s. 213.69, F.S.; authorizing the department, upon final determination of unpaid taxes, to issue warrants for unpaid taxes; creating s. 213.70, F.S.; authorizing the department to require persons who are registered to submit certain state taxes to place them in escrow; creating s. 213.71, F.S.; providing that a person may not be issued a license to practice any profession regulated by the Department of Professional Regulation if that person has an outstanding tax warrant that has existed for a specified period of time; amending ss. 220.181, 220.211, 220.801, 220.803, 220.901, F.S.; increasing penalties for corporate income taxes due; amending s. 895.02, F.S., providing additional definitions for the term "racketeering activity" as used in the Florida RICO (Racketeer Influenced and Corrupt Organization) Act; authorizing the Department of Revenue to adopt emergency rules; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for the exemption to be subject to the Open Government Sunset Review Act; restricting use of such information; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the department; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration of that requirement; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions that were provided in an appropriations act; amending s. 213.053, F.S.; authorizing the department to provide certain information to eligible participants in the Registration Information Sharing and Exchange Program; providing appropriations; establishing positions; providing for pilot projects to improve the collection and enforcement of taxes; providing applicability of increased penalty and interest provisions; providing appropriations; providing effective dates.

—was read the second time by title.

Senator Gardner moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 54, strike all of lines 24-30 and renumber subsequent section.

And the title is amended as follows:

On page 5, strike all of lines 10 and 11 and insert: Sharing and Exchange Program; providing appropriations;

MOTIONS

On motion by Senator Langley, by two-thirds vote **CS for SB 68-H** was removed from the Special Order Calendar and recommitted to the Committee on Finance, Taxation and Claims.

On motion by Senator Jenne, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to place **CS for SB 68-H** on the agenda this day.

SB 74-H—A bill to be entitled An act redesignating agencies that administer specified health and human services; amending s. 400.623, F.S.; providing for licensure of adult foster homes by the Department of Health and Rehabilitative Services rather than the Agency for Health Care Administration to serve clients of the department; directing the Division of Statutory Revision of the Joint Legislative Management Committee to prepare a reviser's bill to make certain changes consistent with the intent and purposes of ch. 92-33, Laws of Florida, as amended; repealing s. 2, ch. 92-33, Laws of Florida, relating to directions for preparing the official edition of the Florida Statutes; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Weinstock and adopted:

Amendment 1—In title, on page 1, line 14, strike "s. 2" and insert: s. 11

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Weinstock:

Amendment 2 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 400.23, Florida Statutes, is amended to read:

400.23 Rules; ~~criteria 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 shall include ~~criteria standards~~ by which a reasonable and consistent quality of resident care may be ensured and the results of such resident care can be ~~demonstrated measured~~ and by which safe and sanitary nursing homes can be provided. It is further intended that *reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a nursing home. In addition, efforts shall be made to minimize the paperwork associated* ~~a minimum amount of the time of professionals providing nursing home care be required to ensure compliance~~ with the reporting and documentation requirements of these rules.

(2) Pursuant to the intention of the Legislature, the department shall ~~adopt publish~~ and enforce rules to implement ~~the provisions of this part~~, which shall include reasonable and fair ~~criteria 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 ensure the health, safety, and comfort of residents, including an adequate call system. In making such rules, the department shall be guided by ~~criteria standards~~ recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The department shall update or revise such ~~criteria 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 approval of their construction plans. 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 ~~adopt 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.

(b) The number and qualifications of all personnel, including management, medical, and nursing, *and other professional personnel, and nursing assistants 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 ensure 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, *based on rules developed under this chapter and the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.*

(3) *Prior to conducting a survey of the facility, the survey team shall obtain a copy of the district nursing home and long-term care facility ombudsman council report on the facility. Problems noted in the report shall be incorporated into and followed up through the department's inspection process. This procedure does not preclude the district nursing home and long-term care facility ombudsman council from requesting the department to conduct a follow-up visit to the facility.*

(4) *There is created the Nursing Home Advisory Committee, which shall consist of 15 members who are to be appointed by and report directly to the secretary of the department. The membership is to include:*

(a) *One researcher from a university Center on Aging*

(b) *Three representatives from the Florida Health Care Association.*

(c) *Two representatives from the Florida Association of Homes for the Aging.*

(d) *One representative from the Department of Elderly Affairs.*

(e) *Three consumer representatives, at least one of whom serves on or is a staff member of the state or district nursing home and long-term care facility ombudsman council.*

(f) *One representative from the Florida American Medical Directors Association.*

(g) *One representative from the Florida Association of Directors of Nursing Administrators.*

(h) *One representative from the Department of Health and Rehabilitative Services.*

(i) *Two representatives from the nursing home industry at large, who own or operate licensed nursing home facilities in the state and who are not members of any state nursing home association.*

(5) *The committee shall perform the following duties to assist the department in ensuring compliance with the intent of the Legislature specified in subsection (1):*

(a) *Assist in developing a nursing home rating system based on the requirements of rules developed under this chapter and the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.*

(b) *Assist in developing surveyor guidelines and training to assure the equitable application of the nursing home rating system.*

(c) *Assist in developing guidelines to determine the scope and severity of noncompliance.*

(d) *Identify burdensome paperwork that is not specifically related to resident care.*

(e) *Advise the department of proposed changes in statutes and regulations necessary to ensure adequate care and services and the promotion and protection of residents' rights in long-term care facilities.*

(6) ~~(3)~~ *The department shall, at least every 15 months annually, evaluate all nursing home facilities and make a determination as to the degree of compliance by each licensee with the established rules adopted minimum standards under this part and the rules promulgated thereunder as a basis for assigning a rating to that facility. The department must shall base its evaluation on the most recent annual inspection report,*

taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections. *The department shall assign one of the following ratings to each nursing home: standard, conditional, or superior.*

(a) *A standard rating means that a facility has no Class I or Class II deficiencies and has corrected all Class III deficiencies within the time established by the department and is in substantial compliance at the time of the survey with criteria established under this part, with rules adopted by the department, and, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.*

(b) *A conditional rating means that a facility, due to the presence of one or more Class I or Class II deficiencies or Class III deficiencies not corrected within the time established by the department, is not in substantial compliance at the time of the survey with criteria established under this part, with rules adopted by the department, and, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended. If the facility comes into substantial compliance at the time of the follow-up survey, a standard rating may be issued. A facility assigned a conditional rating at the time of the relicensure survey may not qualify for consideration for a superior rating until the time of the next subsequent relicensure survey.*

(c)(e) *A superior rating means that a facility has no Class I or Class II deficiencies and has corrected all Class III deficiencies within the time established by the department and shall be assigned a superior rating if the department determines that the licensee is in substantial compliance with the criteria established minimum standards under this part and the rules adopted by the department and, if applicable, with rules adopted pursuant to the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended; and the facility exceeds the criteria for a standard rating through enhanced programs and services in the following areas: promulgated thereunder and the licensee 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;
- 2.5. Dietary or nutritional services;
- 3.6. Physical environment,;
7. housekeeping, and maintenance;
4. Restorative therapies and self-help activities;
8. Physical and restorative therapy;
9. Recreational therapy;
- 5.10. Social services; and
6. Activities and recreational therapy.
11. Self-help activities;
12. Professional consultant services;
13. Activities and volunteer services; and
14. Notification and monitoring of visitation by physicians.

(d) *In order to facilitate the development of special programs or facility-wide initiatives and to promote creativity based on the needs and preferences of residents, the areas listed in paragraph (c) may be grouped or addressed individually by the licensee. However, a facility may not qualify for a superior rating if fewer than three programs or initiatives are developed to encompass the required areas.*

(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. 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 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 licensee 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 licensee in order to qualify for a superior rating. The assessment by the department of the degree of compliance by a licensee with this paragraph shall take into consideration the needs and limitations of residents in the facility. The needs and limitations of residents shall be determined by the department after consultation with the licensee.~~

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

(d) ~~A licensee receiving a superior rating for a facility shall have the words "superior facility" marked in block letters not less than 1 inch in height on its license. A licensee for a facility which meets, but does not exceed, minimum standards in all areas prescribed by the department shall receive a standard license. A licensee for 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.~~

(f) ~~The current rating of each facility must be indicated in bold print on the face of the 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 residents are being admitted to that facility. Licensees receiving a conditional rating for a facility shall prepare, within 10 working days after receiving notice of deficiencies 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.~~

(g)(e) ~~Each licensee shall post its license in a prominent place that is in clear and unobstructed public view at or near the place where residents are being admitted to the facility. A licensee 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.~~

(h)(f) ~~Not later than January 1, 1993 1981, the department shall adopt rules that which:~~

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

(i)(g) ~~A license rated superior shall continue until it is replaced by a rating based on a later survey. A superior rating may be revoked at any time for failure to maintain substantial compliance with criteria established under this part, with rules adopted by the department or, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended, or for failure to exceed the~~

~~criteria minimum standards specified for any Level I area as listed in paragraph (c). 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.~~

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

(7)(4) The department shall ~~adopt promulgate~~ rules to provide that, when the ~~criteria 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 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(2), 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, 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, 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.

(8)(5) Civil penalties paid by any licensee under ~~the provisions of~~ subsection (7)(4) shall be deposited in the Resident Protection Trust Fund and expended as provided in s. 400.063.

(9)(6) The department shall approve or disapprove the plans and specifications within 60 days after receipt of the final plans and specifications. 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.

(10)(7) The department is authorized to charge an initial fee of \$2,000 for review of plans and construction on all projects, no part of which is refundable. The department may also collect a fee, not to exceed 1 percent of the estimated construction cost or the actual cost of review, whichever is less, for the portion of the review which encompasses initial review through the initial revised construction document review. The department is further authorized to collect its actual costs on all subsequent portions of the review and construction inspections. Initial fee payment shall accompany the initial submission of plans and specifications. Any subsequent payment that is due is payable upon receipt of the invoice from the department. 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.

(11)(9) 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 final plans and specifications by the department established in subsection

(9)(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.

(12) *This section may not be used to increase the total Medicaid Services nursing home expenditures that are paid as incentives.*

Section 2. Subsection (1) of section 400.063, Florida Statutes, is amended to read:

400.063 Resident Protection Trust Fund.—

(1) A Resident 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. 393.0673(2), 400.062(3)(b), 400.111(1), 400.121(2), and ~~400.23(7)~~ 400.23(4). Such funds shall be for the sole purpose of paying for the appropriate alternate placement, care, and treatment of residents who are removed from a facility licensed under this part or a facility specified in s. 393.0678(1) in which the department determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the residents. If the department determines that it is in the best interest of the health, safety, or security of the residents to provide for an orderly removal of the residents from the facility, the department may utilize such funds to maintain and care for the residents in the facility pending removal and alternative placement. The maintenance and care of the residents shall be under the direction and control of a receiver appointed pursuant to s. 400.126(1) or s. 393.0678(1). However, funds may be expended in an emergency upon a filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(6)(e), or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the residents.

Section 3. Subsection (2) of section 400.401, Florida Statutes, as amended by section 28 of chapter 92-33, Laws of Florida, is amended, and subsection (3) is added to that section, to read:

400.401 Short title; purpose.—

(2) The purpose of this *part act* is to promote the availability of appropriate services for elderly and disabled persons in the least restrictive and most homelike environment, to encourage the development of facilities which promote the dignity, individuality, privacy, and decision-making ability of such persons, to provide for the health, safety, and welfare of residents of adult congregate living facilities in the state, to promote continued improvement of such facilities, to encourage the development of innovative and affordable facilities particularly for persons with low to moderate incomes, to ensure that all agencies of the state cooperate in the protection of such residents, and to ensure that needed economic, social, mental health, health, and leisure services are made available to residents of such facilities through the efforts of ~~the Agency for Health Care Administration~~, the Department of Health and Rehabilitative Services, adult congregate living facilities, and other community agencies. To the maximum extent possible, appropriate community-based programs shall be available to state-supported residents to augment the services provided in adult congregate living facilities. The Legislature recognizes that adult congregate living facilities are an important part of the continuum of long-term care in the state. In support of the goal of aging in place, the Legislature further recognizes that adult congregate living facilities should be operated and regulated as residential environments with supportive services and not as medical or nursing facilities. The services available in these facilities, either directly or through contract or agreement, are intended to help residents remain as independent as possible in order that premature nursing home or institutional placement may be avoided. Regulations governing these facilities shall be sufficiently flexible to allow facilities to adopt policies which enable residents to age in place when resources are available to meet their needs and accommodate their preferences.

(3) *The Legislature further finds that a license issued under this part is a public trust and a privilege and is not an entitlement. This principle shall guide the finder of fact or trier of law at any administrative proceeding or in a circuit court action initiated by the department to enforce this part.*

Section 4. Section 400.402, Florida Statutes, is amended to read:

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

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

(2) "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 ~~six~~ ~~four~~ or more adults, not related to the owner or administrator by blood or marriage, who require such services; or to provide extended congregate care, limited nursing services, or limited mental health services, when specifically licensed to do so pursuant to s. 400.407. ~~A facility offering personal services, extended congregate care, limited nursing services, or limited mental health services for fewer than four adults is 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.~~

(3) "Aging in place" or "age in place" means the process by which a person chooses to remain in a familiar living environment despite the physical or mental decline that may occur with the aging process. For aging in place to occur, needed services are added, increased, or adjusted to compensate for the physical or mental decline of the individual, while maximizing the person's dignity and independence. Such services may be provided by facility staff, volunteers, family, or friends, or through contractual arrangements with a third party.

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

(5) "Assistance with activities of daily living" means direct physical assistance with eating, bathing, grooming, dressing, toileting, ambulation, and other similar tasks.

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

(7) "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.

(8) "Extended congregate care" means acts beyond those authorized in subsection (16)(15) that may be performed pursuant to chapter 464 by persons licensed thereunder while carrying out their professional duties, and other supportive services which may be specified by rule. The purpose of such services is to enable residents to age in place despite mental or physical limitations that might otherwise disqualify them from continued residency in a facility licensed under this part.

(9) "Guardian" means a person to whom the law has entrusted the custody and control of the person or property, or both, of a person who has been legally adjudged incompetent.

(10) "Limited nursing services" means acts that may be performed pursuant to chapter 464 by persons licensed thereunder while carrying out their professional duties but limited to those acts which the department specifies by rule. Acts which may be specified by rule as allowable limited nursing services shall be for persons who meet the admission criteria established by the department for adult congregate living facilities and shall not be complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings, and care of casts, braces, and splints.

(11) "Managed risk" means the process by which the facility staff discuss the service plan and the needs of the resident with the resident and his representative or designee in such a way that the consequences of a decision, including any inherent risk, are understood by all parties and reviewed periodically in conjunction with the service plan, taking into account changes in the resident's status and the ability of the facility to respond accordingly.

(12) "Mechanical restraint" means a device which physically limits, restricts, or deprives an individual of movement or mobility, including, but not limited to, a half-bed rail, a full-bed rail, a geriatric chair, and a posey restraint. The term "mechanical restraint" shall also include any device which was not specifically manufactured as a restraint but which has been altered, arranged, or otherwise used for this purpose. The term shall not include bandage material used for the purpose of binding a wound or injury.

(13) "Mental health resident" means an individual who receives or is eligible to receive optional state supplementation and:

(a) Has been discharged from a state mental health treatment facility within the past 2 years;

(b) Has been admitted to a crisis stabilization unit within the past 2 years; or

(c) Is receiving active treatment from a physician, psychologist, clinical social worker, marriage and family therapist, mental health counselor, registered nurse, or psychiatric advanced registered nurse practitioner for a major mental illness.

(14) ~~(14)~~ "Multiple and repeated violations" means five or more repeated or recurring violations, not necessarily the same violations, but of the same category, that occur during the licensee's history and that have an effect on the health, safety, or welfare of the residents of the facility.

(15)(14) "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.

(16)(15) "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, toileting, and ambulating; 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, nursing, dental, or mental health services by the staff of a facility, except as provided in this part. In addition, an emergency response device installed in the apartment or living area of a resident shall not be classified as a personal service.

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

(18)(17) "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, or staff concerning the rights of the resident; to assist the resident in contacting the ombudsman 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.

(19)(18) "Service plan" means a written plan, developed and agreed upon by the resident, the resident's representative or designee, if any, and the administrator or designee representing the facility, which addresses the unique physical and psychosocial needs, abilities, and personal preferences of each resident receiving extended congregate care services. The plan shall include a brief written description, in easily understood language, of what services shall be provided, who shall provide the services, when the services shall be rendered, and the purposes and benefits of the services.

(20)(19) "Shared responsibility" means exploring the options available to a resident within a facility and the risks involved with each option when making decisions pertaining to the resident's abilities, preferences, and service needs, thereby enabling the resident, the resident's representative or designee, and the facility to develop a service plan which best meets the resident's needs and improves the resident's quality of life.

(21)(20) "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 activities such as bathing or shaving to assure their health, safety, or welfare.

(22)(21) "Supervision of self-administered medication" means reminding residents to take medication, opening bottle caps for residents, opening prepackaged medication 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 dosage as prescribed, keeping daily records of when residents receive supervision pursuant to this subsection, and immediately reporting noticeable changes in the condition of a resident to the resident's physician. Residents who are capable of administering their own medication shall be allowed to do so.

(23)(22) "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.

(24)(23) "Supportive services" means services designed to encourage and assist aged or disabled adults to remain in the least restrictive living environment and to maintain their independence as long as possible.

Section 5. Subsection (2) of section 651.011, Florida Statutes, is amended to read:

651.011 Definitions.—For the purposes of this chapter, the term:

(2) "Continuing care" or "care" means furnishing pursuant to an agreement shelter, food, and either nursing care or personal services as defined in s. 400.402(16) ~~400.402(15)~~, whether such nursing care or personal services are provided in the facility or in another setting designated by the agreement for continuing care, to an individual not related by consanguinity or affinity to the provider furnishing such care, upon payment of an entrance fee. Other personal services provided shall be designated in the continuing care agreement. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party.

Section 6. Subsection (1) and paragraphs (a) and (d) of subsection (3) of section 400.407, Florida Statutes, are amended to read:

400.407 License required; fee, display.—

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

(b)1. Any person found guilty of violating paragraph (a) who, upon notification by the department, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person found to be in violation of paragraph (a) due to a ~~change in s. 400.402(2), (15), (20), or (21) or a modification in department policy pertaining to personal services as provided for in s. 400.402(15)~~ and who, upon notification by the department, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Except as provided for in subparagraph 2., any person who violates paragraph (a) who previously operated a licensed facility or concurrently operates a licensed facility and an unlicensed facility commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Any person who fails to obtain a license after department notification may be fined for each day of noncompliance pursuant to s. 400.419(1)(b).

5. If ~~When~~ an owner has an interest in more than one facility, and fails to license any one of these facilities, the department may revoke the license or impose a moratorium on any or all of the licensed facilities until such time as the delinquent facility is licensed.

6. If the department determines that an owner is operating or maintaining a facility without obtaining a license authorizing such operation and determines that a condition exists in that facility which poses a threat to the health, safety, or welfare of a resident of the facility, the owner is subject to the same actions and penalties specified in ss. 400.414 and 400.419 for a negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(3) Any license granted by the department shall state the maximum resident capacity of the facility, the type of care for which the license is granted, the date the license is issued, the expiration date of the license, and any other information deemed necessary by the department. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health services.

(a) A standard license shall be issued to a facility ~~facilities~~ providing one or more ~~personal of the services identified in s. 400.402(15)~~. Such facilities may also employ or contract with a person licensed under chapter 464 to administer medications and perform other tasks as specified in s. 400.4255.

(d) A limited mental health license shall be issued to a facility that ~~provides facilities which provide~~ mental health services as specified in this paragraph to mental health residents who ~~meet the criteria of s. 400.402(13)~~.

1. In order for limited mental health services to be provided in a facility licensed under this part, the department shall first determine that all requirements established in law and rule are met and shall specifically designate, on the facility's license, that such services may be provided and designate the number of residents who may receive limited mental health services. Such designation may be made at the time of initial licensure or biennial relicensure, or if requested in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide limited mental health services ~~must shall~~ have maintained a standard license and ~~must shall~~ not have been subject to administrative sanctions which affect the health, safety, or welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years. Specific designation as a facility licensed to provide limited mental health services is not required in order for a facility to accept mental health residents, but it is required in order for a facility to receive additional payment from the state for those residents.

2. Facilities which are licensed to provide limited mental health services shall provide at least the following additional services:

a. A written plan of cooperation with the community mental health center.

b. Increased staff as defined by rule to meet the special needs of mental health residents.

c. Increased activities as defined by rule to meet the needs of mental health residents.

d. Participation in the continuity of care management system.

3. In addition to the training as provided in s. 400.452, staff in facilities which are authorized to provide limited mental health services shall receive additional training, as defined by rule, on the special needs of mental health residents. Facilities which are designated to provide limited mental health services may not have more than 50 percent mental health residents if their licensed capacity exceeds 16. If their licensed capacity is 16 or less, all of their residents may be mental health residents. For facilities which are designated to provide limited mental health services, the department shall, within funds appropriated, provide additional payment for the limited mental health services.

4. A person who receives limited mental health services under this part ~~must shall~~ meet the admission criteria established by the department for adult congregate living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 400.426.

Section 7. Subsections (2) and (3) of section 400.408, Florida Statutes, as amended by section 29 of chapter 92-33, Laws of Florida, are amended to read:

400.408 Referral of person for residency to unlicensed facility; penalty; verification of licensure status.—

(2) In at least one office in each district of the department of ~~Health and Rehabilitative Services~~, the ~~department Agency for Health Care Administration~~ shall maintain a list of licensed facilities within that district and shall update the list at least monthly.

(3) At least annually, the ~~department Agency for Health Care Administration~~ shall notify, in trade publications as defined by rule, physicians licensed pursuant to chapter 458, osteopathic physicians licensed pursuant to chapter 459, hospitals licensed pursuant to part I of chapter 395, and nursing home facilities licensed pursuant to part I of this chapter, and employees of the ~~Agency for Health Care Administration~~ or the department of ~~Health and Rehabilitative Services~~ having a responsibility for referring persons for residency, that it is unlawful to knowingly refer a person for residency to an unlicensed adult congregate living facility and shall notify them of the penalty for violating such prohibition. Further, the notice must direct each noticed facility and individual to contact the appropriate ~~departmental agency~~ office in order to verify the licensure status of any facility prior to referring any person for residency. Each notice must include the name, telephone number, and mailing address of the appropriate office to contact.

Section 8. Section 400.412, Florida Statutes, is amended to read:

400.412 Sale or transfer of ownership of a facility.—It is the intent of the Legislature to protect the rights of the residents of an adult congregate living facility when the facility is sold or the ownership thereof is transferred. Therefore, whenever a facility is sold or the ownership thereof is transferred, including leasing:

(1) The transferee shall make application to the department for a new license at least 60 days before the date of transfer of ownership.

(2)(a) The transferor shall notify the department in writing at least 60 days before the date of transfer of ownership.

(b) The new owner shall notify the residents, in writing, of the transfer of ownership within 7 days *after the new owner's* of his receipt of the license.

(3) The transferor ~~is shall be~~ responsible and liable for:

(a) 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.

(b) ~~Any and~~ All penalties imposed against the facility for violations occurring before the date of transfer of ownership; ~~provided that, if the penalty imposed is a moratorium on admissions or a denial of licensure, and there is a threat to the health, safety, or welfare of the residents which continues unabated, the moratorium or the denial remains shall remain in full force and effect after the transfer of ownership, unless the department has approved the transferee's plan of correction or unless the condition that resulted in the moratorium or denial has been corrected, and or it may be a ground grounds~~ for denial of license to the transferee in accordance with chapter 120.

(c) 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; except that, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability.

(4) ~~The transferor of a facility the license of which is denied pending an administrative hearing shall, as a part of the written transfer-of-ownership contract, advise the transferee that a plan of correction must be submitted by the transferee and approved by the department at least 7 days before the transfer of ownership and that failure to correct the condition which resulted in the moratorium on admissions or denial of licensure is a ground for denial of the transferee's license.~~

(5)(4) The transferor shall, before transferring ownership, pay or make arrangements to pay to the department any amounts owed to the department before the transfer of ownership; and the issuance of a license to the transferee shall be delayed until such payment or arrangements for payment have been made.

(6)(5) The transferee must provide the department with a copy of the recorded warranty deed or lease agreement before a license may be issued.

Section 9. Section 400.414, Florida Statutes, as amended by section 46 of chapter 92-58, Laws of Florida, is amended to read:

400.414 Denial, revocation, or suspension of license; imposition of administrative fine; grounds; *hearings*.—

(1) The department may deny, revoke, or suspend a *standard, extended congregate care, limited nursing services, or limited mental health services* license or impose an administrative fine in the manner provided in chapter 120. At the chapter 120 hearing, the department ~~must shall~~ prove by a preponderance of the evidence that its actions are warranted.

(2) Any of the following actions *involving* by a facility or by its employee ~~is a ground shall be grounds~~ for action by the department against a licensee:

(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 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) *Conviction of the facility owner or administrator of a felony or any crime involving moral turpitude under the laws of any state or of the United States within the previous 10 years. The record of conviction or a certified copy of the record is conclusive evidence of such conviction.*

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

(e)(d) Multiple and repeated violations of this part or of minimum standards or rules adopted pursuant to this part.

(f)(e) A confirmed report of abuse, neglect, or exploitation, as defined in s. 415.102, which has been upheld following a chapter 120 hearing or a waiver of such proceedings ~~if where~~ the perpetrator is an employee, volunteer, administrator, or owner, or otherwise has access to the residents of a facility, and the administrator has not taken action to remove the perpetrator. A perpetrator may seek an exemption from disqualification through the procedures provided in s. 415.107(5)(b). ~~No~~ Administrative action may *not* be taken against the facility if the perpetrator is granted an exemption.

(g)(f) Violation of a moratorium.

(h) *The failure to meet minimum license standards or rules adopted under this part.*

(i) *The making of a fraudulent statement on an application for a license or on any other signed and notarized document required by the department.*

(3) ~~In addition to the reasons in subsection (2),~~ The department may deny a license to an applicant who owns *10 percent or more of*, or operates, a facility which, ~~during the 12 months prior to the application for a license,~~ has had a license *denied, suspended, or revoked* pursuant to subsection (2), *has had a moratorium imposed on admissions, has had an injunctive proceeding injunction proceedings* initiated against it, ~~has or~~ had a receiver appointed, *was closed due to financial inability to operate, or has not paid a fine assessed under this part.*

(4) *Any action taken by the department to suspend, deny, or revoke a facility's license under this part in which the department claims that the facility owner or an employee of the facility has threatened the health, safety, or welfare of a resident of the facility shall, upon receipt of the facility's request for a hearing, be heard by the Division of Administrative Hearings within 120 days after the request for a hearing, unless that time period is waived by both parties.*

Section 10. Section 400.415, Florida Statutes, is amended to read:

400.415 Moratorium on admissions.—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. *A facility the license of which is denied, revoked, or suspended as a result of a violation of s. 400.414 is subject to immediate imposition of a moratorium on admissions.*

Section 11. Subsection (6) of section 400.419, Florida Statutes, is amended to read:

400.419 Violations; penalties.—

(6) ~~The department shall develop and disseminate an annual listing of all facilities sanctioned for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases. This list shall be disseminated to the Department of Elderly Affairs, area agencies on aging, and, upon request, to any other interested party. 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.~~

Section 12. Section 400.4193, Florida Statutes is created to read:

400.4193 Performance of licensing and enforcement functions.—The Agency for Health Care Administration shall perform the licensing and enforcement requirements of this part as provided for by a contract with the department.

Section 13. Section 400.5615, Florida Statutes, is created to read:

400.5615 Performance of licensing and enforcement functions.—The Agency for Health Care Administration shall perform the licensing and enforcement requirements of this part as provided for by a contract with the department.

Section 14. Section 400.616, Florida Statutes, is amended to read:

400.616 Short title.—~~Sections 400.616-400.625 This act~~ may be cited as the “Adult Family-Care Foster Home Care Act.”

Section 15. Section 400.617, Florida Statutes, is amended to read:

400.617 Legislative intent: purpose.—

(1) It is the intent of the Legislature to encourage the provision of care for disabled adults and the aged persons in family-type living arrangements ~~in private homes~~.

(2) The purpose of ~~ss. 400.616-400.625 this act~~ is to provide for the health, safety, and welfare of residents of adult family-care foster homes in the state.

(3) *The Legislature recognizes that adult family-care homes are an important part of the continuum of long-term care. The personal services available in these homes, which may be provided directly or through contract or agreement, are intended to help residents remain as independent as possible in order to delay or avoid placement in a nursing home or other institution. Regulations governing adult family-care homes shall be sufficiently flexible to allow residents to age in place if resources are available to meet their needs and accommodate their preferences.*

(4) *The Legislature further finds and declares that licensure under ss. 400.616-400.625 is a public trust and a privilege, and not an entitlement. This principle shall guide the finder of fact or trier of law at any administrative proceeding or circuit court action initiated by the department to enforce ss. 400.616-400.625.*

Section 16. Section 400.618, Florida Statutes, is amended to read:

400.618 Definitions.—As used in ss. 400.616-400.625, the term:

~~(1) “Disabled adult” means any person age 18 through age 59 who is currently a resident of the state and who, because of a functional impairment, requires personal assistance with the activities of daily living but does not require nursing home or institutional care.~~

~~(1)(2) “Activities of daily living” means functions and tasks for self-care, including eating, bathing, grooming, dressing, ambulating, toileting, and performing other personal hygiene activities and ambulation.~~

~~(2)(4) “Adult family-care foster home” means a full-time, family-type living arrangement, in a private home, under which a person or persons provide, for profit or not for profit, on a nonprofit basis, services of room, board, and one or more personal services assistance, general supervision, and health monitoring, as appropriate for the level of functional impairment, for four or five persons who are three or fewer nonrelatives and who are aged persons or disabled adults placed in the home by the department. The term includes a home that offers personal services for three or fewer adults if the home formally or informally advertises to or solicits the public for residents or referrals, holds itself out to the public to be an establishment that regularly provides such services, or serves residents who receive optional state supplementation payments under s. 409.212. A home in which a person or persons provide personal services only to their relatives is not an adult family-care home.~~

(3) “Aged person” means any person age 60 or over who is currently a resident of the state and who, because of a functional impairment, requires one or more personal services assistance with the activities of daily living but does not require nursing home or institutional care.

(4) “Aging in place” means remaining in a noninstitutional living environment despite the physical or mental changes that may occur to a person who is aging. For aging in place to occur, needed services are added, increased, or adjusted to compensate for a person’s physical or mental changes.

(5) “Department” means the Department of Health and Rehabilitative Services.

(6) “Disabled adult” means any person between 18 and 59 years of age, inclusive, who is currently a resident of the state and who has one or more permanent physical or mental limitations that restrict his ability to perform the normal activities of daily living.

(7) “Personal services” include, but are not limited to, individual assistance with or supervision of activities of daily living, and other similar services that the department defines by rule.

(8) “Provider” means any person who is licensed to operate an adult family-care home.

(9) “Relative” means an individual who is related to a provider as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(10) “Resident manager” means an employee of the provider who lives or works in the adult family-care home and is directly responsible for the daily care of residents.

(11) “Staff-operated home” means an adult family-care home in which the provider is not a member of the household and is not an occupant of the adult family-care home.

Section 17. Section 400.619, Florida Statutes, is amended to read:

400.619 Licensure requirements.—

(1) Each provider of an adult family-care foster home must ~~shall~~ be licensed by the department before caring for ~~prior to placement of~~ any disabled adults or the aged persons in the adult family-care home.

(2) A provider must live in the home that is to be licensed or hire a resident manager.

(3) Applications for licensure to maintain and operate an adult family-care home must be made on forms provided by the department. Each new application or application for annual relicensure must be accompanied by a licensing fee of \$120 per year plus an additional annual fee of \$15 per bed based on the licensed resident capacity, except that the additional annual fee for beds designated for residents who are recipients of optional state supplementation payments under s. 409.212 is \$5 per bed. No part of the fees may be returned to the adult family-care home. The license fee may be adjusted once each year by not more than the rate of inflation for the 12 months immediately preceding the increase.

~~(4)(2)~~ Upon receipt of a license application and fees, the department shall make an inquiry of the abuse registry on all adult family-care foster home applicants, all adult household members, and all resident managers and staff.

~~(5)(3)~~ Access to a licensed adult family-care foster home shall be provided at reasonable times for the appropriate officials of the department and the State Fire Marshal who are responsible for the development and maintenance of fire, health, sanitary, and safety standards to inspect the facility to assure compliance with such standards. *In addition, access to a licensed adult family-care home must be provided at reasonable times for the nursing home and long-term care facility ombudsman council.*

~~(6)~~ A license is effective for 1 year after the date of issuance unless sooner revoked. Each license must state the name of the provider, the resident manager if applicable, the address, the premises to which the license applies, and the maximum number of residents. A license may be issued with or without restrictions governing the residents or care offered in the adult family-care home.

(7) A license is not transferable or applicable to any location or person other than the location or person indicated on the application for licensure. If, during the period covered by the license, the resident manager changes, the provider must, within 15 days, request modification of the license. The request must be accompanied by a fee of \$20.

(8) The licensed maximum capacity of each adult family-care home shall be based on the service needs of the residents and the capability of the provider to meet the needs of the residents. The maximum capacity includes any relative who lives in the adult family-care home and who is an aged person or a disabled adult.

(9) *The department may issue a conditional license to a provider for the purpose of bringing the adult family-care home into compliance with licensure requirements or if a provider is applying for a change of ownership. A conditional license must be limited to a specific period, not to exceed 6 months, as determined by the department. The department shall by rule establish criteria for conditional licenses.*

(10)(4) The department may deny an applicant a license, or suspend or revoke a license, for any of the following reasons:

(a) *A confirmed ~~An indicated~~ report of abuse, neglect, or exploitation or conviction of a crime related to abuse, neglect, or exploitation in accordance with s. 415.107(5)(b).*

(b) *An intentional or negligent act materially affecting the health, safety, or welfare of the adult family-care ~~foster~~ home residents.*

(c) *A violation of ss. 400.616-400.625 ~~the provisions of this part~~ or rules adopted under ss. 400.616-400.625, including the failure to comply with any restrictions specified in the license ~~hereunder~~.*

(11) *All moneys collected under this section must be deposited into the Aging and Adult Services Operations and Maintenance Trust Fund and must be used to offset the expenses of licensing and training for adult family-care homes.*

(12) *The department shall adopt rules to implement this section.*

Section 18. Section 400.6196, Florida Statutes, is created to read:

400.6196 Violations; penalties.—

(1) In addition to any other liability or penalty provided by law, the department may impose a civil penalty on a person for any of the following:

- (a) Operating an adult family-care home without a license;
- (b) Violating any of the terms or conditions of a license;
- (c) Violating any rule adopted under ss. 400.616-400.625.

(2) Each day during which a violation occurs constitutes a separate violation.

(3) In determining whether a penalty is to be imposed, and in fixing the amount of any penalty to be imposed, the department must consider:

- (a) The gravity of the violation.
- (b) Actions taken by the provider to correct a violation.
- (c) Any previous violation by the provider.
- (d) The financial benefit to the provider of committing or continuing the violation.

(4) As an alternative to or in conjunction with an administrative action against a provider, the department may request a plan of corrective action that demonstrates a good-faith effort to remedy each violation by a specific date, subject to the approval of the department.

(5) The department shall set forth, by rule, classifications of violations and civil penalties to be levied.

(6) Civil penalties paid by a provider shall be deposited into the Aging and Adult Services Operations and Maintenance Trust Fund and shall be used to offset the expenses of licensing and training for adult family-care homes.

(7) The department may immediately impose a moratorium on admissions to any adult family-care home if the department finds that the home presents a potential threat to the health, safety, or welfare of its residents.

(8) A resident has a statutory cause of action against any provider who:

- (a) Violates any rule adopted under ss. 400.616-400.625; or
- (b) Abuses or neglects a resident,

if such violation, abuse, or neglect causes physical or psychological injury to the resident. The cause of action may be brought by the resident, his guardian, any person with the consent of the resident, or the personal representative of the resident if the resident dies as a result of the viola-

tion, abuse, or neglect. A resident is entitled to recover actual and punitive damages, costs, and attorney's fees if he prevails. A provider may recover attorney's fees and costs if a court of competent jurisdiction determines that a suit is frivolous and without merit. The remedies in this subsection are in addition to any other remedy at law or administrative relief.

Section 19. Section 400.6197, Florida Statutes, is created to read:

400.6197 Transition period.—The license of an adult congregate living facility with a licensed capacity of five or fewer residents may not be renewed after June 30, 1993. In order to continue to operate, such facility must obtain a license as an adult family-care home by the date that its license is required to be renewed or by July 1, 1994, whichever occurs earlier.

Section 20. Section 400.621, Florida Statutes, is amended to read:

400.621 Rules and standards relating to adult family-care ~~foster~~ homes.—

(1) The department shall, by rule, establish minimum standards and licensure procedures for adult family-care ~~foster~~ homes for disabled adults and the aged ~~and for the approval of persons wishing to provide such care~~. The rules shall, at a minimum:

(a) *Provide for the health, safety, and well-being of the residents in the adult family-care home. Procedures governing annual relicensure, transfer of ownership, prevention of abuse, proper management of resident's property and personal affairs, inspections, and records and reports shall be included.*

(b) *Promote the growth of adult family-care homes as a component of a long-term care system.*

(c) *Promote the goal of aging in place.*

(d) *Mandate compliance with chapter 419.*

(e) *Assure that an adult family-care home is the appropriate living arrangement for each resident. A resident who requires 24-hour nursing supervision may not be retained in an adult family-care home.*

(f) *Assure the least possible disruption of residents' lives when an adult family-care home is closed.*

(g) *Guarantee that residents have the same personal rights as are set forth in s. 400.428.*

(2) Minimum firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the department. Such standards shall be included in the rules adopted by the department after consultation with the State Fire Marshal.

(3) *The department shall, by rule, establish specific staffing requirements for adult family-care homes based on licensed capacity. The standards must include minimum staffing requirements based on licensed capacity.*

(4) *By January 1, 1994, the department shall properly train staff and facility operators in determining appropriate placement of clients in adult family-care homes.*

Section 21. Section 400.6211, Florida Statutes, is created to read:

400.6211 Training and education programs.—

(1) The department shall provide training and education programs for all adult family-care home providers, resident managers, and other staff specified by the department.

(2) Training and education programs must include, but are not limited to, information relating to:

- (a) State law and rules governing adult family-care homes.
- (b) Identifying and reporting abuse, neglect, and exploitation.
- (c) Special needs of aged persons and disabled adults.
- (d) How to meet the needs of aged persons and disabled adults.

(3) Providers, resident managers, and staff must complete the training and education requirement within a reasonable time determined by the department. Failure to complete the training and education requirement within the time set by the department is a violation of ss. 400.616-400.625 and subjects the violator to a revocation of the license.

Section 22. Section 400.622, Florida Statutes, is amended to read:

400.622 Injunctive proceedings.—

(1) The department may institute injunctive proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of *ss. 400.616-400.625* ~~this part~~ or any license requirement, minimum standard, rule, or order issued or entered into pursuant to *ss. 400.616-400.625* ~~therein~~; or

(b) Terminate the operation of an adult *family-care* ~~foster~~ home when violations of any license requirement, standard, or rule *adopted promulgated* pursuant to *ss. 400.616-400.625* ~~this part~~ exist which materially affect the health, safety, or welfare of residents.

(2) Such injunctive relief may be temporary or permanent.

Section 23. Section 400.623, Florida Statutes, as amended by section 30 of chapter 92-33, Laws of Florida, is amended to read:

400.623 Recruitment.—~~The department Agency for Health Care Administration shall recruit and license an appropriate number of adult family-care foster homes to serve the department's clients and to meet the needs of the state's elderly population of the Department of Health and Rehabilitative Services. When a licensed adult foster home accepts more than one resident not placed in the home by the Department of Health and Rehabilitative Services, the Agency for Health Care Administration shall cancel the license issued pursuant to this section and require the home to make application for licensure as an adult congregate living facility in accordance with the provisions of part II of this chapter.~~

Section 24. Section 400.625, Florida Statutes, is created to read:

400.625 Contracts.—

(1) Each resident must be covered by a contract, executed at the time of admission or prior thereto, between the provider and the resident or his designee or legal representative. Each party to the contract must be provided a duplicate original, and the provider must keep the contract on file for 5 years after its expiration.

(2) Each contract must expressly specify the personal services and accommodations to be provided by the adult family-care home and the rates or charges, provide for at least 30 days' notice before a rate increase, and include any other provisions required by rule of the department.

Section 25. Section 400.455, Florida Statutes, is created to read:

400.455 Coordination with Department of Business Regulation concerning certain matters.—The department shall:

(1) Provide to the Department of Business Regulation, monthly, a list of each facility that has had a license denied, suspended, or revoked pursuant to s. 400.414 or that is a party to an appellate proceeding related to the denial, suspension, or revocation of a license pursuant to s. 120.60.

(2) Coordinate with the Department of Business Regulation, the Agency for Health Care Administration, local firesafety authorities, and other appropriate public or private agencies to develop procedures to safeguard the health, safety, or welfare of residents of public lodging establishments licensed under chapter 509, nursing homes licensed under Part I of this chapter, and adult congregate living facilities licensed under this part which are not equipped with automatic sprinkler systems and which may present situations in which residents may be unable to self-preserve in an emergency. The Department of Health and Rehabilitative Services may convene meetings with the Department of Business Regulation, the Agency for Health Care Administration, other appropriate agencies, the facility, and affected residents to develop a plan that improves the safety of residents and, if necessary, identifies alternative living arrangements, such as facilities licensed under this chapter.

(3) Coordinate with the Department of Business Regulation to identify any statutory changes needed to protect residents who are victims of self-neglect or are unable to self-preserve in an emergency.

Section 26. Section 410.033, Florida Statutes, is amended to read:

410.033 Home care for disabled adults and the elderly; rules.—The department shall, by rule, establish minimum standards and procedures for the provision of home care for disabled adults and the elderly, and for the approval of persons wishing to provide such care. Priority shall be given to disabled adults and the elderly who are not eligible for compara-

ble services in programs of and funded by the department. Any person who is approved by the department to provide ~~such care, goods, or services~~ for a disabled adult or an elderly person shall be eligible for the subsidy payments described in s. 410.035. However, the home care for disabled adults and the elderly program shall operate within the funds appropriated by the Legislature.

Section 27. Section 410.035, Florida Statutes, is amended to read:

410.035 Subsidy payments.—

(1) The department shall develop by October 1, 1992 ~~1988~~, a schedule of subsidy payments to be made to persons providing home care, *and providers of goods and services*, for certain eligible disabled adults or elderly persons. Payments shall be based on the financial status of the person receiving care. Payments shall include, but not be limited to:

(a) A support and maintenance element, to include costs of housing, food, clothing, and incidentals, *and costs of:*

(b) ~~Payments for~~ medical, pharmaceutical, and dental services essential to maintain the health of the disabled adult or elderly person and not covered by Medicare, Medicaid, or any form of insurance.

(b)(e) When necessary, special supplements to provide for any *goods and services* service and specialized care required to maintain the health and well-being of the disabled adult or elderly person. *Extraordinary medical, dental, or pharmaceutical expenses may be paid as a special supplement.*

(2) The department shall develop a schedule of subsidy payments to persons providing home care, *and providers of goods and services*, for disabled adults or the elderly. This schedule shall be based on the financial status of the eligible disabled adult or elderly person.

Section 28. Subsection (9) of section 196.012, Florida Statutes, as amended by section 3 of chapter 92-167, Laws of Florida, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(9) "Nursing home," or "home for special services," or ~~"home for the aged"~~ means an institution which possesses a valid license under chapter 400 on January 1 of the year for which exemption from ad valorem taxation is requested.

Section 29. Subsection (1) of section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(1) LICENSES; ANNUAL RENEWALS.—Each public lodging establishment and public food service establishment shall obtain a license from the division. Such license may not be transferred from one place or individual to another. It shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for such an establishment to operate without a license. Local law enforcement shall provide immediate assistance in pursuing an illegally operating establishment. The division may refuse a license, or a renewal thereof, to any establishment that is not constructed and maintained in accordance with law and with the rules of the division. The division may refuse to issue a license, or a renewal thereof, to any establishment an operator of which, within the preceding 5 years, has been adjudicated guilty of, or has forfeited a bond when charged with, any crime reflecting on professional character, including soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in controlled substances as defined in chapter 893, whether in this state or in any other jurisdiction within the United States, or has had a license denied, revoked, or suspended pursuant to s. 400.414. *In the event the disposition of any action taken pursuant to s. 400.414 is pending, the division may defer its review of the license application until appellate actions allowed by s. 120.60 are exhausted.* Licenses shall be renewed annually, and the division shall adopt a rule establishing a staggered schedule for license renewals. If any license expires while administrative charges are pending against the license, the proceedings against the license shall continue to conclusion as if the license were still in effect.

Section 30. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to change "Department of Health and Rehabilitative Services" to "Agency for Health

Care Administration," and "Secretary of Health and Rehabilitative Services" to "Director of Health Care Administration," wherever the terms appear:

(1) With respect to the regulation of the specified health facilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes:

- (a) Section 381.6021, relating to organ and tissue procurement organizations.
- (b) Sections 383.30-383.335, relating to birth centers.
- (c) Chapter 390, relating to abortion clinics.
- (d) Part II of chapter 391, relating to prescribed pediatric extended care centers.
- (e) Sections 393.067-393.0678, relating to intermediate care facilities for the developmentally disabled.
- (f) Section 394.875, relating to crisis stabilization units and residential treatment facilities.
- (g) Chapter 395, relating to hospitals, mental health institutions, and ambulatory surgical centers.
- (h) Parts I, III, and V of chapter 400, relating to nursing homes, home health agencies, and hospices.
- (i) Parts I-III of chapter 483, relating to clinical laboratories, multi-phasic health testing centers, and cholesterol screening centers.
- (j) Part III of chapter 641, relating to health maintenance organizations and prepaid health clinics.

(2) With respect to the regulation of the specified health care professions, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes:

- (a) Chapter 467, relating to midwifery.
- (b) Part I of chapter 483, relating to clinical laboratory personnel.

(3) With respect to other regulatory responsibilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes: sections 154.304(7), 196.1975(2), 205.1965, 381.6022 through 381.6024, 408.05, 415.107(2)(a), 766.105(2)(c)2., and 766.105(2)(d)2.

Section 31. Section 11 of chapter 92-33, Laws of Florida, is repealed.

Section 32. This act shall take effect January 1, 1993, except that this section and sections 3, 7, 12, 13, 23, 26, 27, 30, and 31 of this act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to health care and human services; amending s. 400.23, F.S.; revising legislative intent under part I, ch. 400, F.S.; providing additional requirements for rules adopted by the Department of Health and Rehabilitative Services; creating the Nursing Home Advisory Committee; providing membership of the committee; providing duties of the committee; revising evaluation requirements for nursing home facilities; revising requirements for rating such facilities; amending s. 400.063, F.S.; conforming a cross-reference to changes made by the act; amending s. 400.401, F.S.; revising purposes of part II, ch. 400, F.S.; providing legislative findings regarding the significance of a license under part II, ch. 400, F.S.; amending s. 400.402, F.S.; adding and amending definitions of terms used in that part; amending s. 651.011, F.S.; conforming a cross-reference to changes made by the act; amending s. 400.407, F.S.; revising a violation relating to failure to obtain a license after receiving notification; creating a violation and penalties relating to failure to obtain a license and the maintenance of a threatening condition; revising the provisions relating to the issuance of licenses; amending s. 400.408, F.S.; deleting certain responsibilities of the Agency for Health Care Administration with respect to adult congregate living facilities; amending s. 400.412, F.S., relating to sale or transfer of ownership of a facility; revising the penalties and responsibilities of the transferor and the transferee of certain facilities; requiring a plan of correction or the correction of the

condition before issuance of a license or lifting of a moratorium on admissions; amending s. 400.414, F.S.; listing the categories of licenses that the department may deny, revoke, or suspend; revising the actions that may result in license denial, revocation, or suspension or the imposition of a fine; prohibiting certain actions; providing for applicability to a part owner of a facility; providing for denial of licenses to certain applicants who had licenses denied or suspended, facilities closed under certain circumstances, or unpaid fines; providing a time period for a hearing under ch. 120, F.S., by the Division of Administrative Hearings; amending s. 400.415, F.S.; providing for immediate imposition of a moratorium on admissions under certain circumstances; amending s. 400.419, F.S.; revising provisions requiring the department to list facilities cited for violations of part II, ch. 400, F.S.; creating s. 400.4193, F.S.; providing for the Agency for Health Care Administration to perform licensing and enforcement duties of the department under part II, ch. 400, F.S.; creating s. 400.5615, F.S.; providing for the Agency for Health Care Administration to perform licensing and enforcement duties of the department under part IV, ch. 400, F.S.; amending s. 400.616, F.S.; redesignating the Adult Foster Home Care Act as the Adult Family-Care Home Act; amending s. 400.617, F.S.; revising legislative intent; amending s. 400.618, F.S.; providing definitions; amending s. 400.619, F.S.; providing for licensure; providing license fees; providing access for the nursing home and long-term care facility ombudsman council; prohibiting the transfer of licenses; providing for conditional licenses; providing circumstances under which the department may deny, suspend, or revoke a license; creating s. 400.6196, F.S.; authorizing the department to impose penalties and require corrective action for certain violations; creating a civil cause of action for abuse or neglect of residents of adult family-care homes; creating s. 400.6197, F.S.; requiring certain adult congregate living facilities to become licensed as adult family-care homes within a specified time; amending s. 400.621, F.S.; providing for rules; providing for placement of clients; creating s. 400.6211, F.S.; requiring the department to provide training and education for persons who operate adult family-care homes; amending s. 400.622, F.S.; providing for injunctive proceedings; amending s. 400.623, F.S.; requiring the department to recruit and license adult family-care homes; deleting obsolete provisions; creating s. 400.625, F.S.; providing contract requirements for residents of adult family-care homes; creating s. 400.455, F.S.; prescribing duties of the Department of Health and Rehabilitative Services with respect to coordinating certain safety and other matters with the Department of Business Regulation; amending ss. 410.033, 410.035, F.S.; providing for subsidy payments to providers of goods and services under the home care program for disabled adults and elderly persons; authorizing payment for goods and extraordinary medical, dental, or pharmaceutical expenses as a special supplement; amending s. 196.012, F.S.; deleting obsolete terminology with respect to certain tax exemptions allowed for homes for the aged; amending s. 509.241, F.S.; clarifying that the division may defer disposition of an application for licensure of facilities previously licensed under part II of ch. 400, F.S., in certain circumstances; directing the Division of Statutory Revision of the Joint Legislative Management Committee to prepare a reviser's bill to make certain changes consistent with the intent and purposes of ch. 92-33, Laws of Florida, as amended; repealing s. 11, ch. 92-33, Laws of Florida, relating to directions for preparing the official edition of the Florida Statutes; providing effective dates.

Senator Weinstock moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A (with Title Amendment)—On page 1, line 12, through page 49, line 12, strike all of said lines and insert:

Section 1. Section 400.23, Florida Statutes, is amended to read:

400.23 Rules; ~~criteria 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 shall include ~~criteria standards~~ by which a reasonable and consistent quality of resident care may be ensured and the results of such resident care can be ~~demonstrated measured~~ and by which safe and sanitary nursing homes can be provided. It is further intended that *reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a nursing home.* In addition, *efforts shall be made to minimize the paperwork associated* ~~a minimum amount of the time of professionals providing nursing home care be required to ensure compliance~~ with the reporting and documentation requirements of these rules.

(2) Pursuant to the intention of the Legislature, the Agency for Health Care Administration ~~department~~ shall ~~adopt~~ publish and enforce rules to implement the provisions of this part, which shall include reasonable and fair ~~criteria~~ ~~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 ensure the health, safety, and comfort of residents, including an adequate call system. In making such rules, the Agency for Health Care Administration ~~department~~ shall be guided by ~~criteria~~ ~~standards~~ recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The Agency for Health Care Administration ~~department~~ shall update or revise such ~~criteria~~ ~~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 approval of their construction plans. The Agency for Health Care Administration ~~department~~ may require alterations to a building if it determines that an existing condition constitutes a distinct hazard to life, health, or safety. The Agency for Health Care Administration ~~department~~ shall ~~adopt~~ 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.

(b) The number and qualifications of all personnel, including management, medical, and nursing, and other professional personnel, and nursing assistants, 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 ensure 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, based on rules developed under this chapter and the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.

(3) Prior to conducting a survey of the facility, the survey team shall obtain a copy of the district nursing home and long-term care facility ombudsman council report on the facility. Problems noted in the report shall be incorporated into and followed up through the department's inspection process. This procedure does not preclude the district nursing home and long-term care facility ombudsman council from requesting the department to conduct a follow-up visit to the facility.

(4) There is created the Nursing Home Advisory Committee, which shall consist of 15 members who are to be appointed by and report directly to the Director of Health Care Administration. The membership is to include:

(a) One researcher from a university Center on Aging.

(b) Three representatives from the Florida Health Care Association.

(c) Two representatives from the Florida Association of Homes for the Aging.

(d) One representative from the Department of Elderly Affairs.

(e) Three consumer representatives, at least one of whom serves on or is a staff member of the state or district nursing home and long-term care facility ombudsman council.

(f) One representative from the Florida American Medical Directors Association.

(g) One representative from the Florida Association of Directors of Nursing Administrators.

(h) One representative from the Agency for Health Care Administration.

(i) Two representatives from the nursing home industry at large, who own or operate licensed nursing home facilities in the state and who are not members of any state nursing home association.

(5) The committee shall perform the following duties to assist the Agency for Health Care Administration in ensuring compliance with the intent of the Legislature specified in subsection (1):

(a) Assist in developing a nursing home rating system based on the requirements of rules developed under this chapter and the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.

(b) Assist in developing surveyor guidelines and training to assure the equitable application of the nursing home rating system.

(c) Assist in developing guidelines to determine the scope and severity of noncompliance.

(d) Identify burdensome paperwork that is not specifically related to resident care.

(e) Advise the Agency for Health Care Administration of proposed changes in statutes and regulations necessary to ensure adequate care and services and the promotion and protection of residents' rights in long-term care facilities.

(6)(3) The Agency for Health Care Administration ~~department~~ shall, at least every 15 months ~~annually~~, evaluate all nursing home facilities and make a determination as to the degree of compliance by each licensee with the established rules adopted ~~minimum standards~~ under this part and the rules promulgated thereunder as a basis for assigning a rating to that facility. The Agency for Health Care Administration ~~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. The Agency for Health Care Administration shall assign one of the following ratings to each nursing home: standard, conditional, or superior.

(a) A standard rating means that a facility has no Class I or Class II deficiencies and has corrected all Class III deficiencies within the time established by the Agency for Health Care Administration and is in substantial compliance at the time of the survey with criteria established under this part, with rules adopted by the Agency for Health Care Administration, and, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.

(b) A conditional rating means that a facility, due to the presence of one or more Class I or Class II deficiencies or Class III deficiencies not corrected within the time established by the Agency for Health Care Administration, is not in substantial compliance at the time of the survey with criteria established under this part, with rules adopted by the Agency for Health Care Administration, and, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended. If the facility comes into substantial compliance at the time of the follow-up survey, a standard rating may be issued. A facility assigned a conditional rating at the time of the relicensure survey may not qualify for consideration for a superior rating until the time of the next subsequent relicensure survey.

(c)(a) A superior rating means that a facility has no Class I or Class II deficiencies and has corrected all Class III deficiencies within the time established by the Agency for Health Care Administration and shall be assigned a superior rating if the department determines that the licensee is in substantial compliance with the criteria established ~~minimum standards~~ under this part and the rules adopted by the Agency for Health Care Administration and, if applicable, with rules adopted pursuant to the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended; and the facility exceeds the criteria for a standard rating through enhanced programs and services in the following areas: ~~promulgated thereunder and the licensee 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;~~
- 2.5. Dietary or nutritional services;
- 3.6. Physical environment; and
7. housekeeping, and maintenance;
4. Restorative therapies and self-help activities;
8. Physical and restorative therapy;
9. Recreational therapy;
- 5.10. Social services; and
6. Activities and recreational therapy.
11. Self help activities;
12. Professional consultant services;
13. Activities and volunteer services; and
14. Notification and monitoring of visitation by physicians.

(d) In order to facilitate the development of special programs or facility-wide initiatives and to promote creativity based on the needs and preferences of residents, the areas listed in paragraph (c) may be grouped or addressed individually by the licensee. However, a facility may not qualify for a superior rating if fewer than three programs or initiatives are developed to encompass the required areas.

(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. 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 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 licensee 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 licensee in order to qualify for a superior rating. The assessment by the department of the degree of compliance by a licensee with this paragraph shall take into consideration the needs and limitations of residents in the facility. The needs and limitations of residents shall be determined by the department after consultation with the licensee.

(e)(e) In determining the rating making its determination as to the degree of compliance with the areas specified in paragraph (a) and evaluating the overall quality of care and services, the Agency for Health Care Administration department shall consider the needs and limitations of residents in the facility and the results of interviews and surveys of a representative sampling of residents, families of residents, ombudsman council members in the district in which the facility is located, guardians of residents, and staff of the nursing home facility.

(d) A licensee receiving a superior rating for a facility shall have the words "superior facility" marked in block letters not less than 1 inch in height on its license. A licensee for a facility which meets, but does not exceed, minimum standards in all areas prescribed by the department shall receive a standard license. A licensee for 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.

(f) The current rating of each facility must be indicated in bold print on the face of the 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 residents are being admitted to that facility. Licensees receiving a conditional rating for a facility shall prepare, within 10 working days after receiving notice of deficiencies of rating, a plan for correction of all deficiencies and shall submit the plan to the Agency for Health Care Administration department for approval. Correction of all deficiencies, within the period approved by the Agency for Health Care Administration department, shall result in termination of the conditional rating. Failure to correct the deficiencies, within a reasonable period approved by the Agency for Health Care Administration department, shall be grounds for the imposition of sanctions pursuant to this part.

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

(h)(f) Not later than January 1, 1993 1981, the department shall adopt rules that which:

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

(i)(g) A license rated superior shall continue until it is replaced by a rating based on a later survey. A superior rating may be revoked at any time for failure to maintain substantial compliance with criteria established under this part, with rules adopted by the Agency for Health Care Administration, or, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended, or for failure to exceed the criteria minimum standards specified for any Level I area as listed in paragraph (c). 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.

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

(7)(4) The Agency for Health Care Administration department shall adopt promulgate rules to provide that, when the criteria minimum standards established under subsection (2) are not met, such deficiencies shall be classified according to the nature of the deficiency. The Agency for Health Care Administration department shall indicate the classification on the face of the notice of deficiencies as follows:

(a) Class I deficiencies are those which the Agency for Health Care Administration department determines present an imminent danger to the residents 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 Agency for Health Care Administration department, is required for correction. Notwithstanding the provisions of s. 400.121(2), 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 Agency for Health Care Administration department determines have a direct or immediate relationship to the health, safety, or security of the nursing home facility residents, 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 Agency for Health Care Administration department determines to have an indirect or potential relationship to the health, safety, or security of the nursing home facility residents, 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.

(8)(5) Civil penalties paid by any licensee under the provisions of subsection (7)(4) shall be deposited in the Resident Protection Trust Fund and expended as provided in s. 400.063.

(9)(6) The *Agency for Health Care Administration* ~~department~~ shall approve or disapprove the plans and specifications within 60 days after receipt of the final plans and specifications. The *agency department* may be granted one 15-day extension for the review period, if the *Director of Health Care Administration* ~~secretary of the department~~ so approves. If the *agency department* fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the *agency department* disapproves plans and specifications, it shall set forth in writing the reasons for disapproval. Necessary Conferences and consultations may be provided as necessary.

(10)(7) The *Agency for Health Care Administration* ~~department~~ is authorized to charge an initial fee of \$2,000 for review of plans and construction on all projects, no part of which is refundable. The *Agency for Health Care Administration* ~~department~~ may also collect a fee, not to exceed 1 percent of the estimated construction cost or the actual cost of review, whichever is less, for the portion of the review which encompasses initial review through the initial revised construction document review. The *Agency for Health Care Administration* ~~department~~ is further authorized to collect its actual costs on all subsequent portions of the review and construction inspections. Initial fee payment shall accompany the initial submission of plans and specifications. Any subsequent payment that is due is payable upon receipt of the invoice from the *Agency for Health Care Administration* ~~department~~. Notwithstanding any other provisions of law to the contrary, all money received by the *Agency for Health Care Administration* ~~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.

(11)(8) When the *Agency for Health Care Administration* ~~department~~ determines that a county or municipality is qualified to inspect and review plans and specifications, the *agency department* may delegate to that county or municipality the authority to review and approve plans and specifications based upon the statewide standards of the *agency department*. The time limits for approval or disapproval of final plans and specifications by the *agency department* established in subsection (9)(6) shall apply to the county or municipality. When such county or municipal approval is used in lieu of *agency departmental* approval, the fees charged by the *agency department* for such services shall be waived.

(12) *This section may not be used to increase the total Medicaid Services nursing home expenditures that are paid as incentives.*

Section 2. Subsection (1) of section 400.063, Florida Statutes, is amended to read:

400.063 Resident Protection Trust Fund.—

(1) A Resident 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. 393.0673(2), 400.062(3)(b), 400.111(1), 400.121(2), and 400.23(7) 400.23(4). Such funds shall be for the sole purpose of paying for the appropriate alternate placement, care, and treatment of residents who are removed from a facility licensed under this part or a facility specified in s. 393.0678(1) in which the *Agency for Health Care Administration* ~~department~~ determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the residents. If the *Agency for Health Care Administration* ~~department~~ determines that it is in the best interest of the health, safety, or security of the residents to provide for an orderly removal of the residents from the facility, the *agency department* may utilize such funds to maintain and care for the residents in the facility pending removal and alternative placement. The maintenance and care of the residents shall be under the direction and control of a receiver appointed pursuant to s. 400.126(1) or s. 393.0678(1). However, funds may be expended in an emergency upon a filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(6)(e), or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the residents.

Section 3. Subsection (2) of section 400.401, Florida Statutes, as amended by section 28 of chapter 92-33, Laws of Florida, is amended, and subsection (3) is added to that section, to read:

400.401 Short title; purpose.—

(2) The purpose of this *part act* is to promote the availability of appropriate services for elderly and disabled persons in the least restrictive and most homelike environment, to encourage the development of

facilities which promote the dignity, individuality, privacy, and decision-making ability of such persons, to provide for the health, safety, and welfare of residents of adult congregate living facilities in the state, to promote continued improvement of such facilities, to encourage the development of innovative and affordable facilities particularly for persons with low to moderate incomes, to ensure that all agencies of the state cooperate in the protection of such residents, and to ensure that needed economic, social, mental health, health, and leisure services are made available to residents of such facilities through the efforts of the Agency for Health Care Administration, the Department of Health and Rehabilitative Services, adult congregate living facilities, and other community agencies. To the maximum extent possible, appropriate community-based programs shall be available to state-supported residents to augment the services provided in adult congregate living facilities. The Legislature recognizes that adult congregate living facilities are an important part of the continuum of long-term care in the state. In support of the goal of aging in place, the Legislature further recognizes that adult congregate living facilities should be operated and regulated as residential environments with supportive services and not as medical or nursing facilities. The services available in these facilities, either directly or through contract or agreement, are intended to help residents remain as independent as possible in order that premature nursing home or institutional placement may be avoided. Regulations governing these facilities shall be sufficiently flexible to allow facilities to adopt policies which enable residents to age in place when resources are available to meet their needs and accommodate their preferences.

(3) *The Legislature further finds that a license issued under this part is a public trust and a privilege and is not an entitlement. This principle shall guide the finder of fact or trier of law at any administrative proceeding or in a circuit court action initiated by the Agency for Health Care Administration to enforce this part.*

Section 4. Section 400.402, Florida Statutes, is amended to read:

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

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

(2) "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 six ~~four~~ or more adults, not related to the owner or administrator by blood or marriage, who require such services; or to provide extended congregate care, limited nursing services, or limited mental health services, when specifically licensed to do so pursuant to s. 400.407. ~~A facility offering personal services, extended congregate care, limited nursing services, or limited mental health services for fewer than four adults is 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.~~

(3) "Aging in place" or "age in place" means the process by which a person chooses to remain in a familiar living environment despite the physical or mental decline that may occur with the aging process. For aging in place to occur, needed services are added, increased, or adjusted to compensate for the physical or mental decline of the individual, while maximizing the person's dignity and independence. Such services may be provided by facility staff, volunteers, family, or friends, or through contractual arrangements with a third party.

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

(5) "Assistance with activities of daily living" means direct physical assistance with eating, bathing, grooming, dressing, toileting, ambulation, and other similar tasks.

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

(7) "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.

(8) "Extended congregate care" means acts beyond those authorized in subsection (16)(15) that may be performed pursuant to chapter 464 by persons licensed thereunder while carrying out their professional duties, and other supportive services which may be specified by rule. The purpose of such services is to enable residents to age in place despite mental or physical limitations that might otherwise disqualify them from continued residency in a facility licensed under this part.

(9) "Guardian" means a person to whom the law has entrusted the custody and control of the person or property, or both, of a person who has been legally adjudged incompetent.

(10) "Limited nursing services" means acts that may be performed pursuant to chapter 464 by persons licensed thereunder while carrying out their professional duties but limited to those acts which the department specifies by rule. Acts which may be specified by rule as allowable limited nursing services shall be for persons who meet the admission criteria established by the department for adult congregate living facilities and shall not be complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings, and care of casts, braces, and splints.

(11) "Managed risk" means the process by which the facility staff discuss the service plan and the needs of the resident with the resident and his representative or designee in such a way that the consequences of a decision, including any inherent risk, are understood by all parties and reviewed periodically in conjunction with the service plan, taking into account changes in the resident's status and the ability of the facility to respond accordingly.

(12) "Mechanical restraint" means a device which physically limits, restricts, or deprives an individual of movement or mobility, including, but not limited to, a half-bed rail, a full-bed rail, a geriatric chair, and a posey restraint. The term "mechanical restraint" shall also include any device which was not specifically manufactured as a restraint but which has been altered, arranged, or otherwise used for this purpose. The term shall not include bandage material used for the purpose of binding a wound or injury.

(13) "Mental health resident" means an individual who receives or is eligible to receive optional state supplementation and:

(a) Has been discharged from a state mental health treatment facility within the past 2 years;

(b) Has been admitted to a crisis stabilization unit within the past 2 years; or

(c) Is receiving active treatment from a physician, psychologist, clinical social worker, marriage and family therapist, mental health counselor, registered nurse, or psychiatric advanced registered nurse practitioner for a major mental illness.

(14) "Multiple and repeated violations" means five or more repeated or recurring violations, not necessarily the same violations, but of the same category, that occur during the licensee's history and that have an effect on the health, safety, or welfare of the residents of the facility.

(15)(14) "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.

(16)(15) "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, toileting, and ambulating; 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, nursing, dental, or mental health services by the staff of a facility, except as provided in this part. In addition, an emergency response device installed in the apartment or living area of a resident shall not be classified as a personal service.

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

(18)(17) "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, or staff concerning the rights of the resident; to assist the resident in contacting the ombudsman 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.

(19)(18) "Service plan" means a written plan, developed and agreed upon by the resident, the resident's representative or designee, if any, and the administrator or designee representing the facility, which addresses the unique physical and psychosocial needs, abilities, and personal preferences of each resident receiving extended congregate care services. The plan shall include a brief written description, in easily understood language, of what services shall be provided, who shall provide the services, when the services shall be rendered, and the purposes and benefits of the services.

(20)(19) "Shared responsibility" means exploring the options available to a resident within a facility and the risks involved with each option when making decisions pertaining to the resident's abilities, preferences, and service needs, thereby enabling the resident, the resident's representative or designee, and the facility to develop a service plan which best meets the resident's needs and improves the resident's quality of life.

(21)(20) "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 activities such as bathing or shaving to assure their health, safety, or welfare.

(22)(21) "Supervision of self-administered medication" means reminding residents to take medication, opening bottle caps for residents, opening prepackaged medication 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 dosage as prescribed, keeping daily records of when residents receive supervision pursuant to this subsection, and immediately reporting noticeable changes in the condition of a resident to the resident's physician. Residents who are capable of administering their own medication shall be allowed to do so.

(23)(22) "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.

(24)(23) "Supportive services" means services designed to encourage and assist aged or disabled adults to remain in the least restrictive living environment and to maintain their independence as long as possible.

Section 5. Subsection (2) of section 651.011, Florida Statutes, is amended to read:

651.011 Definitions.—For the purposes of this chapter, the term:

(2) "Continuing care" or "care" means furnishing pursuant to an agreement shelter, food, and either nursing care or personal services as defined in s. 400.402(16) 400.402(15), whether such nursing care or personal services are provided in the facility or in another setting designated by the agreement for continuing care, to an individual not related by consanguinity or affinity to the provider furnishing such care, upon payment of an entrance fee. Other personal services provided shall be designated in the continuing care agreement. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party.

Section 6. Subsection (1) and paragraphs (a) and (d) of subsection (3) of section 400.407, Florida Statutes, are amended to read:

400.407 License required; fee, display.—

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

(b)1. Any person found guilty of violating paragraph (a) who, upon notification by the Agency for Health Care Administration department, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person found to be in violation of paragraph (a) due to a ~~change in s. 400.402(2), (15), (20), or (21) or a modification in department policy pertaining to personal services as provided for in s. 400.402(15)~~ and who, upon notification by the *Agency for Health Care Administration department*, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Except as provided for in subparagraph 2., any person who violates paragraph (a) who previously operated a licensed facility or concurrently operates a licensed facility and an unlicensed facility commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Any person who fails to obtain a license after ~~department~~ notification by the *Agency for Health Care Administration* may be fined for each day of noncompliance pursuant to s. 400.419(1)(b).

5. ~~When~~ If an owner has an interest in more than one facility, and fails to license any one of these facilities, the *Agency for Health Care Administration department* may revoke the license or impose a moratorium on any or all of the licensed facilities until such time as the delinquent facility is licensed.

6. *If the Agency for Health Care Administration determines that an owner is operating or maintaining a facility without obtaining a license authorizing such operation and determines that a condition exists in that facility which poses a threat to the health, safety, or welfare of a resident of the facility, the owner is subject to the same actions and penalties specified in ss. 400.414 and 400.419 for a negligent act seriously affecting the health, safety, or welfare of a resident of the facility.*

(3) Any license granted by the *Agency for Health Care Administration department* shall state the maximum resident capacity of the facility, the type of care for which the license is granted, the date the license is issued, the expiration date of the license, and any other information deemed necessary by the ~~department~~. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health services.

(a) A standard license shall be issued to a ~~facility~~ *facilities* providing one or more ~~personal of the services identified in s. 400.402(15)~~. Such facilities may also employ or contract with a person licensed under chapter 464 to administer medications and perform other tasks as specified in s. 400.4255.

(d) A limited mental health license shall be issued to a ~~facility that provides facilities which provide~~ *facility that provides* mental health services as specified in this paragraph to ~~mental health residents who meet the criteria of s. 400.402(13)~~.

1. In order for limited mental health services to be provided in a facility licensed under this part, the *Agency for Health Care Administration department* shall first determine that all requirements established in law and rule are met and shall specifically designate, on the facility's license, that such services may be provided and designate the number of residents who may receive limited mental health services. Such designation may be made at the time of initial licensure or biennial relicensure, or if requested in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide limited mental health services ~~must shall~~ have maintained a standard license and ~~must shall~~ not have been subject to administrative sanctions which affect the health, safety, or welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years. Specific designation as a facility licensed to provide limited mental health services is not required in order for a facility to accept mental health residents, but it is required in order for a facility to receive additional payment from the state for those residents.

2. Facilities which are licensed to provide limited mental health services shall provide at least the following additional services:

a. A written plan of cooperation with the community mental health center.

b. Increased staff as defined by rule to meet the special needs of mental health residents.

c. Increased activities as defined by rule to meet the needs of mental health residents.

d. Participation in the continuity of care management system.

3. In addition to the training as provided in s. 400.452, staff in facilities which are authorized to provide limited mental health services shall receive additional training, as defined by rule, on the special needs of mental health residents. Facilities which are designated to provide limited mental health services may not have more than 50 percent mental health residents if their licensed capacity exceeds 16. If their licensed capacity is 16 or less, all of their residents may be mental health residents. For facilities which are designated to provide limited mental health services, the department shall, within funds appropriated, provide additional payment for the limited mental health services.

4. A person who receives limited mental health services under this part ~~must shall~~ meet the admission criteria established by the ~~department~~ for adult congregate living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 400.426.

Section 7. Section 400.412, Florida Statutes, is amended to read:

400.412 Sale or transfer of ownership of a facility.—It is the intent of the Legislature to protect the rights of the residents of an adult congregate living facility when the facility is sold or the ownership thereof is transferred. Therefore, whenever a facility is sold or the ownership thereof is transferred, including leasing:

(1) The transferee shall make application to the *Agency for Health Care Administration department* for a new license at least 60 days before the date of transfer of ownership.

(2)(a) The transferor shall notify the *Agency for Health Care Administration department* in writing at least 60 days before the date of transfer of ownership.

(b) The new owner shall notify the residents, in writing, of the transfer of ownership within 7 days ~~after the new owner's~~ *after the new owner's* receipt of the license.

(3) The transferor ~~is shall be~~ responsible and liable for:

(a) 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 *Agency for Health Care Administration department*.

(b) ~~Any and~~ All penalties imposed against the facility for violations occurring before the date of transfer of ownership; ~~provided that, if the penalty imposed is a moratorium on admissions or a denial of licensure, and there is a threat to the health, safety, or welfare of the residents which continues unabated, the moratorium or the denial remains shall remain in full force and effect after the transfer of ownership, unless the Agency for Health Care Administration has approved the transferee's plan of correction or unless the condition that resulted in the moratorium or denial has been corrected, and or it may be a ground grounds~~ for denial of license to the transferee in accordance with chapter 120.

(c) 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; except that, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability.

(4) *The transferor of a facility the license of which is denied pending an administrative hearing shall, as a part of the written transfer-of-ownership contract, advise the transferee that a plan of correction must be submitted by the transferee and approved by the Agency for Health Care Administration at least 7 days before the transfer of ownership and that failure to correct the condition which resulted in the moratorium on admissions or denial of licensure is a ground for denial of the transferee's license.*

(5)(4) The transferor shall, before transferring ownership, pay or make arrangements to pay to the *Agency for Health Care Administration department* any amounts owed to the ~~agency or department~~ before the transfer of ownership; and the issuance of a license to the transferee shall be delayed until such payment or arrangements for payment have been made.

(6)(5) The transferee must provide the *Agency for Health Care Administration* department with a copy of the recorded warranty deed or lease agreement before a license may be issued.

Section 8. Section 400.414, Florida Statutes, as amended by section 46 of chapter 92-58, Laws of Florida, is amended to read:

400.414 Denial, revocation, or suspension of license; imposition of administrative fine; grounds; hearings.—

(1) The *Agency for Health Care Administration* department may deny, revoke, or suspend a *standard, extended congregate care, limited nursing services, or limited mental health services* license or impose an administrative fine in the manner provided in chapter 120. At the chapter 120 hearing, the *Agency for Health Care Administration* must ~~department shall~~ prove by a preponderance of the evidence that its actions are warranted.

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

(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 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) *Conviction of the facility owner or administrator of a felony or any crime involving moral turpitude under the laws of any state or of the United States within the previous 10 years. The record of conviction or a certified copy of the record is conclusive evidence of such conviction.*

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

(e)(d) Multiple and repeated violations of this part or of minimum standards or rules adopted pursuant to this part.

(f)(e) A confirmed report of abuse, neglect, or exploitation, as defined in s. 415.102, which has been upheld following a chapter 120 hearing or a waiver of such proceedings *if where* the perpetrator is an employee, volunteer, administrator, or owner, or otherwise has access to the residents of a facility, and the administrator has not taken action to remove the perpetrator. A perpetrator may seek an exemption from disqualification through the procedures provided in s. 415.107(5)(b). ~~No~~ Administrative action may *not* be taken against the facility if the perpetrator is granted an exemption.

(g)(f) Violation of a moratorium.

(h) *The failure to meet minimum license standards or rules adopted under this part.*

(i) *The making of a fraudulent statement on an application for a license or on any other signed and notarized document required by the Agency for Health Care Administration.*

(3) ~~In addition to the reasons in subsection (2),~~ The *Agency for Health Care Administration* department may deny a license to an applicant who owns 10 percent or more of, or operates, a facility which, ~~during the 12 months prior to the application for a license,~~ has had a license *denied, suspended, or revoked pursuant to subsection (2),* has had a moratorium imposed on admissions, *has had an injunctive proceeding* ~~injunction proceedings~~ initiated against it, *has or* had a receiver appointed, *was closed due to financial inability to operate, or has not paid a fine assessed under this part.*

(4) *Any action taken by the Agency for Health Care Administration to suspend, deny, or revoke a facility's license under this part in which the agency claims that the facility owner or an employee of the facility has threatened the health, safety, or welfare of a resident of the facility shall, upon receipt of the facility's request for a hearing, be heard by the Division of Administrative Hearings within 120 days after the request for a hearing, unless that time period is waived by both parties.*

Section 9. Section 400.415, Florida Statutes, is amended to read:

400.415 Moratorium on admissions.—The *Agency for Health Care Administration* department may impose an immediate moratorium on admissions to any facility when the *agency department* determines that any condition in the facility presents a ~~potential~~ threat to the health, safety, or welfare of the residents in the facility. *A facility the license of which is denied, revoked, or suspended as a result of a violation of s. 400.414 is subject to immediate imposition of a moratorium on admissions.*

Section 10. Subsection (6) of section 400.419, Florida Statutes, is amended to read:

400.419 Violations; penalties.—

(6) The *Agency for Health Care Administration* department shall develop and disseminate an annual listing of all facilities sanctioned for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases. *This list shall be disseminated to the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, area agencies on aging, and, upon request, to any other interested party. 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.*

Section 11. Section 400.616, Florida Statutes, is amended to read:

400.616 Short title.—*Sections 400.616-400.625* This act may be cited as the "Adult Family-Care Foster Home Care Act."

Section 12. Section 400.617, Florida Statutes, is amended to read:

400.617 Legislative intent; purpose.—

(1) It is the intent of the Legislature to encourage the provision of care for disabled adults and the aged persons in family-type living arrangements ~~in private homes.~~

(2) The purpose of *ss. 400.616-400.625* this act is to provide for the health, safety, and welfare of residents of adult *family-care foster* homes in the state.

(3) *The Legislature recognizes that adult family-care homes are an important part of the continuum of long-term care. The personal services available in these homes, which may be provided directly or through contract or agreement, are intended to help residents remain as independent as possible in order to delay or avoid placement in a nursing home or other institution. Regulations governing adult family-care homes shall be sufficiently flexible to allow residents to age in place if resources are available to meet their needs and accommodate their preferences.*

(4) *The Legislature further finds and declares that licensure under ss. 400.616-400.625 is a public trust and a privilege, and not an entitlement. This principle shall guide the finder of fact or trier of law at any administrative proceeding or circuit court action initiated by the department to enforce ss. 400.616-400.625.*

Section 13. Section 400.618, Florida Statutes, is amended to read:

400.618 Definitions.—*As used in ss. 400.616-400.625, the term:*

(1) "Disabled adult" means any person age 18 through age 59 who is currently a resident of the state and who, because of a functional impairment, requires personal assistance with the activities of daily living but does not require nursing home or institutional care.

(1)(2) "Activities of daily living" means functions and tasks for self-care, including eating, bathing, grooming, dressing, ambulating, toileting, and performing other personal hygiene activities ~~and ambulation.~~

(2)(4) "Adult family-care foster home" means a full-time, family-type living arrangement; in a ~~private home,~~ under which a person or persons provide, for profit or not for profit, on a nonprofit basis, services of room, board, and one or more personal services ~~assistance, general supervision, and health monitoring,~~ as appropriate for the level of functional impair-

ment, for four or five persons who are ~~three or fewer~~ nonrelatives and who are aged persons or disabled adults ~~placed in the home by the department~~. The term includes a home that offers personal services for three or fewer adults if the home formally or informally advertises to or solicits the public for residents or referrals, holds itself out to the public to be an establishment that regularly provides such services, or serves residents who receive optional state supplementation payments under s. 409.212. A home in which a person or persons provide personal services only to their relatives is not an adult family-care home.

(3) "Aged person" means any person age 60 or over who is currently a resident of the state and who, because of a functional impairment, requires one or more personal services ~~assistance with the activities of daily living~~ but does not require nursing home or institutional care.

(4) "Aging in place" means remaining in a noninstitutional living environment despite the physical or mental changes that may occur to a person who is aging. For aging in place to occur, needed services are added, increased, or adjusted to compensate for a person's physical or mental changes.

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

(6) "Disabled adult" means any person between 18 and 59 years of age, inclusive, who is currently a resident of the state and who has one or more permanent physical or mental limitations that restrict his ability to perform the normal activities of daily living.

(7) "Personal services" include, but are not limited to, individual assistance with or supervision of activities of daily living, and other similar services that the department defines by rule.

(8) "Provider" means any person who is licensed to operate an adult family-care home.

(9) "Relative" means an individual who is related to a provider as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(10) "Resident manager" means an employee of the provider who lives or works in the adult family-care home and is directly responsible for the daily care of residents.

(11) "Staff-operated home" means an adult family-care home in which the provider is not a member of the household and is not an occupant of the adult family-care home.

Section 14. Section 400.619, Florida Statutes, is amended to read:

400.619 Licensure requirements.—

(1) Each provider of an adult family-care ~~foster~~ home must ~~shall~~ be licensed by the department before caring for ~~prior to placement~~ of any disabled adults or the aged persons in the adult family-care home.

(2) A provider must live in the home that is to be licensed or hire a resident manager.

(3) Applications for licensure to maintain and operate an adult family-care home must be made on forms provided by the department. Each new application or application for annual relicensure must be accompanied by a licensing fee of \$120 per year plus an additional annual fee of \$15 per bed based on the licensed resident capacity, except that the additional annual fee for beds designated for residents who are recipients of optional state supplementation payments under s. 409.212 is \$5 per bed. No part of the fees may be returned to the adult family-care home. The license fee may be adjusted once each year by not more than the rate of inflation for the 12 months immediately preceding the increase.

(4)~~(2)~~ Upon receipt of a license application and fees, the department shall make an inquiry of the abuse registry on all adult family-care ~~foster~~ home applicants, all adult household members, and all resident managers and staff.

(5)~~(3)~~ Access to a licensed adult family-care ~~foster~~ home shall be provided at reasonable times for the appropriate officials of the department and the State Fire Marshal who are responsible for the development and

maintenance of fire, health, sanitary, and safety standards to inspect the facility to assure compliance with such standards. In addition, access to a licensed adult family-care home must be provided at reasonable times for the nursing home and long-term care facility ombudsman council.

(6) A license is effective for 1 year after the date of issuance unless sooner revoked. Each license must state the name of the provider, the resident manager if applicable, the address, the premises to which the license applies, and the maximum number of residents. A license may be issued with or without restrictions governing the residents or care offered in the adult family-care home.

(7) A license is not transferable or applicable to any location or person other than the location or person indicated on the application for licensure. If, during the period covered by the license, the resident manager changes, the provider must, within 15 days, request modification of the license. The request must be accompanied by a fee of \$20.

(8) The licensed maximum capacity of each adult family-care home shall be based on the service needs of the residents and the capability of the provider to meet the needs of the residents. The maximum capacity includes any relative who lives in the adult family-care home and who is an aged person or a disabled adult.

(9) The department may issue a conditional license to a provider for the purpose of bringing the adult family-care home into compliance with licensure requirements or if a provider is applying for a change of ownership. A conditional license must be limited to a specific period, not to exceed 6 months, as determined by the department. The department shall by rule establish criteria for conditional licenses.

(10)~~(4)~~ The department may deny an applicant a license, or suspend or revoke a license, for any of the following reasons:

(a) A confirmed ~~An indicated~~ report of abuse, neglect, or exploitation or conviction of a crime related to abuse, neglect, or exploitation in accordance with s. 415.107(5)(b).

(b) An intentional or negligent act materially affecting the health, safety, or welfare of the adult family-care ~~foster~~ home residents.

(c) A violation of ss. 400.616-400.625 ~~the provisions of this part~~ or rules adopted under ss. 400.616-400.625, including the failure to comply with any restrictions specified in the license ~~hereunder~~.

(11) All moneys collected under this section must be deposited into the Aging and Adult Services Operations and Maintenance Trust Fund and must be used to offset the expenses of licensing and training for adult family-care homes.

(12) The department shall adopt rules to implement this section.

Section 15. Section 400.6196, Florida Statutes, is created to read:

400.6196 Violations; penalties.—

(1) In addition to any other liability or penalty provided by law, the department may impose a civil penalty on a person for any of the following:

- (a) Operating an adult family-care home without a license;
- (b) Violating any of the terms or conditions of a license;
- (c) Violating any rule adopted under ss. 400.616-400.625.

(2) Each day during which a violation occurs constitutes a separate violation.

(3) In determining whether a penalty is to be imposed, and in fixing the amount of any penalty to be imposed, the department must consider:

- (a) The gravity of the violation.
- (b) Actions taken by the provider to correct a violation.
- (c) Any previous violation by the provider.
- (d) The financial benefit to the provider of committing or continuing the violation.

(4) As an alternative to or in conjunction with an administrative action against a provider, the department may request a plan of corrective action that demonstrates a good-faith effort to remedy each violation by a specific date, subject to the approval of the department.

(5) The department shall set forth, by rule, classifications of violations and civil penalties to be levied.

(6) Civil penalties paid by a provider shall be deposited into the Aging and Adult Services Operations and Maintenance Trust Fund and shall be used to offset the expenses of licensing and training for adult family-care homes.

(7) The department may immediately impose a moratorium on admissions to any adult family-care home if the department finds that the home presents a potential threat to the health, safety, or welfare of its residents.

(8) A resident has a statutory cause of action against any provider who:

(a) Violates any rule adopted under ss. 400.616-400.625; or

(b) Abuses or neglects a resident,

if such violation, abuse, or neglect causes physical or psychological injury to the resident. The cause of action may be brought by the resident, his guardian, any person with the consent of the resident, or the personal representative of the resident if the resident dies as a result of the violation, abuse, or neglect. A resident is entitled to recover actual and punitive damages, costs, and attorney's fees if he prevails. A provider may recover attorney's fees and costs if a court of competent jurisdiction determines that a suit is frivolous and without merit. The remedies in this subsection are in addition to any other remedy at law or administrative relief.

Section 16. Section 400.6197, Florida Statutes, is created to read:

400.6197 Transition period.—The license of an adult congregate living facility with a licensed capacity of five or fewer residents may not be renewed after June 30, 1993. In order to continue to operate, such facility must obtain a license as an adult family-care home by the date that its license is required to be renewed or by July 1, 1994, whichever occurs earlier.

Section 17. Section 400.621, Florida Statutes, is amended to read:

400.621 Rules and standards relating to adult family-care foster homes.—

(1) The department shall, by rule, establish minimum standards and licensure procedures for adult family-care foster homes for disabled adults and the aged and for the approval of persons wishing to provide such care. *The rules shall, at a minimum:*

(a) *Provide for the health, safety, and well-being of the residents in the adult family-care home. Procedures governing annual relicensure, transfer of ownership, prevention of abuse, proper management of resident's property and personal affairs, inspections, and records and reports shall be included.*

(b) *Promote the growth of adult family-care homes as a component of a long-term care system.*

(c) *Promote the goal of aging in place.*

(d) *Mandate compliance with chapter 419.*

(e) *Assure that an adult family-care home is the appropriate living arrangement for each resident. A resident who requires 24-hour nursing supervision may not be retained in an adult family-care home.*

(f) *Assure the least possible disruption of residents' lives when an adult family-care home is closed.*

(g) *Guarantee that residents have the same personal rights as are set forth in s. 400.428.*

(2) Minimum firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the department. Such standards shall be included in the rules adopted by the department after consultation with the State Fire Marshal.

(3) *The department shall, by rule, establish specific staffing requirements for adult family-care homes based on licensed capacity. The standards must include minimum staffing requirements based on licensed capacity.*

(4) *By January 1, 1994, the department shall properly train staff and facility operators in determining appropriate placement of clients in adult family-care homes.*

Section 18. Section 400.6211, Florida Statutes, is created to read:

400.6211 Training and education programs.—

(1) The department shall provide training and education programs for all adult family-care home providers, resident managers, and other staff specified by the department.

(2) Training and education programs must include, but are not limited to, information relating to:

(a) State law and rules governing adult family-care homes.

(b) Identifying and reporting abuse, neglect, and exploitation.

(c) Special needs of aged persons and disabled adults.

(d) How to meet the needs of aged persons and disabled adults.

(3) Providers, resident managers, and staff must complete the training and education requirement within a reasonable time determined by the department. Failure to complete the training and education requirement within the time set by the department is a violation of ss. 400.616-400.625 and subjects the violator to a revocation of the license.

Section 19. Section 400.622, Florida Statutes, is amended to read:

400.622 Injunctive proceedings.—

(1) The department may institute injunctive proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of ss. 400.616-400.625 ~~this part~~ or any license requirement, minimum standard, rule, or order issued or entered into pursuant to ss. 400.616-400.625 ~~thereto~~; or

(b) Terminate the operation of an adult family-care ~~foster~~ home when violations of any license requirement, standard, or rule ~~adopted promulgated~~ pursuant to ss. 400.616-400.625 ~~this part~~ exist which materially affect the health, safety, or welfare of residents.

(2) Such injunctive relief may be temporary or permanent.

Section 20. Section 400.623, Florida Statutes, as amended by section 30 of chapter 92-33, Laws of Florida, is amended to read:

400.623 Recruitment.—~~The department Agency for Health Care Administration shall recruit and license an appropriate number of adult family-care foster homes to serve the department's clients and to meet the needs of the state's elderly population of the Department of Health and Rehabilitative Services. When a licensed adult foster home accepts more than one resident not placed in the home by the Department of Health and Rehabilitative Services, the Agency for Health Care Administration shall cancel the license issued pursuant to this section and require the home to make application for licensure as an adult congregate living facility in accordance with the provisions of part II of this chapter.~~

Section 21. Section 400.625, Florida Statutes, is created to read:

400.625 Contracts.—

(1) Each resident must be covered by a contract, executed at the time of admission or prior thereto, between the provider and the resident or his designee or legal representative. Each party to the contract must be provided a duplicate original, and the provider must keep the contract on file for 5 years after its expiration.

(2) Each contract must expressly specify the personal services and accommodations to be provided by the adult family-care home and the rates or charges, provide for at least 30 days' notice before a rate increase, and include any other provisions required by rule of the department.

Section 22. Section 400.455, Florida Statutes, is created to read:

400.455 Coordination with Department of Business Regulation concerning certain matters.—The department shall:

(1) Provide to the Department of Business Regulation, monthly, a list of each facility that has had a license denied, suspended, or revoked pursuant to s. 400.414 or that is a party to an appellate proceeding related to the denial, suspension, or revocation of a license pursuant to s. 120.60.

(2) Coordinate with the Department of Business Regulation, the Agency for Health Care Administration, local firesafety authorities, and other appropriate public or private agencies to develop procedures to safeguard the health, safety, or welfare of residents of public lodging establishments licensed under chapter 509, nursing homes licensed under Part I of this chapter, and adult congregate living facilities licensed under this part which are not equipped with automatic sprinkler systems and which may present situations in which residents may be unable to self-preserve in an emergency. The Department of Health and Rehabilitative Services may convene meetings with the Department of Business Regulation, the Agency for Health Care Administration, other appropriate agencies, the facility, and affected residents to develop a plan that improves the safety of residents and, if necessary, identifies alternative living arrangements, such as facilities licensed under this chapter.

(3) Coordinate with the Department of Business Regulation to identify any statutory changes needed to protect residents who are victims of self-neglect or are unable to self-preserve in an emergency.

Section 23. Section 410.033, Florida Statutes, is amended to read:

410.033 Home care for disabled adults and the elderly; rules.—The department shall, by rule, establish minimum standards and procedures for the provision of home care for disabled adults and the elderly, and for the approval of persons wishing to provide such care. Priority shall be given to disabled adults and the elderly who are not eligible for comparable services in programs of and funded by the department. Any person who is approved by the department to provide such care, goods, or services for a disabled adult or an elderly person shall be eligible for the subsidy payments described in s. 410.035. However, the home care for disabled adults and the elderly program shall operate within the funds appropriated by the Legislature.

Section 24. Section 410.035, Florida Statutes, is amended to read:

410.035 Subsidy payments.—

(1) The department shall develop by October 1, 1992 ~~1988~~, a schedule of subsidy payments to be made to persons providing home care, and providers of goods and services, for certain eligible disabled adults or elderly persons. Payments shall be based on the financial status of the person receiving care. Payments shall include, but not be limited to:

(a) A support and maintenance element, to include costs of housing, food, clothing, and incidentals, and costs of:

(b) ~~Payments for medical, pharmaceutical, and dental services essential to maintain the health of the disabled adult or elderly person and not covered by Medicare, Medicaid, or any form of insurance.~~

(b)(e) When necessary, special supplements to provide for any goods and services ~~service~~ and specialized care required to maintain the health and well-being of the disabled adult or elderly person. *Extraordinary medical, dental, or pharmaceutical expenses may be paid as a special supplement.*

(2) The department shall develop a schedule of subsidy payments to persons providing home care, and providers of goods and services, for disabled adults or the elderly. This schedule shall be based on the financial status of the eligible disabled adult or elderly person.

Section 25. Subsection (9) of section 196.012, Florida Statutes, as amended by section 3 of chapter 92-167, Laws of Florida, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(9) "Nursing home," or "home for special services," or ~~"home for the aged"~~ means an institution which possesses a valid license under chapter 400 on January 1 of the year for which exemption from ad valorem taxation is requested.

Section 26. Subsection (1) of section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(1) LICENSES; ANNUAL RENEWALS.—Each public lodging establishment and public food service establishment shall obtain a license from the division. Such license may not be transferred from one place or

individual to another. It shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for such an establishment to operate without a license. Local law enforcement shall provide immediate assistance in pursuing an illegally operating establishment. The division may refuse a license, or a renewal thereof, to any establishment that is not constructed and maintained in accordance with law and with the rules of the division. The division may refuse to issue a license, or a renewal thereof, to any establishment an operator of which, within the preceding 5 years, has been adjudicated guilty of, or has forfeited a bond when charged with, any crime reflecting on professional character, including soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in controlled substances as defined in chapter 893, whether in this state or in any other jurisdiction within the United States, or has had a license denied, revoked, or suspended pursuant to s. 400.414. *In the event the disposition of any action taken pursuant to s. 400.414 is pending, the division may defer its review of the license application until appellate actions allowed by s. 120.60 are exhausted.* Licenses shall be renewed annually, and the division shall adopt a rule establishing a staggered schedule for license renewals. If any license expires while administrative charges are pending against the license, the proceedings against the license shall continue to conclusion as if the license were still in effect.

Section 27. Notwithstanding section 10 of chapter 92-33, Laws of Florida, the Department of Health and Rehabilitative Services, in consultation with the Agency for Health Care Administration, shall develop rules for the licensure of intermediate care facilities for the developmentally disabled under sections 393.067-393.0678, Florida Statutes, crisis stabilization units and residential treatment facilities under section 394.875, Florida Statutes, adult congregate living facilities under part II of chapter 400, Florida Statutes, and adult day care centers under part IV of chapter 400, Florida Statutes. Rulemaking authority for the licensure of those facilities shall be retained by the Department of Health and Rehabilitative Services and shall not be transferred to the Agency for Health Care Administration.

Section 28. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to change "Department of Health and Rehabilitative Services" to "Agency for Health Care Administration," and "Secretary of Health and Rehabilitative Services" to "Director of Health Care Administration," wherever the terms appear:

(1) With respect to the regulation of the specified health facilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes:

(a) Section 381.6021, relating to organ and tissue procurement organizations.

(b) Sections 383.30-383.335, relating to birth centers.

(c) Chapter 390, relating to abortion clinics.

(d) Part II of chapter 391, relating to prescribed pediatric extended care centers.

(e) Sections 393.067-393.0678, relating to intermediate care facilities for the developmentally disabled, except for provisions relating to rulemaking.

(f) Section 394.875, relating to crisis stabilization units and residential treatment facilities, except for provisions relating to rulemaking.

(g) Chapter 395, relating to hospitals, mental health institutions, and ambulatory surgical centers.

(h) Parts I, III, and V of chapter 400, relating to nursing homes, home health agencies, and hospices.

(i) Parts II and IV of chapter 400, relating to adult congregate living facilities and adult day care centers, except for provisions relating to rulemaking.

(j) Parts I-III of chapter 483, relating to clinical laboratories, multi-phasic health testing centers, and cholesterol screening centers.

(k) Part III of chapter 641, relating to health maintenance organizations and prepaid health clinics.

(2) With respect to the regulation of the specified health care professions, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes:

- (a) Chapter 467, relating to midwifery.
- (b) Part I of chapter 483, relating to clinical laboratory personnel.

(3) With respect to other regulatory responsibilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes: sections 154.304(7), 196.1975(2), 205.1965, 381.6022 through 381.6024, 408.05, 415.107(2)(a), 766.105(2)(c)2., and 766.105(2)(d)2.

Section 29. Section 11 of chapter 92-33, Laws of Florida, is repealed.

Section 30. This act shall take effect January 1, 1993, except that this section and sections 18, 21, 22, 27, 28, and 29 of this act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later.

And the title is amended as follows:

In title, on page 49, line 26, through page 53, line 27, strike all of said lines and insert: A bill to be entitled An act relating to health care and human services; amending s. 400.23, F.S.; revising legislative intent under part I, ch. 400, F.S.; providing requirements for rules adopted by the Agency for Health Care Administration; creating the Nursing Home Advisory Committee; providing membership of the committee; providing duties of the committee; revising evaluation requirements for nursing home facilities; revising requirements for rating such facilities; amending s. 400.063, F.S.; conforming a cross-reference to changes made by the act; amending s. 400.401, F.S.; revising purposes of part II, ch. 400, F.S.; providing legislative findings regarding the significance of a license under part II, ch. 400, F.S.; amending s. 400.402, F.S.; adding and amending definitions of terms used in that part; amending s. 651.011, F.S.; conforming a cross-reference to changes made by the act; amending s. 400.407, F.S.; revising a violation relating to failure to obtain a license after receiving notification; creating a violation and penalties relating to failure to obtain a license and the maintenance of a threatening condition; revising the provisions relating to the issuance of licenses, amending s. 400.412, F.S., relating to sale or transfer of ownership of a facility; revising the penalties and responsibilities of the transferor and the transferee of certain facilities; requiring a plan of correction or the correction of the condition before issuance of a license or lifting of a moratorium on admissions; amending s. 400.414, F.S.; listing the categories of licenses that the Agency for Health Care Administration may deny, revoke, or suspend; revising the actions that may result in license denial, revocation, or suspension or the imposition of a fine; prohibiting certain actions; providing for applicability to a part owner of a facility; providing for denial of licenses to certain applicants who had licenses denied or suspended, facilities closed under certain circumstances, or unpaid fines; providing a time period for a hearing under ch. 120, F.S., by the Division of Administrative Hearings; amending s. 400.415, F.S., providing for immediate imposition of a moratorium on admissions under certain circumstances; amending s. 400.419, F.S.; requiring the Agency for Health Care Administration to list facilities cited for violations of part II, ch. 400, F.S.; amending s. 400.616, F.S.; redesignating the Adult Foster Home Care Act as the Adult Family-Care Home Act; amending s. 400.617, F.S.; revising legislative intent; amending s. 400.618, F.S.; providing definitions; amending s. 400.619, F.S.; providing for licensure; providing license fees; providing access for the nursing home and long-term care facility ombudsman council; prohibiting the transfer of licenses; providing for conditional licenses; providing circumstances under which the Department of Health and Rehabilitative Services may deny, suspend, or revoke a license; creating s. 400.6196, F.S.; authorizing the department to impose penalties and require corrective action for certain violations; creating a civil cause of action for abuse or neglect of residents of adult family-care homes; creating s. 400.6197, F.S.; requiring certain adult congregated living facilities to become licensed as adult family-care homes within a specified time; amending s. 400.621, F.S.; providing for rules; providing for placement of clients; creating s. 400.6211, F.S.; requiring the department to provide training and education for persons who operate adult family-care homes; amending s. 400.622, F.S.; providing for injunctive proceedings; amending s. 400.623, F.S.; requiring the department to recruit and license adult family-care homes; deleting obsolete provisions; creating s. 400.625, F.S.; providing contract requirements for residents of adult family-care homes; creating s. 400.455, F.S.; prescribing duties of the Department of Health and Rehabilitative Services with respect to coordinating certain safety

and other matters with the Department of Business Regulation; amending ss. 410.033, 410.035, F.S.; providing for subsidy payments to providers of goods and services under the home care program for disabled adults and elderly persons; authorizing payment for goods and extraordinary medical, dental, or pharmaceutical expenses as a special supplement; amending s. 196.012, F.S.; deleting obsolete terminology with respect to certain tax exemptions allowed for homes for the aged; amending s. 509.241, F.S.; clarifying that the division may defer disposition of an application for licensure of facilities previously licensed under part II of ch. 400, F.S., in certain circumstances; preserving rulemaking authority of the Department of Health and Rehabilitative Services with respect to licensure of intermediate care facilities for the developmentally disabled, crisis stabilization units and residential treatment facilities, adult congregated living facilities, and adult day care centers, notwithstanding ch. 92-33, Laws of Florida, directing the Division of Statutory Revision of the Joint Legislative Management Committee to prepare a reviser's bill to make certain changes consistent with the intent and purposes of ch. 92-33, Laws of Florida, as amended; repealing s. 11, ch. 92-33, Laws of Florida, relating to directions for preparing the official edition of the Florida Statutes; providing effective dates.

Amendment 2 as amended was adopted.

On motion by Senator Weinstock, by two-thirds vote **SB 74-H** 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 Nays—None

SB 76-H—A bill to be entitled An act abrogating the repeal of s. 381.0035, F.S., relating to education course requirements on human immunodeficiency virus; providing for retroactivity; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote **SB 76-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 22-H—A bill to be entitled An act preserving rules and proceedings of the Department of Health and Rehabilitative Services relating to certificates of need; amending s. 381.7155, F.S., renumbered as s. 408.0455, F.S.; providing that certain rules of the department remain in effect and are enforceable by the Agency for Health Care Administration; providing for the continuation of certain proceedings pending on a specified date; providing an effective date.

—was read the second time by title.

Senator Malchon moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, between lines 9 and 10, insert:

Section 2. Section 339 of chapter 92-279, Laws of Florida, is amended to read:

Section 339. Except as otherwise expressly provided in this act, this act shall take effect *July 1, 1992* ~~January 1, 1993~~, except that this section and sections 322, 323, 324 and 325 of this act shall take effect upon this act becoming a law.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2-11 and insert: An act relating to state government; amending s. 381.7155, F.S., renumbered as s. 408.0455, F.S.; providing that certain rules of the Department of Health and Rehabilitative Services remain in effect and are enforceable by the Agency for Health Care Administration; providing for the continuation of certain proceedings pending on a specified date; amending ch. 92-279, Laws of Florida, revising the effective date of the creation of the Department of Management Services; providing an effective date.

On motion by Senator Malchon, by two-thirds vote **SB 22-H** 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 Nays—None

SB 84-H—A bill to be entitled An act relating to taxation; transferring, renumbering, and amending s. 166.231, F.S.; authorizing counties with a population less than a specified number to levy a tax within the unincorporated area on electricity, gas, water, and telecommunications service; providing a tax rate; providing for certain exemptions from the tax; providing for collection of the tax; transferring, renumbering, and amending s. 166.232, F.S.; conforming cross-references and terminology to changes made by the act; amending s. 212.055, F.S.; providing circumstances under which certain counties and municipalities may use the proceeds and interest from the local government infrastructure surtax for any public purpose; authorizing counties with a population less than a specified number to levy a discretionary sales surtax pursuant to ordinance or referendum; providing procedures and requirements for levying the surtax; specifying uses of proceeds of the surtax; revising provisions that authorize certain counties to levy a discretionary sales surtax for the purpose of funding indigent health care; authorizing counties with a population less than a specified number to levy a discretionary sales surtax for the purpose of funding indigent health care; providing procedures and requirements for levying the surtax; limiting the combined rate of discretionary sales surtaxes; providing for repeal of the surtax; amending s. 336.021, F.S.; authorizing the governing body of counties with a population less than a specified number to levy a gas tax pursuant to ordinance for purposes other than servicing bond indebtedness; providing procedures and requirements for levying the gas tax; redesignating the Voted Gas Tax Trust Fund as the Ninth-cent Gas Tax Trust Fund; creating the Small County Technical Assistance Program; requiring the Comptroller to enter into contracts with program providers for the purpose of assisting certain counties in financial and administrative matters; requiring the Advisory Council on Intergovernmental Relations to advise the Comptroller and conduct performance reviews of the program; amending ss. 212.02, 212.08, 212.60, 290.0065, 290.007, 366.11, F.S.; conforming cross-references and terminology to changes made by the act; providing an effective date.

—was read the second time by title.

Senator Jenne moved the following amendment which was adopted:

Amendment 1—In title, on page 2, line 19, strike “212.60” and insert: 218.60

On motion by Senator Jenne, by two-thirds vote **SB 84-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—8

On motions by Senator Forman, by two-thirds vote—

CS for SB 8-H—A bill to be entitled An act relating to bond financing; amending s. 159.807, F.S.; revising provisions related to eligibility for, and availability of, allocations from the state allocation pool for private activity bonds; amending s. 7, ch. 92-127, Laws of Florida, which establishes a manufacturing facility bond pool, to specify the manner in which written confirmations of allocations for manufacturing projects are to be made when allocation is not available from that pool; amending s. 159.42, F.S.; prescribing procedures related to deficiencies in debt service reserve funds for certain bonds issued by county industrial development authorities; requiring certain loans made by participants in the bond program to be approved by the Department of Health and Rehabilitative Services and placing a limit on the amount of such loans that it may approve; providing effective dates.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motion by Senator Thurman, by two-thirds vote—

CS for SB 58-H—A bill to be entitled An act relating to public fairs and expositions; amending s. 616.21, F.S.; increasing the membership of the Agricultural and Livestock Fair Council; prescribing duties of the council; creating s. 616.221, F.S.; establishing the Florida Fairs, Festivals, and Livestock Shows Trust Account; providing for collection and disbursement of funds in the account; prescribing uses of moneys in the trust account; authorizing the Department of Agriculture and Consumer Services to adopt rules; repealing s. 616.22, F.S., which provides matching

funds for construction or repair of exhibit buildings; requiring certain appropriations to be deposited into the trust account; providing an effective date.

—was read the second time by title.

The Committee on Agriculture recommended the following amendment which was moved by Senator Thurman and adopted:

Amendment 1—On page 4, line 3, strike “may” and insert: shall

On motion by Senator Thurman, by two-thirds vote **CS for SB 58-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—2

SB 44-H—A bill to be entitled An act relating to the offense of witness tampering; amending s. 914.22, F.S.; prohibiting causing or inducing a person to testify untruthfully in an official investigation or proceeding, for which criminal penalties are provided; reenacting ss. 914.24(1)(a), (2)(a), 772.102(1)(a), and 895.02(1)(a), F.S., relating to civil actions to restrain harassment of a victim or witness, civil remedies for criminal practices, and racketeering offenses, to incorporate the amendment in references thereto; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **SB 44-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SB 156-H—A bill to be entitled An act relating to construction contracts; creating the Construction Contract Prompt Payment Law; providing for applicability; providing definitions; requiring payment of such contracts within certain time periods and requiring accrual of interest; providing an exception; amending s. 255.05, F.S.; providing a revised time period for filing a notice to proceed against a bond with respect to rental equipment used at a public building construction site; providing that a prevailing party may receive attorney's fees; amending s. 713.01, F.S.; providing definitions; amending s. 713.08, F.S.; providing the time period for recording certain claims of lien; amending s. 713.132, F.S.; revising requirements for a notice of termination of a notice of commencement to improve real property; amending s. 713.16, F.S.; authorizing contractors to demand a written statement of a lienor's account; authorizing lienors to demand a written statement from owners; amending s. 713.29, F.S.; providing for attorney's fees in an action brought to enforce a claim against a bond; creating s. 713.347, F.S.; requiring lenders to give notice of a decision to cease further advances; restricting use of certain construction loan proceeds; providing for liability for noncompliance; amending s. 713.245, F.S.; delaying the date of repeal of s. 713.245, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Dudley and adopted:

Amendment 1—On page 15, strike all of lines 18-28 and insert:

(4) When a contractor has furnished a payment bond pursuant to s. 713.23, he may, when an owner makes any payment to the contractor or directly to a lienor, make written demand of any other lienor for a written statement under oath of his account showing the nature of the labor or services performed and to be performed, the materials furnished and to be furnished, the amount paid on account to date, the amount due, and the amount to become due. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the person who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his rights under the bond.

Senator Dudley moved the following amendment which was adopted:

Amendment 2—On page 20, lines 30 and 31, and on page 21, lines 1 and 2, strike all of said lines and insert:

Section 10. This act shall take effect October 1, 1992, except that this section and section 9 shall take effect upon becoming a law, and if this act does not become law before June 30, 1992, section 9 shall operate retroactively to that date.

On motion by Senator Dudley, by two-thirds vote **SB 156-H** 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 Nays—None

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, June 4, 1992: SB 18-H, SB 20-H, CS for SB 68-H, SB 74-H, SB 76-H, SB 22-H, SB 84-H, CS for SB 8-H, CS for SB 58-H, SB 44-H

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, June 4, 1992: SB 4-H, SB 16-H, SB 28-H, SB 104-H, SB 124-H

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Commerce recommends the following pass: SB 146-H

The Committee on Judiciary recommends the following pass: SB 134-H

The bills contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Governmental Operations recommends the following pass: SB 154-H

The Committee on Transportation recommends the following pass: SB 114-H

The bills contained in the foregoing reports were referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Commerce recommends the following pass: SB 170-H

The Committee on Corrections, Probation and Parole recommends the following pass: SB 166-H with 1 amendment

The Committee on Judiciary recommends the following pass: SB 156-H with 1 amendment

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

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: CS for SB 94-H

The Committee on Transportation recommends a committee substitute for the following: SB 110-H

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 30-H

The bill with committee substitute attached was referred to the Committee on Community Affairs under the original reference.

The Committee on Corrections, Probation and Parole recommends a committee substitute for the following: SB 72-H

The bill with committee substitute attached was referred to the Committee on Education under the original reference.

The Committee on Education recommends committee substitutes for the following: SB 130-H, SB 132-H

The bills with committee substitutes attached was referred to the Committee on Personnel, Retirement and Collective Bargaining under the original reference.

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 8-H, SB 58-H, SB 68-H

The bills with committee substitutes attached were placed on the calendar.

RULES AND CALENDAR COMMITTEE REPORT

Senator Thomas reported that the Committee on Rules and Calendar recommended that the following bills be admitted for introduction by the required constitutional two-thirds vote of the Senate:

By Senator Beard - License fees/motorcycles, mopeds, etc.

By Senator Dudley - Resolution/Chuck Ross

By Senator Dudley - Bridge designation

By Senator Jenne - Resolution/Father Gabriel O'Reilly

By Senator Kurth - Tourism

By Senator Scott - Education facilities

By Senator Thomas - Road designation

By Senator Forman - State Health Insurance

The report of the Committee on Rules and Calendar was adopted.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senator Walker—

SB 172-H—A bill to be entitled An act relating to Taylor County; authorizing the Board of County Commissioners of Taylor County to enter into contracts for owning, leasing, or operating a correctional facility as a private commercial enterprise; prohibiting housing Taylor County prisoners in the facility; providing that net revenues of the enterprise become county funds; providing for a referendum; providing effective dates.

—was referred to the Committees on Corrections, Probation and Parole; and Rules and Calendar.

By Senator Thomas—

SB 174-H—A bill to be entitled An act relating to educational facilities; creating s. 240.155, F.S.; requiring the Board of Regents and the board of trustees of each community college district to prepare a campus master plan for each institution under its jurisdiction; prescribing requirements for such plans; providing for the Board of Regents and the board of trustees of each community college district to enter into campus development agreements with units of local government within which universities or community colleges are located or which are affected by the universities or community colleges; providing for resolution of disputes with respect to campus development; providing for supersession of other comprehensive planning requirements; providing an effective date.

—was referred to the Committees on Community Affairs and Appropriations.

By Senator Kiser—

SB 176-H—A bill to be entitled An act relating to ad valorem taxation; amending s. 196.101, F.S.; removing the requirement that a totally permanently disabled person use a wheelchair for mobility in order to be entitled to homestead exemption; amending s. 197.162, F.S.; extending the time periods during which a taxpayer may make early payment of taxes and qualify for a discount; amending s. 197.222, F.S.; extending the time periods during which a taxpayer may prepay estimated taxes by installment and qualify for a discount; amending s. 197.254, F.S.; revising requirements relating to the notice to taxpayers of the right to defer taxes; amending s. 197.262, F.S.; deleting the requirement for a separate deferred payment tax certificate sale, and the requirement that unsold certificates be purchased by the State Board of Administration, and providing that such certificates be struck off to the county; amending s. 197.263, F.S.; providing for the sale of tax certificates for delinquencies of deferred taxes; amending s. 197.482, F.S.; excepting deferred payment tax certificates from the limitation upon lien of tax certificates; amending

s. 197.502, F.S.; providing that provisions which require counties to make application for tax deeds do not apply to deferred payment tax certificates; repealing s. 215.47(2)(d), F.S., relating to investment by the State Board of Administration in deferred payment tax certificates; providing an effective date.

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

By Senator Forman—

SB 178-H—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.025, F.S.; providing for the deposit of proceeds of the surtax on beverage license fees into the Alcoholic Beverage and Tobacco Trust Fund; creating s. 561.121, F.S.; providing for distribution of alcoholic beverage excise tax revenues; amending s. 561.12, F.S., to conform; amending s. 561.342, F.S.; providing for deduction of a service charge from county and municipal beverage license tax revenues; amending ss. 563.02, 564.02, 565.02, F.S.; increasing the license fees for vendors of alcoholic beverages sold for consumption on the premises; increasing the license fees for certain clubs and pari-mutuel facilities; amending ss. 563.025, 564.025, F.S.; increasing the surtax imposed on license fees for vendors of certain alcoholic beverages and wines; amending ss. 563.05, 564.06, 565.12, F.S.; increasing the excise tax on malt beverages, wine, and liquor; creating s. 565.025, F.S.; imposing a surtax on the license fees of vendors of alcoholic beverages licensed under ch. 565, F.S., including certain clubs and pari-mutuel facilities; providing for an inventory tax; providing for credits and refunds under certain circumstances; providing an appropriation; repealing s. 561.501, F.S., relating to the surcharge on alcoholic beverages sold for consumption on the premises; providing an effective date.

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

By Senator Grant—

SB 180-H—A bill to be entitled An act relating to the driver history records of the Department of Highway Safety and Motor Vehicles; amending s. 322.20, F.S.; authorizing the department to sell copies of its driver history record data base to insurers for a negotiated price; providing limitations; providing an effective date.

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

By Senator Crotty—

SB 182-H—A bill to be entitled An act relating to education; amending s. 236.013, F.S.; providing an exemption to enrollment funding calculations for certain students; amending s. 239.117, F.S.; making technical corrections; limiting the applicability of fee exemptions for certain students; revising the assessment of certain fees for community college students; amending s. 239.233, F.S., relating to vocational education reporting; providing for annual reports, performance indicators and targets, and longitudinal analyses for vocational programs; providing for confidentiality of certain information; requiring the Department of Education to withhold funds under certain circumstances; amending s. 239.245, F.S., relating to public information on vocational education programs; conforming language; amending s. 455.212, F.S., relating to educational requirements of licensing boards; providing exemption for licensing boards under certain conditions; providing effective dates.

—was referred to the Committees on Education and Appropriations.

By Senator Langley—

SB 184-H—A bill to be entitled An act relating to governmental bodies with taxing powers; providing detailed legislative findings as to long-term debt obligations financed through lease or lease-purchase arrangements entered into without a referendum; prohibiting certain issuance of debt by governmental bodies with taxing powers, after a specified date; defining "governmental body"; amending s. 230.23, F.S.; deleting authorization for school boards to enter certain agreements and arrangements for rental or construction of sites, buildings, or equipment; repealing ss. 125.031, 201.24(2), 235.056(3), 236.25(2)(e), 240.209(5)(d), 288.33(4), F.S., relating to county leases or lease-purchases of property for public purposes; obligations of municipalities, political subdivisions, and agencies of the state; leases and lease-purchases of educational facilities and sites; district school tax; the Board of Regents; and school building financing construction authorization; deleting authorization to enter

certain long-term debt obligations financed through lease or lease-purchase arrangements; providing an effective date and a contingent retroactive effective date.

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

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Finance, Taxation and Claims; and Senator Forman—

CS for SB 8-H—A bill to be entitled An act relating to bond financing; amending s. 159.807, F.S.; revising provisions related to eligibility for, and availability of, allocations from the state allocation pool for private activity bonds; amending s. 7, ch. 92-127, Laws of Florida, which establishes a manufacturing facility bond pool, to specify the manner in which written confirmations of allocations for manufacturing projects are to be made when allocation is not available from that pool; amending s. 159.42, F.S.; prescribing procedures related to deficiencies in debt service reserve funds for certain bonds issued by county industrial development authorities; requiring certain loans made by participants in the bond program to be approved by the Department of Health and Rehabilitative Services and placing a limit on the amount of such loans that it may approve; providing effective dates.

By the Committee on Finance, Taxation and Claims; and Senators Dudley, Gardner and Kurth—

CS for SB 30-H—A bill to be entitled An act relating to ad valorem taxation; amending s. 192.001, F.S.; providing standards for determining substantial completion of an improvement to real personal property; creating s. 192.039, F.S.; providing for assessment and taxation of certain real property on a partial-year assessment roll; creating s. 192.044, F.S.; exempting tangible personal property from partial-year assessment; providing for partial-year tangible personal property to take effect upon certain findings; providing for assessment and taxation of certain tangible personal property on a partial-year assessment roll; providing for the assessment of certain railroad property for a partial year; amending s. 192.042, F.S.; providing for the day of assessment; providing for reimbursement of tax collectors for preparation of the initial partial-year assessment rolls; amending s. 193.052, F.S.; providing for partial-year tax returns; amending s. 193.062, F.S.; providing a date for filing of returns; amending s. 193.114, F.S.; providing for preparation of partial-year rolls; amending s. 195.027, F.S.; requiring partial-year returns by agency rule; amending s. 196.011, F.S.; providing a requirement for application for exemption for property listed on a partial-year assessment roll; amending s. 197.3635, F.S.; specifying information to be included on notice for partial-year taxes and assessments; creating s. 200.0701, F.S.; requiring notice of partial-year assessment; requiring inclusion of partial-year property on 1992 and 1993 rolls; amending s. 212.08, F.S.; correcting a cross-reference; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Thurman—

CS for SB 58-H—A bill to be entitled An act relating to public fairs and expositions; amending s. 616.21, F.S.; increasing the membership of the Agricultural and Livestock Fair Council; prescribing duties of the council; creating s. 616.221, F.S.; establishing the Florida Fairs, Festivals, and Livestock Shows Trust Account; providing for collection and disbursement of funds in the account; prescribing uses of moneys in the trust account; authorizing the Department of Agriculture and Consumer Services to adopt rules; repealing s. 616.22, F.S., which provides matching funds for construction or repair of exhibit buildings; requiring certain appropriations to be deposited into the trust account; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senators Johnson, Forman, Gardner and Souto—

CS for SB 68-H—A bill to be entitled An act relating to taxation; requiring the Department of Revenue to develop and implement a limited-duration tax amnesty program for certain state taxes; providing definitions; providing conditions for participation in such program; amending s. 72.011, F.S.; providing conditions for filing an action to contest assessment or denial of refund; amending s. 196.011, F.S.; requiring that forms prescribed by the Department of Revenue include specific information;

requiring homestead exemption applications to include the social security numbers of the property owner and spouse before a property appraiser may issue or renew the homestead exemption; providing requirements for homestead exemption renewal applications; amending ss. 198.15, 198.18, F.S.; increasing penalties and interest for estate taxes due; amending s. 199.062, F.S.; requiring security dealers and investment advisers to file certain statements regarding customers' securities; allowing the department to require property appraisers to send intangible tax brochures to property owners; authorizing the department to require state-registered security dealers and investment advisers to transmit once every 2 years a copy of the department's intangible tax brochure to certain clients; amending s. 199.282, F.S.; increasing penalties and interest for intangible taxes due; requiring a person applying upon initial application or annual renewal for homestead exemption to certify in writing whether such person is required to file an annual intangible tax return in this state; providing a penalty; amending ss. 201.17, 203.01, 203.06, F.S., relating to the documentary stamp tax and the gross receipts tax on utility services, to increase the interest and penalties on those taxes due; amending ss. 206.06, 206.08, 206.09, 206.44, 206.87, 207.007, 211.076, 211.33, F.S., relating to motor and special fuel taxes, motor and special fuel use tax, and the severance tax, to increase the interest and penalties on those taxes due; amending s. 212.03, F.S.; requiring condominium associations or other persons responsible for the rental of condominium units to annually submit to the department certain information on rental units; providing a penalty; amending ss. 212.04, 212.085, F.S.; providing for increases in penalties on sales and use taxes due; amending s. 212.12, F.S.; providing for increases in interest and penalties on sales and use taxes due; amending s. 212.18, F.S.; providing that a state or local agency, board, or commission may not issue a license to any person engaged in any business without first ensuring that such person possesses a valid state sales tax registration certificate; providing an additional registration fee under certain circumstances; amending s. 213.051, F.S.; authorizing the department to issue subpoenas or subpoenas duces tecum under certain circumstances; amending s. 213.29, F.S.; increasing the penalty for failure to collect certain taxes; amending s. 213.30, F.S.; providing for compensation by the department to persons who provide information regarding a taxpayer not in compliance with registration requirements; creating s. 213.36, F.S.; requiring in-state manufacturer's or distributor's representatives to register annually with the department; providing definitions; requiring representatives to submit annually a current list of their clients and certain information to the department; providing a penalty; creating s. 213.50, F.S.; providing for the revocation of a corporate charter under certain circumstances; prohibiting the Division of Corporations of the Department of State from issuing or reinstating a corporate charter under certain circumstances; creating s. 213.67, F.S.; authorizing the Department of Revenue to garnish property under certain circumstances; creating s. 213.69, F.S.; authorizing the department, upon final determination of unpaid taxes, to issue warrants for unpaid taxes; creating s. 213.70, F.S.; authorizing the department to require persons who are registered to submit certain state taxes to place them in escrow; creating s. 213.71, F.S.; providing that a person may not be issued a license to practice any profession regulated by the Department of Professional Regulation if that person has an outstanding tax warrant that has existed for a specified period of time; amending ss. 220.181, 220.211, 220.801, 220.803, 220.901, F.S.; increasing penalties for corporate income taxes due; amending s. 895.02, F.S., providing additional definitions for the term "racketeering activity" as used in the Florida RICO (Racketeer Influenced and Corrupt Organization) Act; authorizing the Department of Revenue to adopt emergency rules; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for the exemption to be subject to the Open Government Sunset Review Act; restricting use of such information; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the department; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration of that requirement; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions that were provided in an appropriations act; amending s. 213.053, F.S.; authorizing the department to provide certain information to eligible participants in the Registration Information Sharing and Exchange Program; providing appropriations; establishing positions; providing for pilot projects to improve the collection and enforcement of taxes; providing applicability of increased penalty and interest provisions; providing appropriations; providing effective dates.

By the Committee on Corrections, Probation and Parole; and Senator Burt—

CS for SB 72-H—A bill to be entitled An act relating to correctional education; amending s. 242.68, F.S.; expanding the contract monitoring functions of the Board of Correctional Education; expanding and setting priorities for the goals of correctional education; eliminating the appointment process and designation of the education program manager; expanding the responsibility of the Director of Correctional Education for the solicitation of entitlement funds and private donations; requiring the adoption of certain rules; mandating certain contract education services if such services are more cost-effective, cost-efficient or timely; providing an effective date.

By the Committees on Finance, Taxation and Claims; Community Affairs; and Senators Kirkpatrick, Forman, Kurth, Thomas, Davis, Margolis, Gardner, Jennings, Beard, Grant, Malchon, Weinstock, Weinslein, Gordon, Dantzer and Jenne—

CS for CS for SB 94-H—A bill to be entitled An act relating to affordable housing; providing a short title; amending s. 201.02, F.S.; increasing the excise tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; revising the distribution of excise taxes on documents; allocating a portion of the excise tax on documents to the State Housing Trust Fund and to the Local Government Housing Trust Fund; providing for the use of moneys deposited in those trust funds; amending s. 240.5111, F.S.; requiring the Multidisciplinary Center for Affordable Housing to establish a research agenda in cooperation with the Department of Community Affairs; amending s. 420.0001, F.S.; revising the short title of the State Housing Incentive Partnership Act of 1988; amending s. 420.0002, F.S.; revising the legislative findings; amending s. 420.0005, F.S.; providing that funds from the State Housing Trust Fund may be used to administer housing programs; amending s. 420.306, F.S.; revising and providing definitions for the Housing Predevelopment and Elderly Homeowner Rehabilitation Assistance Act; amending s. 420.307, F.S.; revising provisions relating to administration of the Housing Predevelopment Trust Fund and providing for availability of funds; amending s. 420.308, F.S.; revising provisions relating to authorized loans and grants made from the trust fund and activities eligible for support; amending s. 420.309, F.S.; revising application procedures for receipt of funds; requiring notice and establishment of a review committee and scoring system; amending s. 420.31, F.S.; revising provisions relating to rules and annual reports; amending s. 420.32, F.S.; revising provisions relating to default on a loan; providing for deposit of funds; creating s. 420.36, F.S.; creating the Low-income Emergency Home Repair Program; providing eligibility, allowable expenses, fund distribution, and departmental powers; creating s. 420.37, F.S.; providing additional powers of the Florida Housing Finance Agency; amending s. 420.503, F.S.; providing additional definitions under the Florida Housing Finance Agency Act; amending s. 420.507, F.S.; revising powers of the agency with respect to loans under the Florida Homeownership Assistance Program and the State Apartment Incentive Loan Program; amending s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program; amending provisions relating to eligibility for loans; amending provisions relating to allocation of loans; transferring certain duties of the Department of Community Affairs to the Florida Housing Finance Agency; amending s. 420.5088, F.S.; amending provisions relating to the Florida Homeownership Assistance Program; amending requirements with respect to mortgage loans; providing requirements with respect to construction loans; providing for allocation of program funds; providing for transfer of moneys to the Florida Homeownership Assistance Trust Fund; creating s. 420.5089, F.S.; creating the HOME Partnership Program and establishing a trust fund; providing for loans based on competitive selection; providing for pilot programs; providing for eligible activities; providing for a review committee; providing for approval and determination of loans; providing agency powers; providing for the deposit of funds; creating s. 420.5091, F.S.; providing for rules to implement the HOPE Program; providing for the acquisition of property; creating s. 420.5092, F.S.; creating the Florida Affordable Housing Guarantee Program and authorizing agency action; providing purposes; providing definitions; providing for funding; providing for establishing rates and fees for guarantees; providing for the issuance of revenue bonds; providing a specified maximum amount of such bonds; providing for an annual audit; providing for a feasibility study; amending s. 420.601, F.S.; revising the short title; amending s. 420.6015, F.S.; revising the legislative findings; amending s. 420.606, F.S.; requiring the Department of Community Affairs to provide technical support for the implementation of the State Housing Initiatives Partnership Program; amending s. 420.6075, F.S.; requiring the Department

of Community Affairs to participate in establishing an annual research agenda for the Multidisciplinary Center for Affordable Housing; amending s. 420.609, F.S.; requiring the Affordable Housing Study Commission to make recommendations regarding an annual research agenda for the Multidisciplinary Center for Affordable Housing; creating ss. 420.907, 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9078, 420.9079, F.S.; providing a short title; providing definitions relating to affordable housing; establishing the State Housing Initiatives Partnership Program; providing legislative findings and intent; providing for administration of the program and for rules; providing approval procedures and requirements; providing for the distribution and use of funds; providing criteria for the issuance of revenue bonds by local governments; establishing criteria and administrative procedures for local housing assistance programs adopted by local governments; requiring a report; requiring reporting of violations to the Office of the Governor and the Auditor General; requiring adoption of affordable housing incentive plans; providing for affordable housing advisory committees; providing for state administration of remaining local housing distribution funds; providing for notice of the availability of funds; creating the Local Government Housing Trust Fund; providing for the distribution of moneys from the trust fund; transferring the program functions of the Housing Predevelopment Trust Fund to the Florida Housing Finance Agency; providing that each county that has implemented ch. 83-220, Laws of Florida, as amended, shall not be subject to section 2 of the act and shall be eligible for certain programs on a limited basis; amending s. 1, ch. 83-220, Laws of Florida, as amended; appropriating moneys from the Land Acquisition Trust Fund to fund the debt service on the Preservation 2000 bonds; providing appropriations from the Local Government Housing Trust Fund and from the State Housing Trust Fund to fund housing programs; repealing ss. 420.603, 420.604, 420.605, F.S., relating to the Florida Affordable Housing Trust Fund, the Florida Affordable Housing Demonstration Program, and the Affordable Housing Loan Program; repealing ss. 420.801, 420.802, 420.803, 420.804, 420.805, 420.806, 420.808, 420.809, 420.810, 420.811, 420.812, 420.813, F.S., relating to the Pocket of Poverty Programs; repealing ss. 420.901, 420.902, 420.903, 420.904, 420.905, 420.906, F.S., the Maintenance of Housing for the Elderly Act of 1988; providing a severability clause; providing effective dates.

By the Committee on Transportation and Senators Forman and Jennings—

CS for SB 110-H—A bill to be entitled An act relating to transportation; amending s. 316.1001, F.S., relating to a prohibition against using a toll facility without paying the toll; providing for the assessment of a fine against any person who fails to pay a prescribed toll; providing for the designation of "toll enforcement officers" and for their training and qualifications; providing for the issuance of tickets by such officers and for the contents of such tickets; providing that the owner of a vehicle used to violate the section is liable for that violation; providing for the amount of fines assessed for violations of the section and for the distribution of the proceeds of such fines; authorizing the issuance of a uniform traffic citation to a vehicle owner who does not respond; providing for the admissibility into evidence of photographic evidence to enforce the section; authorizing a governmental entity to supply the department with a magnetically encoded tape or cartridge listing persons with three or more outstanding violations of the section; amending s. 318.18, F.S., to conform; amending s. 320.03, F.S., to conform; amending s. 316.660, F.S.; providing for the collection and distribution of fines assessed pursuant to the section; amending s. 316.2952, F.S.; authorizing an additional windshield attachment; amending s. 318.14, F.S., exempting a citation issued pursuant to the section from having to be signed; providing an effective date.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 150-H which he approved on June 2, 1992.

ROLL CALLS ON SENATE BILLS

CS for SB 8-H

Yeas—35

Madam President	Bruner	Childers	Davis
Bankhead	Burt	Crenshaw	Diaz-Balart
Beard	Casas	Dantzler	Dudley

Forman	Johnson	McKay	Thurman
Gardner	Kirkpatrick	Meek	Weinstein
Grant	Kiser	Myers	Weinstock
Grizzle	Kurth	Plummer	Wexler
Jenne	Langley	Souto	Yancey
Jennings	Malchon	Thomas	

Nays—None

SB 18-H

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Grant	McKay	Wexler
Childers	Grizzle	Meek	Yancey
Crenshaw	Jenne	Myers	
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

SB 20-H

Yeas—35

Madam President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Gardner	Langley	Weinstein
Casas	Grant	Malchon	Weinstock
Childers	Grizzle	McKay	Wexler
Crenshaw	Jenne	Meek	Yancey
Dantzler	Jennings	Myers	

Nays—None

SB 22-H

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Grant	McKay	Wexler
Childers	Grizzle	Meek	Yancey
Crenshaw	Jenne	Myers	
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

SB 44-H

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Grant	McKay	Wexler
Childers	Grizzle	Meek	Yancey
Crenshaw	Jenne	Myers	
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

CS for SB 58-H

Yeas—34

Madam President	Diaz-Balart	Kirkpatrick
Beard	Dudley	Kiser
Bruner	Forman	Kurth
Burt	Gardner	Langley
Casas	Girardeau	Malchon
Childers	Grant	McKay
Crenshaw	Grizzle	Myers
Dantzler	Jenne	Plummer
Davis	Jennings	Scott

Nays—2

Bankhead Johnson

SB 74-H

Yeas—36

Madam President	Davis	Johnson	Plummer
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Bruner	Forman	Kurth	Thomas
Burt	Gardner	Langley	Thurman
Casas	Grant	Malchon	Weinstein
Childers	Grizzle	McKay	Weinstock
Crenshaw	Jenne	Meek	Wexler
Dantzler	Jennings	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Girardeau

SB 76-H

Yeas—36

Madam President	Davis	Jennings	Myers
Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Scott
Bruner	Forman	Kiser	Souto
Burt	Gardner	Kurth	Thomas
Casas	Girardeau	Langley	Thurman
Childers	Grant	Malchon	Weinstock
Crenshaw	Grizzle	McKay	Wexler
Dantzler	Jenne	Meek	Yancey

Nays—None

Vote after roll call:

Yea—Weinstein

SB 84-H

Yeas—28

Madam President	Diaz-Balart	Jenne	Myers
Beard	Dudley	Johnson	Thomas
Casas	Forman	Kirkpatrick	Thurman
Childers	Gardner	Kurth	Weinstein
Crenshaw	Girardeau	Malchon	Weinstock
Dantzler	Grant	McKay	Wexler
Davis	Grizzle	Meek	Yancey

Nays—8

Bankhead	Burt	Kiser	Plummer
Bruner	Jennings	Langley	Souto

SB 156-H

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Weinstein
Burt	Girardeau	Malchon	Weinstock
Casas	Grant	McKay	Wexler
Childers	Grizzle	Meek	Yancey
Crenshaw	Jenne	Myers	
Dantzler	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—None

ROLL CALL ON LOCAL BILLS

The following roll call was taken on **Senate Bills 4-H, 16-H, 28-H, 104-H and 124-H** which passed this day:

Yeas—34

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Burt	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	
Dantzler	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Yancey

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 2 was corrected and approved.

CO-SPONSORS

Senators Dantzler, Jenne—CS for SB 94-H; Senator McKay—SB 106-H

RECESS

On motion by Senator Thomas, the Senate recessed at 10:12 a.m. for the purpose of holding committee meetings and conducting other Senate business until 2:00 p.m., Wednesday, June 10 or upon call of the President.