Journal of the Senate

Number 20 **Thursday, May 4, 1995**

CALL TO ORDER

The Senate was called to order by the President at 10:00 a.m. A quorum present—40:

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Excused: Senators Diaz-Balart, Beard, Dantzler, Casas, Childers, Hargrett, Harris, Dudley, Horne, Jenne, Kirkpatrick, Sullivan, Williams, Myers, Bankhead, Gutman, Kurth, Ostalkiewicz, Thomas, Crist, Burt, Jones, Latvala, Silver and Weinstein, periodically for the purpose of working on Appropriations

PRAYER

The following prayer was offered by the Rev. Randy Ray, Pastor, Temple Baptist Church, Tallahassee:

Dear Father, on this day that we are celebrating as the "National Day of Prayer", I pray, Lord, that more than ever, those who are involved in positions of influence and decision making will see the importance of seeking your face.

Lord, we ask you on this day to superintend the actions of this Senate and to guide the thoughts and conversations. Lord, in every way, grant wisdom to these ladies and gentlemen who serve in this body. And now we commit this day to you and thank you for the opportunity of it. In the name of Christ, I pray. Amen.

PLEDGE

Senate Pages, Susan Bailey of Lakeland and Megan Kilduff of Vero Beach, led the Senate in the pledge of allegiance to the flag of the United States of America.

CONSIDERATION OF RESOLUTIONS

On motion by Senator Harris, by two-thirds vote **SR 886** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Harris—

SR 886—A resolution recognizing October 1995 as Breast Cancer Awareness Month.

WHEREAS, Florida has the third highest incidence of and death rates for cancer in the United States, and

WHEREAS, of the 182,000 women in the United States that are projected to be diagnosed with breast cancer during 1995, 11,800 are expected to be residents of Florida, and

WHEREAS, of the women in Florida who will learn they have breast cancer, 2,900 are expected to die in 1995, and

WHEREAS, there are nearly 150,000 women alive today who are able to celebrate their victory over this disease, and

WHEREAS, the National Association of Breast Cancer Organizations has designated October as Breast Cancer Awareness Month across the nation, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate recognizes October 1995 as Breast Cancer Awareness Month in Florida and urges all women to become aware of the risks associated with breast cancer and take preventive steps to minimize those risks and engage in early-detection methods such as mammography.

—was taken up out of order and read the second time in full. On motion by Senator Harris, **SR 886** was adopted.

On motion by Senator Johnson, the rules were waived and—

By Senators Johnson, Williams, Kirkpatrick and Bankhead—

SR 3078—A resolution commending the Ocala Vanguard High School academic team for representing the State of Florida at the National Academic Championship at Marymount University in Arlington, Virginia.

WHEREAS, the Vanguard High School academic team has been the most successful team in the state for the last 2 years, having won several prestigious championship tournaments, and

WHEREAS, Vanguard High School hosted the Vanguard Invitational Tournament for Academic Excellence (VITAE) on February 25, 1995, attended by 48 schools from Florida and Georgia, the largest tournament of its kind in the state, and

WHEREAS, the National Academic Association has established the "Academic Challenge" on a regional level and the "National Academic Championship" on the national level, which is the largest annual gathering of National Merit Scholars, and

WHEREAS, through all its many achievements, the team has brought national honor and recognition to Vanguard High School and the State of Florida, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Vanguard High School Academic Team, and its teachers and coaches are commended for their outstanding accomplishments in bringing Vanguard High School to the National Academic Championships.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the Vanguard High School Academic Team as a tangible token of the sentiments of the Florida Senate.

—was introduced out of order and read by title. On motion by Senator Johnson, **SR 3078** was read the second time in full and adopted.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Jennings, by two-thirds vote **SB 684, CS for SB's 2944 and 2206** and **CS for HB 1173** were removed from the Special Order Calendar.

On motion by Senator Jennings, by two-thirds vote **SB 2986** and **HB 2393** were withdrawn from the Committee on Ways and Means; **SB 3032** was withdrawn from the Committees on Transportation; and Ways and Means; **SB 3034** was withdrawn from the Committees on Community Affairs; and Ways and Means; and **HB 1367** was withdrawn from the Committee on Transportation.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 202, SB 264, CS for SB 278, SB 352, SB 660, SB 684, CS for SB 826, CS for SB 1422, SB 1430, SB 1488, CS for SB 1546, SB 1736, CS**

for SB 2232, SB 2270, SB 2306, CS for SB 2486, SB 2492, SB 2578, SB 2626, CS for SB 2728, SB 2778, SB 2860, SB 2916, SB 2988, CS for HB 455, HB 475, CS for HB 481, HB 597, HB 1143, CS for HB 1397, CS for SB 2074 and **SB 2250** were withdrawn from the Committee on Ways and Means.

On motion by Senator Jennings, by two-thirds vote **SB 1558** and **CS for SB's 2944 and 2206** were withdrawn from the Committee on Community Affairs.

On motion by Senator Diaz-Balart, by two-thirds vote **CS for SB 70, CS for SB 200, SB 1056, SB 1060, SB 1346, SB 1558, SB 1596, SB 1764, SB 1882, SB 2258, CS for SB's 2906 and 1950, SB 2908, CS for SB's 2944 and 2206, CS for SB 1610, SB 790,** and **CS for SB 714** were withdrawn from the Committee on Ways and Means.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 506** and **HB 1003** were withdrawn from the Committee on Ways and Means.

MOTION

On motion by Senator Jennings, the rules were waived and by two-thirds vote **CS for CS for HB's 461 and 1885, CS for HB 687, CS for HB 2533, CS for SB 956, CS for SB 2622, SB 1660, CS for SB 1006** and **CS for SB 1372** were placed on the Special Order Calendar to be considered following **HB 271**.

MATTERS ON RECONSIDERATION

The Senate resumed consideration of—

CS for SB 2858—A bill to be entitled An act relating to the administration of insurance premium taxes collected for the purposes of the municipal firefighters' pension trust funds and the municipal police officers' pension trust funds under chs. 175, 185, F.S., amending ss. 175.111, 175.121, 175.341, 175.401, 185.07, 185.10, 185.23, 185.50, 633.382, F.S.; transferring the authority to administer the insurance premium taxes collected under chs. 175, 185, F.S., from the Insurance Commissioner and Treasurer and the Department of Insurance to the Division of Retirement of the Department of Management Services; providing for deposit of these moneys and for other matters related to the transfer; providing for investment by the State Board of Administration; providing for payment of administrative costs of the Division of Retirement, and the State Board of Administration from interest and investment income; providing for annual reversion of unexpended and unallocated interest and investment earnings to the General Revenue Fund; correcting a scrivener's error, pertaining to the percentage of the excise tax imposed on casualty insurance premiums, in s. 185.07, F.S.; amending s. 215.20, F.S.; including the Police and Firefighters' Premium Tax Trust Fund among the trust funds subject to deductions for the cost of general government; providing for the transfer of certain moneys in the Insurance Commissioner's Regulatory Trust Fund to the Police and Firefighters' Premium Tax Trust Fund; providing that interests and penalties shall not be imposed, under ch. 624, F.S., upon group pooling self-insurance funds for a specified year, under specified circumstances; providing an effective date.

—which had been reconsidered as amended May 3.

On motion by Senator Thomas, **CS for SB 2858** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40 Nays—None

SPECIAL ORDER

On motion by Senator Grant, by two-thirds vote **CS for HB 2619** was withdrawn from the Committees on Banking and Insurance; and Ways and Means.

On motion by Senator Grant—

CS for HB 2619—A bill to be entitled An act relating to insurance; amending s. 215.555, F.S.; providing definitions; revising provisions relating to reimbursement contracts and premiums of the Florida Hurricane Catastrophe Fund; specifying powers and duties of the State Board of Administration; providing that violations of certain rules constitute violations of the Insurance Code; specifying applicability; amending s. 624.424, F.S.; requiring reports; amending s. 626.752, F.S.; providing an exception to exchange of business reporting requirements; amending s. 627.062, F.S.; providing for recoupment of Florida Hurricane Catastrophe Fund premium; creating s. 627.0626, F.S.; requiring separate calculation, reporting, and notice of wind premium; creating s. 627.0628, F.S.; creating the Florida Commission on Hurricane Loss Projection Methodology; providing legislative findings and intent; specifying membership, terms, powers, and duties, providing for per diem, travel, and staff support; requiring the commission to review actuarial methods, principles, standards, models, and output ranges; specifying effect of approval by the commission; amending s. 627.0629, F.S.; revising provisions relating to building code standards and enforcement; authorizing appointment of a windstorm loss mitigation committee to provide advice to the Department of Insurance; creating s. 627.4025, F.S.; defining "residential coverage"; amending s. 627.351, F.S.; revising provisions relating to the windstorm insurance risk apportionment plan, the Florida Property and Casualty Joint Underwriting Association, and the Residential Property and Casualty Joint Underwriting Association; specifying underwriting standards and limits; removing provisions relating to immediate activation of the Florida Property and Casualty Joint Underwriting Association; providing immunities; specifying scope of the Residential Property and Casualty Joint Underwriting Association; providing for apportionment of losses and expenses; providing for servicing of association policies; specifying policy forms that may be offered; revising provisions relating to the eligibility of particular risks for coverage; requiring the association to seek reinsurance coverage; providing for renewal surcharges; providing for lines of credit; providing rate standards; providing for rate filings; specifying revenues to be pledged to retire bonds; revising provision requiring credits against assessment; removing exemption from the insurance premium tax; transferring obligations, rights, assets, and liabilities of the Florida Property and Casualty Joint Underwriting Association to the Residential Property and Casualty Joint Underwriting Association; creating s. 627.3511, F.S.; providing for depopulation of the Residential Property and Casualty Joint Underwriting Association; providing legislative findings and intent; providing for bonuses, credits, and exemptions for insurers and agents with respect to risks removed from the association; specifying applicability; creating s. 627.3512, F.S.; providing for recoupment of residual market deficit assessments; amending s. 627.3515, F.S.; revising provisions relating to structure, duties, governance, and funding of the market assistance plan; amending s. 627.701, F.S.; restricting deductible provisions relating to wind coverage; requiring offer of certain deductibles; amending s. 627.7013, F.S.; specifying cancellations and nonrenewals subject to moratorium phaseout provisions; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 3018** and read the second time by title.

Senator Grant moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Paragraphs (b), (c), and (d) of subsection (2), subsection (3), paragraphs (b), (c), and (d) of subsection (4), paragraphs (b) and (c) of subsection (5), and subsection (10) of section 215.555, Florida Statutes, 1994 Supplement, as amended by chapter 95-1, Laws of Florida, are amended, paragraph (g) is added to subsection (1), paragraphs (e) and (f) are added to subsection (2), paragraph (g) is added to subsection (4), and paragraphs (d) and (e) are added to subsection (7) of said section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(1) FINDINGS AND PURPOSE.—

(g) Hurricane Andrew, which caused insured and uninsured losses in excess of $20 billion, will likely not be the last major windstorm to strike Florida. Recognizing that a future wind catastrophe could cause damages in excess of $60 billion, especially if a major urban area or series of urban areas were hit, it is the intent of the Legislature to balance equitably its concerns about mitigation of hurricane impact, insurance affordability and availability, and the risk of insurer and joint underwriting association insolvency, as well as assessment and bonding limitations.

(2) DEFINITIONS.—As used in this section:

(b) "Covered event" means any one *storm declared to be a hurricane by the National Hurricane Center, which storm causes insured losses in this state* ~~or more storms that make landfall in Florida in 1 calendar year which are declared to be hurricanes by the National Hurricane Center~~.

(c) "Covered policy" means any ~~personal lines or commercial property~~ insurance policy covering *residential* property in this state, including, but not limited to, any homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, *tenant's, or apartment building* ~~or commercial multiperil~~ policy, or any other policy covering a residential ~~or commercial~~ structure or its contents issued by any authorized insurer, including any joint underwriting association *or similar entity created pursuant to law*. "Covered policy" does not include *any policy that excludes wind coverage or* any reinsurance agreement.

(d) "Losses" means direct incurred losses *under covered policies, excluding losses attributable to additional living expense coverages* and *excluding* loss adjustment expenses.

(e) "Retention" means the amount of losses below which an insurer is not entitled to reimbursement from the fund. An insurer's retention shall be calculated as follows:

1. The board shall calculate and report to each insurer the retention multiples for that year. For the contract year beginning June 1, 1995, the retention multiple shall be equal to $3 billion divided by the total estimated reimbursement premium for the contract year; for subsequent years, the retention multiple shall be equal to $3 billion, adjusted to reflect the percentage growth in premium for covered policies since 1995, divided by the total estimated reimbursement premium for the contract year.

2. The retention multiple as determined under subparagraph 1. shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under subparagraph 1. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under subparagraph 1. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under subparagraph 1.

3. An insurer shall determine its provisional retention by multiplying its provisional reimbursement premium by the applicable adjusted retention multiple, and shall determine its actual retention by multiplying its actual reimbursement premium by the applicable adjusted retention multiple.

(f) "Workers' compensation" includes both workers' compensation and excess workers' compensation insurance.

(3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.—There is created the Florida Hurricane Catastrophe Fund to be administered by the State Board of Administration. Moneys in the fund may not be expended, loaned, or appropriated except to pay obligations of the fund arising out of reimbursement contracts entered into under subsection (4), payment of debts including obligations arising out of revenue bonds issued under subsection (6), costs of the mitigation program under subsection (7), costs of procuring reinsurance, and costs of administration of the fund. The board shall invest the moneys in the fund pursuant to ss. 215.44-215.52. Except as otherwise provided in this section, earnings from all investments shall be retained in the fund. The board may employ or contract with such staff and professionals as the board deems necessary for the administration of the fund. The board may adopt *such rules as are reasonable and necessary to implement this section. Such rules must conform to the Legislature's specific intent in establishing the fund as expressed in subsection (1), must enhance the fund's potential ability to respond to claims for covered events, must contain general provisions so that the rules can be applied with reasonable flexibility so as to accommodate insurers in situations of an unusual nature or where undue hardship may result, except that such flexibility may not in any way impair, override, supersede, or constrain the public purpose of the fund, and must be consistent with sound insurance practices* ~~rules to implement this section~~.

(4) REIMBURSEMENT CONTRACTS.—

(b)*1.* The contract shall contain a promise by the board to reimburse the insurer for *45 percent,* 75 percent, *or 90 percent* of its losses from *each covered event* ~~covered events~~ in excess of *the insurer's retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses* ~~2 times the insurer's gross direct written premium from covered policies for the prior year, except that with respect to an insurer having surplus as to policyholders in the amount of $15 million or less as of December 31 of the year preceding the covered event, the contract shall contain a promise to reimburse the insurer for 75 percent of its losses from covered events in excess of 1.5 times the insurer's gross direct written premium from covered policies for the prior year~~.

2. The insurer must elect one of the payment percentages specified in this paragraph and may, upon renewal of a reimbursement contract, elect a lower payment percentage if no revenue bonds issued under paragraph (6)(a) after a covered event are outstanding, or elect a higher repayment percentage if it pays to the fund an actuarially appropriate equalization charge as determined by the board. All members of an insurer group must elect the same percentage. Any joint underwriting association or assigned risk plan under s. 627.351 must elect the 90-percent coverage level.

3. The contract shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources; however, recoveries from such other sources, taken together with reimbursements under the contract, may not exceed 100 percent of the insurer's losses from covered events. *If such recoveries and reimbursements exceed 100 percent of the insurer's losses from covered events, and if there is no agreement between the insurer and the reinsurer to the contrary, any amount in excess of 100 percent of the insurer's losses shall be returned to the fund.*

(c) The contract shall also provide that the obligation of the board with respect to all contracts covering a particular year shall not exceed the *current balance of* ~~moneys in~~ the fund, together with the maximum amount that the board is able to raise through the issuance of revenue bonds under subsection (6). The contract shall require the board to annually notify insurers of the fund's anticipated borrowing capacity for the next year, *the current balance of the fund, and the insurer's estimated share of total reimbursement premium to be paid to the fund. For all regulatory and reinsurance purposes, an insurer may calculate its projected payout from the fund as its share of the total fund premium multiplied by the sum of current fund balance and bonding capacity as reported under this paragraph. In May and October of each year, the board shall publish in the Florida Administrative Weekly a statement of the fund's anticipated borrowing capacity and the current balance of the fund.*

(d)*1.* The contract shall require the insurer to report to the board on December 31 of each year, and quarterly thereafter, its losses from covered events for the year. The contract shall require the board to determine and pay, as soon as practicable after receiving these reports, the initial amount of reimbursement due and adjustments to this amount based on later loss information. The adjustments to reimbursement amounts shall require the board to pay, or the insurer to return, amounts reflecting the most recent calculation of losses.

2. If the board determines that the *current balance* ~~assets~~ of the fund, together with the amount that the board determines that it is possible to raise through revenue bonds issued under subsection (6), are insufficient to pay reimbursement to all insurers at the level promised in the contract, the board shall:

a. First reimburse insurers writing covered policies, which insurers are in full compliance with this section and have petitioned the Department of Insurance and qualified as limited apportionment companies under s. 627.351(2)(b)3. The amount of such reimbursement shall be the lesser of $10 million or an amount equal to 10 times the insurer's reimbursement premium for the current year. The amount of reimbursement paid under this sub-subparagraph may not exceed the full amount of reimbursement promised in the reimbursement contract. This sub-subparagraph does not apply with respect to any contract year in which the year-end projected cash balance of the fund, exclusive of any bonding capacity of the fund, exceeds $2 billion. Only one member of any insurer group may receive reimbursement under this sub-subparagraph.

b. Next pay to each insurer the amount of reimbursement it is owed, up to an amount equal to the projected payout determined under paragraph (c).

c. Thereafter, establish the *prorated* reimbursement level at the highest level for which *any remaining fund balance or bond proceeds* ~~such assets and borrowing capacity~~ are sufficient.

(g) The contract shall provide that in the event of the insolvency of an insurer, the fund shall pay directly to the Florida Insurance Guaranty Association for the benefit of Florida policyholders of the insurer the net amount of all reimbursement moneys owed to the insurer. As

used in this paragraph, the "net amount of all reimbursement moneys" means that amount which remains after reimbursement for preliminary or duplicate payments owed to private reinsurers or other inuring reinsurance payments to private reinsurers that satisfy statutory or contractual obligations of the insolvent insurer attributable to covered events to such reinsurers. Such private reinsurers shall be reimbursed or otherwise paid prior to payment to the Florida Insurance Guaranty Association, notwithstanding any law to the contrary. The guaranty association shall pay all claims up to the maximum amount permitted by chapter 631; thereafter, any remaining moneys shall be paid pro rata to claims not fully satisfied.

(5) REIMBURSEMENT PREMIUMS.—

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code *or other limited geographical area*, the amount of premium to be paid by an insurer for each $1,000 of insured value under covered policies in that zip code *or other area. In establishing premiums, the board shall consider the coverage elected under paragraph (4)(b) and any factors that tend to enhance the actuarial sophistication of ratemaking for the fund, including deductibles, type of construction, type of coverage provided, relative concentration of risks, and other such factors deemed by the board to be appropriate.* The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

(c) No later than *September* ~~April~~ 1 of each year, each insurer shall notify the board of its insured values under covered policies by zip code, as of *June 30* ~~December 31~~ of *that* ~~the previous~~ year. On the basis of these reports, the board shall calculate the premium due from the insurer, based on the formula adopted under paragraph (b). The insurer shall pay the required annual premium pursuant to a periodic payment plan specified in the contract. *The board shall provide for payment of reimbursement premium in periodic installments and for the adjustment of provisional premium installments collected prior to submission of the exposure report to reflect data in the exposure report.*

(7) ADDITIONAL POWERS AND DUTIES.—

(d) The board may allow insurers to comply with reporting requirements and reporting format requirements by using alternative methods of reporting if the proper administration of the fund is not thereby impaired and if the alternative methods produce data which is consistent with the purposes of this section.

(e) In order to assure the equitable operation of the fund, the board may impose a reasonable fee on an insurer to recover costs involved in reprocessing inaccurate, incomplete, or untimely exposure data submitted by the insurer.

(10) VIOLATIONS.—Any violation of this section *or of rules adopted under this section* constitutes a violation of the Insurance Code.

Section 2. *The amendments to s. 215.555, Florida Statutes, contained in this act shall first apply to reimbursement contracts entered into in 1995. Nothing in this act is intended to change the tax-exempt status of the Florida Hurricane Catastrophe Fund, as effectuated through enactment of Chapter 95-1, Laws of Florida.*

Section 3. Effective January 1, 1996, subsection (10) is added to section 624.424, Florida Statutes, 1994 Supplement, to read:

624.424 Annual statement and other information.—

(10) Each insurer or insurer group doing business in this state shall file on a quarterly basis in conjunction with financial reports required by paragraph (1)(a) a supplemental report on an individual and group basis on a form prescribed by the department with information on personal lines and commercial lines residential property insurance policies in this state. The supplemental report shall include separate information for personal lines property policies and for commercial lines property policies and totals for each item specified, including premiums written for each of the property lines of business as described in ss. 215.555(2)(c) and 627.351(6)(a). The report shall include the following information for each county on a monthly basis:

(a) Total number of policies in force at the end of each month.

(b) Total number of policies canceled.

(c) Total number of policies nonrenewed.

(d) Number of policies canceled due to hurricane risk.

(e) Number of policies nonrenewed due to hurricane risk.

(f) Number of new policies written.

(g) Total dollar value of structure exposure under policies that include wind coverage.

(h) Number of policies that exclude wind coverage.

Section 4. Subsection (5) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than 24 personal lines risks during the calendar year, *except for risks being removed from the Residential Property and Casualty Joint Underwriting Association and placed with that insurer through the Market Assistance Plan by a brokering agent.* Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 shall be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee.

Section 5. Subsection (5) is added to section 627.062, Florida Statutes, to read:

627.062 Rate standards.—

(5) With respect to a rate filing involving coverage of the type for which the insurer is required to pay a reimbursement premium to the Florida Hurricane Catastrophe Fund, the insurer may recoup the actual amount of reimbursement premium by including in the insurer's rate filing an allowance for the reimbursement premium charged by the Florida Hurricane Catastrophe Fund. In the filing, the insurer must adjust its rates to remove that portion of the rates attributable to catastrophe losses expected to be covered by the Florida Hurricane Catastrophe Fund. In determining what portion of a rate is attributable to catastrophes covered by the Florida Hurricane Catastrophe Fund, the projected recovery from the fund shall be calculated according to the formula specified in s. 215.555(4)(c).

Section 6. Section 627.0628, Florida Statutes, is created to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) Reliable projections of hurricane losses are necessary in order to assure that rates for residential property insurance meet the statutory requirement that rates be neither excessive nor inadequate. The ability to accurately project hurricane losses has been enhanced greatly in recent years through the use of computer modeling. It is the public policy of this state to encourage the use of the most sophisticated actuarial methods to assure that consumers are charged lawful rates for residential property insurance coverage.

(b) The Legislature recognizes the need for expert evaluation of computer models and other recently developed or improved actuarial methodologies for projecting hurricane losses, in order to resolve conflicts among actuarial professionals, and in order to provide both immediate and continuing improvement in the sophistication of actuarial methods used to set rates charged to consumers.

(c) It is the intent of the Legislature to create the Florida Commission on Hurricane Loss Projection Methodology as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane losses possible, given the current state of actuarial science. It is the further intent of the Legislature that such standards and guidelines must be used by the State Board of Administration in developing reimbursement premium rates for the Florida Hurricane Catastrophe Fund, and may be used by insurers in rate filings under s. 627.062 unless the way in which such standards and guidelines were applied by the insurer was erroneous, as shown by a preponderance of the evidence.

(d) It is the intent of the Legislature that such standards and guidelines be employed as soon as possible, and that they be subject to continuing review thereafter.

(2) COMMISSION CREATED.—

(a) There is created the Florida Commission on Hurricane Loss Projection Methodology, which is assigned to the State Board of Administration. The commission shall be administratively housed within the State Board of Administration, but it shall independently exercise the powers and duties specified in this section.

(b) The commission shall consist of the following 11 members:

1. The Insurance Consumer Advocate.

2. The Chief Operating Officer of the Florida Hurricane Catastrophe Fund.

3. The Executive Director of the Residential Property and Casualty Joint Underwriting Association.

4. The Director of the Division of Emergency Management of the Department of Community Affairs.

5. The actuary member of the Florida Hurricane Catastrophe Fund Advisory Council.

6. Six members appointed by the Insurance Commissioner, as follows:

a. An employee of the Department of Insurance who is an actuary responsible for property insurance rate filings.

b. An actuary who is employed full time by a property and casualty insurer which was responsible for at least 1 percent of the aggregate statewide direct written premium for homeowner's insurance in the calendar year preceding the member's appointment to the commission.

c. An expert in insurance finance who is a full time member of the faculty of the State University System and who has a background in actuarial science.

d. An expert in statistics who is a full time member of the faculty of the State University System and who has a background in insurance.

e. An expert in computer system design who is a full time member of the faculty of the State University System.

f. An expert in meteorology who is a full time member of the faculty of the State University System and who specializes in hurricanes.

(c) Members designated under subparagraphs (b)1.-5. shall serve on the commission as long as they maintain the respective offices designated in subparagraphs (b)1.-5. Members appointed by the Insurance Commissioner under subparagraph (b)6. shall serve on the commission until the end of the term of office of the Insurance Commissioner who appointed them, unless earlier removed by the Insurance Commissioner for cause. Vacancies on the commission shall be filled in the same manner as the original appointment.

(d) The State Board of Administration shall annually appoint one of the members of the commission to serve as chair.

(e) Members of the commission shall serve without compensation, but shall be reimbursed for per diem and travel expenses pursuant to s. 112.061.

(f) The State Board of Administration shall, as a cost of administration of the Florida Hurricane Catastrophe Fund, provide for travel, expenses, and staff support for the commission.

(g) Initial appointments to the commission shall be made no later than June 15, 1995. The commission shall hold its first meeting on a date designated by the Insurance Commissioner, but no later than July 15, 1995.

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(a) The commission shall consider any actuarial methods, principles, standards, models, or output ranges that have the potential for improving the accuracy of or reliability of the hurricane loss projections used in residential property insurance rate filings. The commission shall, from time to time, adopt findings as to the accuracy or reliability of particular methods, principles, standards, models, or output ranges.

(b) In establishing reimbursement premiums for the Florida Hurricane Catastrophe Fund, the State Board of Administration must, to the extent feasible, employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable.

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable. In reviewing the rate filing, the Department of Insurance must accept the insurer's use of such actuarial methods, principles, standards, models, or output ranges unless the department finds that the way in which such actuarial methods, principles, standards, models, or output ranges were applied by the insurer was erroneous, as shown by a preponderance of the evidence.

(d) The commission shall adopt initial actuarial methods, principles, standards, models, or output ranges no later than December 31, 1995. The commission shall adopt revisions to such actuarial methods, principles, standards, models, or output ranges at least annually thereafter. As soon as possible, but no later than July 1, 1996, the commission shall adopt revised actuarial methods, principles, standards, models, or output ranges which include specification of acceptable computer models or output ranges derived from computer models. As an interim measure, until the commission adopts actuarial methods, principles, standards, models, or output ranges which include specification of acceptable computer models or output ranges derived from computer models, an insurer may use any computer model used by the State Board of Administration in setting reimbursement premiums for the Florida Hurricane Catastrophe Fund, which model shall have the same force and effect under paragraph (c) as a model adopted by the commission.

Section 7. Section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1) Effective July 1, 1994, a rate filing for residential property insurance must include appropriate discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures actuarially demonstrated to reduce the amount of loss in a windstorm have been installed.

(2)*(a)* A rate filing for residential property insurance *made on or before the implementation of paragraph (b)* may include rate factors that reflect the *manner in which building code enforcement in a particular jurisdiction addresses the risk of wind damage* ~~quality of enforcement of the state minimum building code adopted by a particular jurisdiction~~; however, such a rate filing must also provide for variations from such rate factors *on an individual basis* based on ~~the results of~~ an inspection of a particular structure *by a licensed home inspector, which inspection may be at the cost of the insured.*

(b) A rate filing for residential property insurance made more than 150 days after approval by the department of a building code rating factor plan submitted by a statewide rating organization shall include positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses risk of wind damage. The rate filing shall include variations from standard rate factors on an individual basis based on inspection of a particular structure by a licensed home inspector. If an inspection is requested by the insured, the insurer may require the insured to pay the reasonable cost of the inspection. This paragraph applies to structures constructed or renovated after the implementation of this paragraph.

(3) A rate filing made on or after July 1, 1995, for mobile home owner's insurance must include appropriate discounts, credits, or other rate differentials for mobile homes constructed to comply with American Society of Civil Engineers Standard ANSI/ASCE 7-88, adopted by the U. S. Department of Housing and Urban Development on July 13, 1994, and that also comply with all applicable tie-down requirements provided by state law.

~~(3) The department shall adopt by rule a standard hurricane loss exposure model, for use by the department in evaluating catastrophic loss factors in residential property insurance rate filings. The model shall be developed in accordance with accepted actuarial principles and consideration of experience in the insurance industry, scientific studies, forecasts, predictions, models, data of the National Weather Service and other credible independent research organizations, and such other information appropriate to designing a model that will provide reliable predictions of hurricane loss exposures. If an insurer uses a different model or other means for projecting hurricane losses, the department may require the insurer to demonstrate that the model or other means used by the insurer is at least as reliable as the standard model.~~

~~(4) Effective July 1, 1995, a rate filing for residential property insurance must use rating territories composed of whole 9-digit zip code zones.~~

Section 8. Section 627.4025, Florida Statutes, is created to read:

627.4025 Residential coverage defined.—Residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

Section 9. Paragraph (b) of subsection (2) and subsections (5) and (6) of section 627.351, Florida Statutes, 1994 Supplement, are amended to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(b) The department shall require all insurers licensed to transact property insurance on a direct basis in this state to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage. The commissioner shall promulgate rules which provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties.

2.a. All insurers required to be members of such plan shall participate in its writings, expenses, profits, and losses. Such gross participation shall be in the proportion that the net direct premiums of each member written on property in this state during the preceding calendar year bear to the aggregate net direct premiums of all members of the plan written on property in this state during the preceding calendar year. The commissioner, after review of annual statements, other reports, and any other statistics which he deems necessary, shall certify to the plan the aggregate net direct premiums written on property in this state by all members. The plan of operation shall provide that one additional domestic member of the board of directors be elected by the domestic companies of this state on the basis of cumulative weighted voting based on the net written premiums of domestic companies in this state. Any such plan shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment. A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

b. Assessments to pay deficits in the plan under this subparagraph shall be included as an appropriate factor in the making of rates *as provided in s. 627.3512.*

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the plan was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the plan; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d. The total amount of deficit assessments under this subparagraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in this paragraph for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph e. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the plan, for the purpose of defraying deficits of the plan. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252 36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the plan and insurers responsible for apportionment of plan losses. The unit of local government shall enter into such contracts with the plan as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the plan from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer.

3. The plan shall also provide that any member with a surplus as to policyholders of $20 million or less writing 25 percent of its total countrywide property insurance premiums in this state may petition the department, within 90 days of the effective date of chapter 76-96, Laws of Florida, and thereafter within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses in the aggregate which exceeds $50 million after payment of available plan funds in any calendar year. The plan shall provide that, if the department determines that any assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of a member insurer if, in the opinion of the commissioner, payment of the assessment would endanger or impair the solvency of the member insurer. In the event an assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.

5. The plan may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses. *The plan shall provide for windstorm coverage on residential properties in limits up to $10 million for commercial lines residential risks and up to $1 million for personal lines residential risks. If coverage with the association is sought for a residential risk valued in excess of these limits, coverage shall be available to the risk up to the replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above $10 million or a personal lines residential risk with limits above $1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate.*

6. The plan may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, or a nonprofit mutual company which may be empowered, among other things, to borrow money and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is

not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein.

7. On such coverage, an agent's remuneration shall be that amount of money payable to him by the terms of his contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

(5) PROPERTY AND CASUALTY INSURANCE RISK APPORTIONMENT.—The department shall adopt by rule a joint underwriting plan to equitably apportion among insurers authorized in this state to write property insurance as defined in s. 624.604 or casualty insurance as defined in s. 624.605, the underwriting of one or more classes of property insurance or casualty insurance, except for the types of insurance that are included within property insurance or casualty insurance for which an equitable apportionment plan, assigned risk plan, or joint underwriting plan is authorized under s. 627.311 or subsection (1), subsection (2), subsection (3), ~~or~~ subsection (4), *or subsection (6)* of this section and except for risks eligible for flood insurance written through the federal flood insurance program to persons with risks eligible under subparagraph (a)1. and who are in good faith entitled to, but are unable to, obtain such property or casualty insurance coverage, including excess coverage, through the voluntary market. For purposes of this subsection, an adequate level of coverage means that coverage which is required by state law or by responsible or prudent business practices. The Joint Underwriting Association shall not be required to provide coverage for any type of risk for which there are no insurers providing similar coverage in this state. The department may designate one or more participating insurers who agree to provide policyholder and claims service, including the issuance of policies, on behalf of the participating insurers.

(a) The plan shall provide:

1. A means of establishing eligibility of a risk for obtaining insurance through the plan, which provides that:

a. A risk shall be eligible for such property insurance or casualty insurance as is required by Florida law if the insurance is unavailable in the voluntary market, including the market assistance program and the surplus lines market.

b. A commercial risk not eligible under sub-subparagraph a. shall be eligible for property or casualty insurance if:

(I) The insurance is unavailable in the voluntary market, including the market assistance plan and the surplus lines market;

(II) Failure to secure the insurance would substantially impair the ability of the entity to conduct its affairs; and

(III) The risk is not determined by the Risk Underwriting Committee to be uninsurable.

c. In the event the Federal Government terminates the Federal Crime Insurance Program established under 44 C.F.R., ss. 80-83, Florida commercial and residential risks previously insured under the federal program shall be eligible under the plan.

d.(I) In the event a risk is eligible under this paragraph and in the event the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less, for a given class of risk contained in the classification system defined in the plan of operation of the Joint Underwriting Association, and unless the market assistance plan provides a quotation for at least 80 percent of such applicants, such classification shall immediately be eligible for coverage in the Joint Underwriting Association.

(II) As an alternative to the procedure specified in sub-sub-subparagraph (I), a classification is immediately eligible for coverage if the risk is eligible under this paragraph and if the department determines, after consulting with the insurers authorized to write property and casualty insurance in this state, that any class, line, or type of coverage of property or casualty insurance is not available at adequate levels from insurers authorized to transact and actually write that kind and class of insurance in this state or in a particular geographic area. This sub-sub-subparagraph is repealed on July 1, 1996.

(III) Any market assistance plan application which is rejected because an individual risk is so hazardous as to be practically uninsurable, considering whether the likelihood of a loss for such a risk is substantially higher than for other risks of the same class due to individual risk characteristics, prior loss experience, unwillingness to cooperate with a prior insurer, physical characteristics and physical location shall not be included in the minimum percentage calculation provided above. In the event that there is any legal or administrative challenge to a determination by the department that the conditions of this subparagraph have been met for eligibility for coverage in the Joint Underwriting Association for a given classification, any eligible risk may obtain coverage during the pendency of any such challenge.

e. In order to qualify as a quotation for the purpose of meeting the minimum percentage calculation in this subparagraph, the quoted premium must meet the following criteria:

(I) In the case of an admitted carrier, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association or the premium developed by using the rates and rating plans on file with the department by the quoting insurer, whichever is greater.

(II) In the case of an authorized surplus lines insurer, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association by more than 25 percent, after consideration of any individual risk surcharge or credit.

f. Any agent who falsely certifies the unavailability of coverage as provided by sub-subparagraphs a. and b., is subject to the penalties provided in s. 626.611.

~~g.(I) The Legislature finds that the market conditions which this subsection is intended to remedy have arisen with respect to coverage for condominium associations, apartment buildings, common elements of homeowners associations, and other commercial coverages of residences. Therefore, coverage under this subsection is hereby activated for condominium associations, apartment buildings, common elements of homeowners associations, and other commercial coverages of residences. Such coverage shall continue to be provided under this subsection until coverage is deactivated pursuant to sub-sub-subparagraph (II) or sub-sub-subparagraph (III).~~

~~(II) The board shall, at least annually, review the need for coverage under this subsection. Upon recommendation by the board or any other interested party, the department may deactivate coverage if the department finds that the conditions giving rise to activation no longer exist.~~

~~(III) It is the intent of the Legislature that activation of coverage pursuant to sub-sub-subparagraph (I) and the alternative means for activation specified in sub-sub-subparagraph d.(II) be reviewed by the Legislature prior to July 1, 1996. No policies may be written pursuant to sub-sub-subparagraph (I) after July 1, 1996. Sub-sub-subparagraph d.(II) is repealed on July 1, 1996.~~

2. A means for the equitable apportionment of profits or losses and expenses among participating insurers.

3. Rules for the classification of risks and rates which reflect the past and prospective loss experience.

4. A rating plan which reasonably reflects the prior claims experience of the insureds. Such rating plan shall include at least two levels of rates for risks that have favorable loss experience and risks that have unfavorable loss experience, as established by the plan.

5. Reasonable limits to available amounts of insurance. Such limits may not be less than the amounts of insurance required of eligible risks by Florida law.

6. Risk management requirements for insurance where such requirements are reasonable and are expected to reduce losses.

7. Deductibles as may be necessary to meet the needs of insureds.

8. Policy forms which are consistent with the forms in use by the majority of the insurers providing coverage in the voluntary market for the coverage requested by the applicant.

9. A means to remove risks from the plan once such risks no longer meet the eligibility requirements of this paragraph. For this purpose, the plan shall include the following requirements: At each 6-month interval

after the activation of any class of insureds, the board of governors or its designated committee shall review the number of applications to the market assistance plan for that class. If, based on these latest numbers, at least 90 percent of such applications have been provided a quotation, the Joint Underwriting Association shall cease underwriting new applications for such class within 30 days, and notification of this decision shall be sent to the Insurance Commissioner, the major agents' associations, and the board of directors of the market assistance plan. A quotation for the purpose of this subparagraph shall meet the same criteria for a quotation as provided in sub-subparagraph d. All policies which were previously written for that class shall continue in force until their normal expiration date, at which time, subject to the required timely notification of nonrenewal by the Joint Underwriting Association, the insured may then elect to reapply to the Joint Underwriting Association according to the requirements of eligibility. If, upon reapplication, those previously insured Joint Underwriting Association risks meet the eligibility requirements, the Joint Underwriting Association shall provide the coverage requested.

10. A means for providing credits to insurers against any deficit assessment levied pursuant to paragraph (c), for risks voluntarily written through the market assistance plan by such insurers.

11. That the Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors consisting of 13 individuals appointed by the Insurance Commissioner, and shall have an executive or underwriting committee. At least four of the members shall be representatives of insurance trade associations as follows: one member from the American Insurance Association, one member from the Alliance of American Insurers, one member from the National Association of Independent Insurers, and one member from an unaffiliated insurer writing coverage on a national basis. Two representatives shall be from two of the statewide agents' associations. Each board member shall be appointed to serve for 2-year terms beginning on a date designated by the plan and shall serve at the pleasure of the commissioner. Members may be reappointed for subsequent terms.

(b)~~1. With respect to coverage of residential structures, it is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and that the association function as a residual market mechanism to provide insurance only when the insurance is unavailable in the voluntary market. Rates shall include an appropriate catastrophe factor that reflects the actual catastrophic exposure of the association. As soon as the association has developed sufficient loss experience, rates of the association shall be based on the association's actual loss experience and expenses, together with such catastrophe loading factor.~~

~~2. This subparagraph applies to any coverage other than coverage of residential structures.~~ Rates used by the Joint Underwriting Association shall be actuarially sound. To the extent applicable, the rate standards set forth in s. 627.062 shall be considered by the department in establishing rates to be used by the joint underwriting plan. The initial rate level shall be determined using the rates, rules, rating plans, and classifications contained in the most current Insurance Services Office (ISO) filing with the department or the filing of other licensed rating organizations with an additional increment of 25 percent of premium. For any type of coverage or classification which lends itself to manual rating for which Insurance Services Office or another licensed rating organization does not file or publish a rate, the Joint Underwriting Association shall file and use an initial rate based on the average current market rate. The initial rate level for the rate plan shall also be subject to an experience and schedule rating plan which may produce a maximum of 25 percent debits or credits. For any risk which does not lend itself to manual rating and for which no rate has been promulgated under the rate plan, the board shall develop and file with the commissioner, subject to his approval, appropriate criteria and factors for rating the individual risk. Such criteria and factors shall include, but not be limited to, loss rating plans, composite rating plans, and unique and unusual risk rating plans. The initial rates required under this paragraph shall be adjusted in conformity with future filings by the Insurance Services Office with the department and shall remain in effect until such time as the Joint Underwriting Association has sufficient data as to independently justify an actuarially sound change in such rates.

(c)1. In the event an underwriting deficit exists for any policy year the plan is in effect, any surplus which has accrued from previous years and is not projected within reasonable actuarial certainty to be needed for payment for claims in the year the surplus arose shall be used to offset the deficit to the extent available.

2. As to any remaining deficit, the Board of Governors of the Joint Underwriting Association shall levy and collect an assessment in an amount sufficient to offset such deficit. Such assessment shall be levied against the insurers participating in the plan during the year giving rise to the assessment. Any assessments against insurers for the lines of property and casualty insurance issued to commercial risks shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for commercial risks written during the preceding calendar year bears to the aggregate net direct premium written for commercial risks by all members of the plan for the lines of insurance included in the plan. Any assessments against insurers for the lines of property and casualty insurance issued to personal risks eligible under sub-subparagraph (a)1.a. or sub-subparagraph (a)1.c. shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for personal risks written during the preceding calendar year bears to the aggregate net direct premium written for personal risks by all members of the plan for the lines of insurance included in the plan.

3. The board shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each participating insurer and policyholder, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer.

4. Any funds or entitlements that the state may be eligible to receive by virtue of the Federal Government's termination of the Federal Crime Insurance Program referenced in sub-subparagraph (a)1.c. may be used under the plan to offset any subsequent underwriting deficits that may occur from risks previously insured with the Federal Crime Insurance Program.

5. Assessments shall be included as an appropriate factor in the making of rates *as provided in s. 627.3512.*

6.a. The Legislature finds that the potential for unlimited assessments under this paragraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

b. The total amount of deficit assessments under this paragraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in the introductory language of this subsection for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph c. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.

c. The governing body of any unit of local government, any residents or businesses of which are insured by the association, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will provide relief to claimants and policyholders of the joint underwriting association and insurers responsible for apportionment of association losses. The unit of local government shall enter into such contracts with the association as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this paragraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or

of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer.

7. The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.

(d) Upon adoption of the plan, all insurers authorized in this state to underwrite property or casualty insurance shall participate in the plan.

(e) A Risk Underwriting Committee of the Joint Underwriting Association composed of three members experienced in evaluating insurance risks is created to review risks rejected by the voluntary market for which application is made for insurance through the joint underwriting plan. The committee shall consist of a representative of the market assistance plan created under s. 627.3515, a member selected by the insurers participating in the Joint Underwriting Association, and a member named by the Insurance Commissioner. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the joint underwriting plan. The plan approved by the department shall establish criteria and procedures for use by the Risk Underwriting Committee for determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

1. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

2. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance and the provisions of chapter 120 shall not apply.

(f) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the Florida Property and Casualty Joint Underwriting Association or its agents or employees, members of the board of governors, or the department or its representatives for any action taken by them in the performance of their duties under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any other willful tort.

(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT UNDERWRITING ASSOCIATION.—

(a) There is created a joint underwriting association for equitable apportionment or sharing among insurers of property and casualty insurance covering residential property, for applicants who are in good faith entitled, but are unable, to procure insurance through the ~~admitted~~ voluntary market. The association shall operate pursuant to a plan of operation approved by order of the department. ~~The association shall submit a proposed plan of operation to the department no later than January 15, 1993.~~ The plan is subject to continuous review by the department. The department may, *by order,* withdraw approval of all or part of a plan if the department determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. *For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.*

(b)*1.* All insurers authorized to write such insurance in this state must participate in and be members of the Residential Property and Casualty Joint Underwriting Association. ~~Each member's portion of losses and expenses incurred must be in the proportion that the direct premiums of the member written on residential property in this state during the preceding calendar year bear to the aggregate direct premiums of all members of the association written on residential property in this state during the preceding calendar year. After review of annual statements, other reports, and any other statistics that it deems necessary, the department must certify to the association the aggregate direct premiums written on residential property in this state by all members.~~

2. All revenues, assets, liabilities, losses, and expenses of the association shall be divided into two separate accounts, one of which is for personal lines residential coverages and the other of which is for commercial lines residential coverages. Revenues, assets, liabilities, losses, and expenses not attributable to particular coverages shall be prorated between the accounts.

3. With respect to a deficit in an account:

a. When the deficit incurred in a particular calendar year is not greater than 10 percent of the aggregate statewide direct written premium for the subject lines of business, the entire deficit shall be recovered through assessments of insurers under paragraph (g).

b. When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for the subject lines of business, the association shall levy an assessment on insurers in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for the subject lines of business. Any remaining deficit shall be recovered through emergency assessments under sub-subparagraph d.

c. Each insurer's share of the total assessment under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments of insurers under sub-subparagraphs a. or b., the board shall levy, after verification by the department, emergency assessments to be collected by insurers, including joint underwriting associations, upon issuance or renewal of policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business as determined by the board and verified by the department. The emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business for the prior year. The board may pledge the proceeds of the emergency assessments under this sub-subparagraph as the source of revenue for bonds issued under paragraph (g), to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. Emergency assessments collected under this subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

e. As used in this subparagraph, the term "subject lines of business" means, with respect to the personal lines account, any personal lines policy defined in s. 627.4025, and means, with respect to the commercial lines account, all commercial property and commercial fire insurance.

(c) The plan of operation of the association:

1. May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of the association to provide such service. If more than one insurer is designated, each licensed agent shall be entitled to select the insurer who will service the business placed by the agent.

2. Must provide for adoption of residential property and casualty insurance policy forms, which forms must be approved by the department prior to use. *The association shall adopt the following policy forms:*

a. Standard personal lines policy forms including wind coverage, which are multiperil policies providing what is generally considered to be full coverage of a residential property similar to the coverage provided under an HO-2, HO-3, HO-4, or HO-6 policy.

b. Standard personal lines policy forms without wind coverage, which are the same as the policies described in sub-subparagraph a. except that they do not include wind coverage

c. Basic personal lines policy forms including wind coverage, which are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

d. Basic personal lines policy forms without wind coverage, which are the same as the policies described in sub-subparagraph c. except that they do not include wind coverage.

e. Commercial lines residential policy forms including wind coverage that are generally similar to the basic perils of full coverage obtainable for commercial residential structures in the admitted voluntary market.

f. Commercial lines residential policy forms without wind coverage, which are the same as the policies described in sub-subparagraph e. except that they do not include wind coverage ~~For the purpose of this section, residential property and casualty insurance includes:~~

~~a. As to homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure with losses to be adjusted on the basis of costs of repair or replacement not to exceed a stated amount, with liability coverage up to $100,000 per claim and $300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.~~

~~b. As to mobile homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure consistent with s. 627.702, with liability coverage in amounts up to $100,000 per claim and $300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms. Other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.~~

~~c. As to condominium unit owners' insurance, coverage for accidental loss or damage to portions of the structure and fixtures of the unit owner that are not the responsibility of the condominium association as provided by Florida law, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents as is normally included in such policy forms without additional premium charge; and liability coverages not to exceed limits of $100,000 per claim and $300,000 aggregate per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.~~

~~d. As to rental dwelling insurance, coverage for accidental loss or damage to a structure with coverage to be based on costs of repair or replacement not to exceed a stated amount, and with liability coverage in amounts up to $100,000 per claim and $300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.~~

~~e. As to tenants' insurance, coverage for accidental loss or damage to betterments and improvements in the rented dwelling unit, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents in such limits as may be selected by the board; and liability coverages in amounts up to $100,000 per claim and $300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.~~

~~Any policy under this subparagraph must provide deductibles for residential property and casualty insurance in a minimum of $500 per occurrence, or such higher limits as may be selected by the insured. Policies issued under this subparagraph shall not cover loss or damage caused by the enforcement of any ordinance or law regulating the construction, use, or repair of any property, or requiring the tearing down of any property, including the cost of removing its debris.~~

3. May provide that the association may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. *The association* ~~, and~~ shall have the power to borrow funds, *by issuing bonds or by incurring other indebtedness,* and *shall have* other powers reasonably necessary to effectuate the requirements of this subsection. *The association is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The association shall have the authority to pledge assessments and other funds available to the association as security for bonds or other indebtedness. In recognition of Article I, Section 10 of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.*

4. Must require that the association operate subject to the supervision and approval of a board of governors consisting of 13 individuals, including 1 who is elected as chairman. The board shall consist of:

a. The insurance consumer advocate appointed under s. 627.0613.

b. Five members designated by the insurance industry.

c. Five consumer representatives appointed by the Insurance Commissioner. Two of the consumer representatives must be holders of policies issued by the association, who are selected with consideration given to reflecting the geographic balance of association policyholders. Two of the consumer members must be individuals who are minority persons as defined in s. 288.703(3). One of the consumer members shall have expertise in the field of mortgage lending.

d. Two representatives of the insurance industry appointed by the Insurance Commissioner. Of the two insurance industry representatives appointed by the Insurance Commissioner, at least one must be an individual who is a minority person as defined in s. 288.703(3).

Any board member may be disapproved or removed and replaced by the commissioner at any time for cause. All board members, including the chairman, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan.

5. *Must provide a procedure for determining the eligibility of a risk for coverage, as follows:*

a. With respect to personal lines residential risks, the procedures shall require that the authorized insurer that last provided coverage of the risk shall first be given an opportunity to insure the risk at its approved rate. Upon rejection by such insurer, the risk shall be submitted to the Market Assistance Plan. If the Market Assistance Plan is able to obtain an offer from an authorized insurer to insure the risk at its approved rate under either a standard policy including wind coverage or a basic policy including wind coverage, the risk is not eligible for any policy issued by the association. If the Market Assistance Plan is not able to obtain any such offer, the risk is eligible for a standard policy including wind coverage issued by the association; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8.

b. With respect to commercial lines residential risks, the procedures shall require that the authorized insurer that last provided coverage of the risk shall first be given an opportunity to insure the risk at its approved rate. Upon rejection by such insurer, the risk shall be submitted to the Market Assistance Plan. If the Market Assistance Plan is able to obtain an offer to insure the risk under a policy including wind coverage from an authorized insurer at its approved rate or from a surplus lines insurer at no more than 25 percent above the association rate, the risk is not eligible for any policy issued by the association; however, an offer from a surplus lines insurer does not disqualify a condominium association, cooperative, or homeowner's association from eligibility for

coverage by the association. If the Market Assistance Plan is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the association. After December 31, 1996, an offer from a surplus lines insurer does not disqualify an applicant from obtaining coverage from the association. ~~Must provide that a risk is eligible to be insured under the plan only after coverage is activated pursuant to paragraph (e) and an attempt has been made to place the risk with an admitted insurer through the market assistance plan under s. 627.3515, which attempt was not successful, and only if the risk is determined to be insurable by the risk underwriting committee. A risk shall cease to be eligible if it receives a premium quotation from an admitted carrier at that carrier's filed rate.~~

6. Must include rules for classifications of risks and rates therefor.

7. Must provide that if premium and investment income attributable to a particular plan year are in excess of projected losses and expenses of the plan attributable to that year, such excess shall be held in surplus. Such surplus shall be available to defray deficits as to future years and shall be used for that purpose prior to assessing member insurers as to any plan year.

8. Must provide for a Risk Underwriting Committee of the association composed of three members experienced in evaluating insurance risks, to review and determine insurability of risks rejected by the voluntary market for which application is made for insurance through the association. The committee shall consist of a representative of the market assistance plan created under s. 627.3515 and two members named by the board. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are necessary to conduct its functions. The ~~salaries and~~ expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the association. The plan approved by the department shall establish objective criteria and procedures for use by the Risk Underwriting Committee to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

9. Must provide that the association shall make its best efforts to procure catastrophe reinsurance at reasonable rates, as determined by the Board of Governors.

10. Must provide that in the event of deficit assessments, association policyholders shall be subject to renewal surcharges equal to the statewide average of recoupment percentages under s. 627.3512 attributable to such deficit. Such surcharges, together with projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, assessment proceeds, and any other funds available to the association, may be used to fund lines of credit and other financing mechanisms to the extent available from public or private sources. The purpose of the lines of credit or other financing mechanism is to provide additional resources to assist the association in covering claims and expenses attributable to a catastrophe. Renewal surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes.

(d)1. It is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and *not competitive with approved rates charged in the admitted voluntary market, so* that the association *functions* ~~function~~ as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. *Beginning with the rate filing taking effect January 1, 1998, to the extent that such data is available, the* rates of the plan shall be based on the association's actual loss experience and expenses, together with an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the association *and recognizes that the association has little or no capital or surplus; and the association shall carefully review each rate filing to assure that provider compensation is not excessive. As an interim measure, the association shall adopt rating plans that provide, for each county, that the average rates of the association for each line of business are the same as the average rates charged by the insurer that had the highest average rate in that county among the ten insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the association shall be the same as the average rates charged by the insurer that had the highest average rate in that county among the five insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year. It is the intent of the Legislature that such interim rating plans be phased in, with average rates reflecting at least half of the difference between the then-current association rate and the full interim rate taking effect with policies issued or renewed on or after January 1, 1996, and with the full interim rates taking effect with policies issued or renewed on or after January 1, 1997. Nothing in this subparagraph requires the association to reduce rates approved under s. 627.062 and in effect on December 31, 1995.*

2. *Rate filings of the association shall be made on a use and file basis under s 627.062(2)(a)2. The association shall make a rate filing under s. 627.062 at least once a year, but no more often than quarterly.* ~~No later than March 31 and September 30 of each year, the board must review and file with the department the loss and expense experience of the association. Such filing shall include a rate filing. Any such rate filing shall contain sufficient detail to enable the department to determine that the proposed rates are not inadequate, excessive, or unfairly discriminatory pursuant to the standards provided herein and in s. 627.062.~~

3. Effective January 1, 1996, all new and renewal policies issued by the association shall be for a maximum term of 6 months.

(e) Coverage through the association is hereby activated effective upon approval of the plan, and shall remain activated until coverage is deactivated pursuant to paragraph (f). Thereafter, coverage through the association shall be reactivated by order of the department only under one of the following circumstances:

1. If the Market Assistance Plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less for residential coverage, unless the Market Assistance Plan provides a quotation from admitted carriers at their filed rates for at least 90 percent of such applicants. Any Market Assistance Plan application that is rejected because an individual risk is so hazardous as to be uninsurable using the criteria specified in subparagraph (c)8. shall not be included in the minimum percentage calculation provided herein. In the event that there is a legal or administrative challenge to a determination by the department that the conditions of this subparagraph have been met for eligibility for coverage in the association, any eligible risk may obtain coverage during the pendency of such challenge.

2. In response to a state of emergency declared by the Governor under s. 252.36, the department may activate coverage by order for the period of the emergency upon a finding by the department that the emergency significantly affects the availability of residential property insurance.

(f) The activities of the association shall be reviewed at least annually by the board and, upon recommendation by the board or petition of any interested party, coverage shall be deactivated if the department finds that the conditions giving rise to its activation no longer exist.

(g)1. The board shall certify to the department its needs for annual assessments as to a particular calendar year, and any startup or interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. *Upon verification, the department shall approve such certification, and* ~~After the department approves such certification,~~ the board shall levy such annual, startup, or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The board shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each participating insurer, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer. Assessments shall be included as an appropriate factor in the making of rates

2.a. ~~The Legislature finds that the potential for unlimited assessments under this paragraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.~~

~~b. The total amount of deficit assessments under this paragraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in paragraph (a) for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph c. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.~~

~~c.~~ The governing body of any unit of local government, any residents of which are insured by the association, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the joint underwriting association and insurers responsible for apportionment of association losses. The unit of local government shall enter into such contracts with the association as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from *emergency assessments under sub-subparagraph (b)3.d.* ~~assessments under this paragraph~~, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer.

3. *In addition to any credits, bonuses, or exemptions provided under s. 627.3511, the board shall adopt a program for the reduction of both new and renewal writings in the association. The board may consider any prudent and not unfairly discriminatory approach to reducing association writings, but must adopt at least a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the association and to keep risks out of the association by maintaining or increasing voluntary writings in counties in which association risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the association by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under subparagraph (b)3.* ~~As a means of encouraging new insurers to enter the voluntary market, the plan of operation of the association must provide a formula that provides credits against assessments for an insurer's voluntarily written personal lines residential coverage, other than coverage that excludes the peril of windstorm, in areas that are determined by the board to be areas of high potential hurricane losses. This subparagraph applies only if the insurer commenced writing personal lines residential coverage in this state after the effective date of this act. The credit provided by this subparagraph expires on December 31 of the first year in which the insurer's statewide gross written premium for personal lines residential coverage equals or exceeds 0.5 percent of the total statewide gross written premium for personal lines residential coverage, or 3 years after the date of issuance of the insurer's first personal lines residential policy in this state, whichever occurs earlier.~~

4. The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in paragraph (b).

(h) Nothing in this subsection shall be construed to preclude the issuance of residential property insurance coverage pursuant to part VIII of chapter 626.

(i) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the Residential Property and Casualty Joint Underwriting Association or its agents or employees, members of the board of governors, or the department or its representatives for any action taken by them in the performance of their duties under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance *or to issuance or payment of debt*, or any other willful tort.

(j) The Residential Property and Casualty Joint Underwriting Association is not a state agency, board, or commission. However, for the purposes of s. 199.183(1), the Residential Property and Casualty Joint Underwriting Association shall be considered a political subdivision of the state and shall be exempt from the corporate income tax ~~and the insurance premium tax~~.

(k) Upon a determination by the board of governors that the conditions giving rise to the establishment and activation of the association no longer exist, and upon the consent thereto by order of the department, the association is dissolved. Upon dissolution, the assets of the association shall be applied first to pay all debts, liabilities, and obligations of the association, including the establishment of reasonable reserves for any contingent liabilities or obligations, and all remaining assets of the association shall become property of the state and deposited in the Florida Hurricane Catastrophe Fund.

(l) All obligations, rights, assets, and liabilities of the Florida Property and Casualty Joint Underwriting Association created by subsection (5), which obligations, rights, assets, or liabilities relate to the provision of commercial lines residential property insurance coverage as described in this section are hereby transferred to the Residential Property and Casualty Joint Underwriting Association. The Residential Property and Casualty Joint Underwriting Association is not required to issue endorsements or certificates of assumption to insureds during the remaining term of in-force transferred policies.

(m) The association shall, in March and September of each year, publish in the Florida Administrative Weekly a statement of financial condition, which also includes an estimate of average projected premium needs, in the aggregate, for the next 12 months.

Section 10. Section 627.3511, Florida Statutes, is created to read:

627.3511 Depopulation of Residential Property and Casualty Joint Underwriting Association.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds and declares that the Residential Property and Casualty Joint Underwriting Association has written an amount of policies beyond legislative expectations and has become, by virtue of its size, a significant impediment to the restoration of a stable and competitive residential property insurance market in this state; that the public policy of this state requires the maintenance of a residual market for residential property insurance; and that extraordinary measures, beyond implementation of eligibility criteria and noncompetitive rates, are required to reduce the number of policies written by the Residential Property and Casualty Joint Underwriting Association to a reasonable level. It is the intent of the Legislature to provide a variety of financial incentives to encourage the replacement of the highest possible number of Joint Underwriting Association policies with policies written by admitted insurers at approved rates.

(2) TAKE-OUT BONUS.—The Residential Property and Casualty Joint Underwriting Association shall pay the sum of up to $100 to an insurer for each risk that the insurer removes from the association, either by issuance of a policy upon expiration of the association policy or by assumption of the association's obligations with respect to an in-force

policy. Such payment is subject to approval of the association board. In order to qualify for the bonus under this subsection, the take-out plan must include a minimum of 25,000 policies. Within 30 days after approval by the board, the department may reject the insurer's take-out plan and disqualify the insurer from the bonus, based on the following criteria:

(a) The capacity of the insurer to absorb the policies proposed to be taken out of the association and the concentration of risks of those policies.

(b) Whether the geographic and risk characteristics of policies in the proposed take-out plan serve to reduce the exposure of the association sufficient to justify the bonus.

(c) Whether coverage for risks to be taken out otherwise exists in the admitted voluntary market.

(d) The degree to which the take-out bonus is promoting new capital being allocated by the insurer to Florida residential property coverage.

(3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

(a) The calculation of an insurer's assessment liability under s. 627.351(6)(b)3.a. or b. shall, for an insurer that in any calendar year removes 50,000 or more risks from the Residential Property and Casualty Joint Underwriting Association, either by issuance of a policy upon expiration of the association policy or by assumption of the association's obligations with respect to in-force policies, exclude such removed policies for the succeeding 3 years, as follows:

1. In the first year following removal of the risks, the risks are excluded from the calculation to the extent of 100 percent.

2. In the second year following removal of the risks, the risks are excluded from the calculation to the extent of 75 percent.

3. In the third year following removal of the risks, the risks are excluded from the calculation to the extent of 50 percent.

If the removal of risks is accomplished through assumption of obligations with respect to in-force policies, the association shall pay to the assuming insurer all unearned premium with respect to such policies. This paragraph does not apply to an insurer that, at any time within 5 years before removing the risks, had a market share in excess of 0.1 percent of the statewide aggregate gross direct written premium for any line of property insurance, or to an affiliate of such an insurer. This paragraph does not apply unless either at least 40 percent of the risks removed from the association are located in Dade, Broward, and Palm Beach Counties, or at least 30 percent of the risks removed from the association are located in such counties and an additional 50 percent of the risks removed from the association are located in other coastal counties.

(b) An insurer that first wrote personal lines residential property coverage in this state on or after July 1, 1994 is exempt from deficit assessments of the Residential Property and Casualty Joint Underwriting Association until the earlier of the following:

1. The end of the calendar year in which it first wrote 0.5 percent or more of the statewide aggregate direct written premium for any line of residential property coverage; or

2. December 31, 1997, or December 31 of the third year in which it wrote such coverage in this state, whichever is later.

(c) Other than an insurer that is exempt under paragraph (b), an insurer that in any calendar year increases its total structure exposure subject to wind coverage by 25 percent or more over its exposure for the preceding calendar year is, with respect to that year, exempt from deficit assessments of the Residential Property and Casualty Joint Underwriting Association attributable to such increase in exposure.

(4) AGENT BONUS.—When a policy issued by the Residential Property and Casualty Joint Underwriting Association is replaced by wind coverage in the admitted voluntary market at approved rates, either by issuance of a policy upon expiration of the association policy or by assumption of the association's obligations with respect to in-force policies, the producing agent of record of the association policy is entitled to retain any unearned commission on such policy, and the insurer shall either pay to the producing agent of record of the association policy an amount equal to the commission that the association would have paid to the agent had the policy been renewed by the agent in the association, or the insurer shall offer to retain the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the insurer's usual and customary commission for the type of policy written; the insurer need not take any further action if the offer is rejected. This subsection does not apply to any reciprocal interinsurance exchange, nonprofit federation, or any subsidiary or affiliate of such organization. This subsection does not apply if the agent is also the agent of record on the new coverage.

(5) APPLICABILITY.—

(a) The take-out bonus provided by subsection (2) and the exemption from assessment provided by paragraph (3)(a) apply only if the Residential Property and Casualty Joint Underwriting Association policy is replaced with a policy that meets the requirements of the secondary mortgage market and that the insurer guarantees is renewable at approved rates on substantially similar terms by the policyholder for a period of 3 years after issuance unless canceled by the insurer for reasons of fraud or nonpayment of premium. In addition to complying with these requirements, the insurer must place the bonus moneys in escrow for a period of 3 years; such moneys may be released from escrow only to pay claims. The insurer may not cancel or nonrenew policies covering risks removed from the association for reasons of reducing risk of hurricane loss, and may cancel or nonrenew such policies as otherwise allowed by law only to the extent of 3 percent of the total and only if it removes a similar policy from the association for each policy so canceled or nonrenewed.

(b) An insurer or agent may not qualify for a bonus or exemption from assessment under this section after the number of risks covered by the Residential Property and Casualty Joint Underwriting Association is less than 250,000.

(c) It is the intent of the Legislature that an insurer eligible for the exemption under paragraph (3)(a) establish a preference in appointment of agents in for those agents who lose a substantial amount of business as a result of risks being removed from the association.

Section 11. Section 627.3512, Florida Statutes, is created to read:

627.3512 Recoupment of residual market deficit assessments.—A rate filing under s. 627.062, s. 627.0651, or s. 627.072 may include amounts sufficient to recoup any assessments that have been paid by the insurer to defray deficits of a joint underwriting association or assigned risk plan under ss. 627.311 and 627.351, net of any earnings returned to the insurer by the association or plan. The rate filing shall include a separate assessment factor which provides for full recoupment of the assessments over a period of 1 year, unless the insurer, at its option, elects to recoup the assessments over a longer period. The assessment factor in the filing expires upon collection of the full amount allowed to be recouped. Amounts recouped under this section are not subject to premium taxes, fees, or commissions.

Section 12. Section 627.3515, Florida Statutes, is amended to read:

627.3515 Market assistance plan; property and casualty risks.—

(1) ~~After consultation with the property and casualty insurers licensed in this state,~~ The department shall adopt a market assistance plan to assist in the placement of risks of applicants who are unable to procure property insurance as defined in s. 624.604 or casualty insurance as defined in s. 624.605(1)(b), (e), (f), (g), or (h) from authorized insurers when such insurance is otherwise generally available from insurers authorized to transact and actually writing that kind and class of insurance in this state. *Through implementation of the requirements of s. 627.351(6)(c)5. and through such other measures as are found appropriate by the board of governors, the plan shall take affirmative steps to assure that no risk is placed in the Residential Property and Casualty Joint Underwriting Association if that risk can be placed in the voluntary market as described in s. 627.351(6)(c)5., and to assist in the removal from Residential Property and Casualty Joint Underwriting Association coverage of any risk that can be placed in the voluntary market as described in s. 627.351(6)(c)5.* All property and casualty insurers licensed in this state shall participate in the plan.

(2)(a) *Each person serving as a member of the board of governors of the Residential Property and Casualty Joint Underwriting Association shall also serve as a member of the board of governors of the market assistance plan.* ~~The market assistance plan shall be governed by the board of governors appointed pursuant to s. 627.351(4).~~

(b) The plan shall be funded *through payments from the Residential Property and Casualty Joint Underwriting Association and annual assessments of residential property insurers in the amount of $450* ~~and staffed by the participating insurers~~.

(c) The plan is not required to assist in the placement of any workers' compensation, employer's liability, malpractice, or motor vehicle insurance coverage.

~~(d) Any fee charged by the plan shall be for a reasonable amount approved by the department and is earned only upon the successful placement of the risk.~~

~~(3) The board of governors shall appoint a committee to meet as necessary for the purpose of discussing the placement of risks, pricing of insurance, proportional sharing of risk by participating insurers, and any other matters designed to facilitate the success of the market assistance plan.~~

Section 13. Subsection (3) is added to section 627.701, Florida Statutes, 1994 Supplement, to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)(a) A policy of residential property insurance shall include a deductible amount applicable to wind losses no lower than $500 and no higher than 2 percent of the policy's dwelling limits with respect to personal lines residential risks, and no higher than 3 percent of the policy limits with respect to commercial lines residential risks; however, if a risk was covered on August 24, 1992, under a policy having a higher deductible than the the deductibles allowed by this paragraph, a policy covering such risk may include a deductible no higher than the deductible in effect on August 24, 1992. Notwithstanding the other provisions of this paragraph, a personal lines residential policy covering a risk valued at $50,000 or less may include a deductible amount attributable to wind losses no lower than $250, and a personal lines residential policy covering a risk valued at $250,000 or more may include a deductible amount attributable to wind losses no higher than 5 percent of the policy limits unless subject to a higher deductible on August 24, 1992; however, no maximum deductible is required with respect to a personal lines residential policy covering a risk valued at more than $500,000. An insurer may require a higher deductible, provided such deductible is the same as or similar to a deductible lawfully in effect on the date this paragraph becomes effective. In addition to the deductible amounts authorized by this paragraph, an insurer may also offer policies with a copayment provision under which, after exhaustion of the deductible, the policyholder is responsible for 10 percent of the next $10,000 of insured losses.

(b) Prior to issuing a personal lines residential property insurance policy on or after April 1, 1996, or prior to the first renewal of a residential property insurance policy on or after April 1, 1996, the insurer must offer alternative deductible amounts applicable to wind losses equal to $500 and 2 percent of the policy's dwelling limits. The insurer must provide such policyholder with notice of the availability of the deductible amounts specified in this paragraph in a form specified by the department at least once every 3 years. The failure to provide such notice constitutes a violation of this code, but does not affect the coverage provided under the policy. This paragraph does not apply with respect to a deductible program lawfully in effect on the effective date of this paragraph, or to any similar deductible program, if the deductible program requires a minimum deductible amount of no less than 2 percent of the policy limits.

(c) Any policy that contains a separate windstorm deductible must on its face include in boldface type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR WINDSTORM, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a coinsurance provision applicable to windstorm must on its face include in boldface type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

Section 14. Paragraph (a) of subsection (2) of section 627.7013, Florida Statutes, 1994 Supplement, is amended to read:

627.7013 Orderly markets for personal lines residential property insurance.—

(2) MORATORIUM PHASEOUT.—

(a) Effective upon the expiration of the moratorium on cancellation or nonrenewal of personal lines residential property insurance policies under chapter 93-401, Laws of Florida, the following restrictions shall apply to the cancellation or nonrenewal of personal lines residential property insurance policies that were in force on November 14, 1993, and were subject to the moratorium:

1. In any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of its homeowner's policies, 5 percent of its mobile home owner's policies, or 5 percent of its personal lines residential policies of all types and classes in the state for the purpose of reducing the insurer's exposure to hurricane claims and may not, with respect to any county, cancel or nonrenew more than 10 percent of its homeowner's policies, 10 percent of its mobile home owner's policies, or 10 percent of its personal lines residential policies of all types and classes in the county for the purpose of reducing the insurer's exposure to hurricane claims. This subparagraph does not prohibit any cancellations or nonrenewals of such policies for any other lawful reason unrelated to the risk of loss from hurricane exposure.

2.a. If, for any 12-month period, an insurer proposes to cancel or nonrenew personal lines residential policies to an extent not authorized by subparagraph 1. for the purpose of reducing exposure to hurricane claims, the insurer must file a phaseout plan with the department at least 90 days prior to the effective date of the plan. In the plan, the insurer must demonstrate to the department that the insurer is protecting market stability and the interests of its policyholders. The plan may not be implemented unless it is approved by the department. In developing the plan, the insurer must consider policyholder longevity, the use of voluntary incentives to accomplish the reduction, and geographic distribution. The insurer must demonstrate that under the plan the insurer will not cancel or nonrenew more policies in the 12-month period than the largest number of like policies the insurer canceled or nonrenewed for any reason in any 12-month period between August 24, 1989, and August 24, 1992.

b. If the insurer considers the number of cancellations and nonrenewals under sub-subparagraph a. to be insufficient, the insurer may apply for approval of additional cancellations or nonrenewals on the basis of an unreasonable risk of insolvency. In evaluating a request under this sub-subparagraph, the department shall consider, and shall require the insurer to provide information relevant to: the insurer's size, market concentration, and general financial condition; the portion of the insurer's business in this state represented by personal lines residential property insurance; the reasonableness of assumptions with respect to size, frequency, severity, and path of hurricanes; the reinsurance available to the insurer and potential recoveries from the Florida Hurricane Catastrophe Fund; and the extent to which the insurer's assets have been voluntarily transferred by dividend or otherwise from the insurer to its stockholders, parent companies, or affiliated companies since May 19, 1993. In the implementation of exposure reductions under this sub-subparagraph, the department and the insurer shall consider such factors as policyholder longevity, the use of voluntary incentives to accomplish the exposure reduction, and geographic distribution.

c. A policy shall not be counted as having been canceled or nonrenewed for purposes of this subsection if *any of the following apply*:

(I) The policy was canceled or nonrenewed for an underwriting reason unrelated to the risk of loss from hurricane exposure, nonpayment of premium, or any other lawful reason that is unrelated to the risk of loss from hurricane exposure. *The department shall consider the reason specified in the notice of cancellation or nonrenewal to be the reason for the cancellation or nonrenewal, unless the department finds by a preponderance of the evidence that the stated reason was not the insurer's actual reason for the cancellation or nonrenewal.*~~; or~~

(II) The cancellation or nonrenewal was initiated by the insured.

(III) The insurer has offered the policyholder replacement or alternative coverage at approved rates, which coverage meets the requirements of the secondary mortgage market.

d. In addition to any other cancellations or nonrenewals subject to the limitations in this subsection, a policy shall be considered as having been canceled or nonrenewed for purposes of this subsection if:

(I) After July 1, 1995, the insurer implements a rate increase under the use and file provisions of s. 627.062(2)(a)2., which rate increase exceeds 150 percent of the increase ultimately approved by the department, and, while the rate filing was pending, the policyholder voluntar-

ily canceled or nonrenewed the policy and obtained replacement coverage from another insurer, including the Residential Property and Casualty Joint Underwriting Association; or

(II) After July 1, 1995, the insurer reduces the commission to an agent by more than 25 percent, and the agent thereafter places the risk with another insurer, including the Residential Property and Casualty Joint Underwriting Association.

e.~~d.~~ The department must approve or disapprove an application for a waiver within 90 days after the department receives the application for waiver.

3. In addition to the cancellations or nonrenewals authorized under this section, an insurer may cancel or nonrenew policies to the extent authorized by an exemption from the moratorium on cancellations or nonrenewals of personal lines property insurance policies under chapter 93-401, Laws of Florida, granted prior to November 5, 1993, by order of the department, by final order in an administrative proceeding, or by order in a judicial proceeding, or ordered on or after November 5, 1993, by final order in an administrative proceeding or ordered on or after November 5, 1993, in a judicial proceeding relative to the moratorium on cancellations or nonrenewals of personal lines property insurance policies under chapter 93-401, if the administrative or judicial action was pending on November 5, 1993.

4. Notwithstanding any provisions of this section to the contrary, this section does not apply to any insurer that, prior to August 24, 1992, filed notice of its intent to discontinue its writings in this state under s. 624.430, and for which a finding has been made by the department, the Division of Administrative Hearings of the Department of Management Services, or a court that such notice satisfied all requirements of s. 624.430. *Nothing in this section shall be construed to authorize an insurer to withdraw from any line of property insurance business for the purpose of reducing exposure to risk of hurricane loss if such withdrawal commenced at any time that the moratorium under Chapter 93-401 or the moratorium phaseout under this section is in effect.*

In respect to any proceedings for review of the denial, in whole or in part, of an insurer's application for exemption from chapter 93-401, Laws of Florida, under s. 120.57 or judicial review thereof, nothing in the preceding paragraphs of this section, or any part thereof, shall be considered as clarifying the intent of the Legislature as to the meaning of the provisions of chapter 93-401 providing for the exemption of insurers from the provisions of that law; nor shall anything in the preceding paragraphs of this section, or any part thereof, be considered as having application to the question of the correctness or incorrectness of the department's denial of an exemption application, in whole or in part, under the provisions of that law.

Section 15. Subsection (14) is added to section 627.215, Florida Statutes, to read:

627.215 Excessive profits for workers' compensation, employer's liability, commercial property, and commercial casualty insurance prohibited.—

(14) The application of this law to commercial property and commercial casualty insurance ceases on January 1, 1997. The Department of Insurance shall, no later than October 1, 1995, provide a report on this law to the President of the Senate and the Speaker of the House of Representatives, which report includes a history of the excess profits law and a year-by-year listing of excess profits returned to policyholders as refunds or credits.

Section 16. *The Residential Property and Casualty Joint Underwriting Association shall make a rate filing under s. 627.062, Florida Statutes, no later than July 1, 1995.*

Section 17. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to insurance; amending s. 215.555, F.S.; providing findings and intent; providing definitions; revising provisions relating to reimbursement contracts and premiums of the Florida Hurricane Catastrophe Fund; specifying powers and duties of the State Board of Administration; providing that violations of certain rules constitute violations of the Insurance Code; specifying applicability; amending s. 624.424, F.S.; requiring reports; amending s. 626.752, F.S.; providing an exception to exchange of business reporting requirements; amending s. 627.062, F.S.; providing for recoupment of Florida Hurricane Catastrophe Fund premium; creating s. 627.0628, F.S.; creating the Florida Commission on Hurricane Loss Projection Methodology; providing legislative findings and intent; specifying membership, terms, powers, and duties; providing for per diem, travel, and staff support; requiring the commission to review actuarial methods, principles, standards, models, and output ranges; specifying effect of approval by the commission; amending s. 627.0629, F.S.; revising provisions relating to building code standards and enforcement; creating s. 627.4025, F.S.; defining "residential coverage"; amending s. 627.351, F.S.; revising provisions relating to the windstorm insurance risk apportionment plan, the Florida Property and Casualty Joint Underwriting Association, and the Residential Property and Casualty Joint Underwriting Association; specifying underwriting standards and limits; removing provisions relating to immediate activation of the Florida Property and Casualty Joint Underwriting Association; providing immunities; specifying scope of the Residential Property and Casualty Joint Underwriting Association; providing for apportionment of losses and expenses; specifying policy forms that may be offered; revising provisions relating to the eligibility of particular risks for coverage; requiring the association to seek reinsurance coverage; providing for assessments and renewal surcharges and specifying uses thereof; providing for bonding and other indebtedness; providing rate standards; providing for rate filings; specifying revenues to be pledged to retire bonds; revising provision requiring credits against assessment; removing exemption from the insurance premium tax; transferring obligations, rights, assets, and liabilities of the Florida Property and Casualty Joint Underwriting Association to the Residential Property and Casualty Joint Underwriting Association; creating s. 627.3511, F.S.; providing for depopulation of the Residential Property and Casualty Joint Underwriting Association; providing legislative findings and intent; providing for bonuses, credits, and exemptions for insurers and agents with respect to risks removed from the association; specifying applicability; creating s. 627.3512, F.S.; providing for recoupment of residual market deficit assessments; amending s. 627.3515, F.S.; revising provisions relating to structure, duties, governance, and funding of the market assistance plan; amending s. 627.701, F.S.; restricting deductible provisions relating to wind coverage; requiring offer of certain deductibles; amending s. 627.7013, F.S.; specifying cancellations and nonrenewals subject to moratorium phaseout provisions; amending s. 627.215, F.S.; limiting applicability of the excess profits law; requiring a report; requiring the Residential Property and Casualty Joint Underwriting Association to make a rate filing by a specified date; providing an effective date.

On motion by Senator Grant, further consideration of **CS for HB 2619** with pending **Amendment 1** was deferred.

Consideration of **CS for SB 2706** was deferred.

SB 1656—A bill to be entitled "An act relating to medical licensure; providing for the restricted licensure of certain foreign-trained physicians; providing for fees and the adoption of rules; providing an effective date.

—was read the second time by title.

The Committee on Health Care recommended the following amendments which were moved by Senator Casas and adopted:

Amendment 1—On page 1, lines 26 and 27, strike "Department of Business and Professional Regulation" and insert: Agency for Health Care Administration

Amendment 2—On page 2, lines 6, 12, 14, 16 and 30 and on page 3, line 4, strike "department" and insert: agency

Senator Casas moved the following amendments which were adopted:

Amendment 3—On page 1, strike all of lines 10-16 and insert:

Section 1. Notwithstanding any provision of law to the contrary, any foreign-trained physician who was approved by the Board of Medicine to take, and who completed, in November 1990 or November 1992, a special preparatory medical update course authorized by the Board of Medicine and the University of Miami Medical School and who subsequently passed the final course examination and the MOCK FLEX examination, or who was approved by the Board of Medicine to take one of those courses and has a certificate of successful completion of the course from the

Amendment 4—On page 1, lines 26 and 27, strike "Department of Business and Professional Regulation" and insert: Agency for Health Care Administration

Amendment 5—On page 2, lines 6, 12, 14, 16, and 30 and on page 3, line 4, strike "department" and insert: agency

On motion by Senator Casas, by two-thirds vote **SB 1656** 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

SENATOR BURT PRESIDING

CS for SB 2506—A bill to be entitled An act relating to seaports; creating s. 311.105, F.S.; creating the Florida Seaport Dredged-Material Management Committee for the purpose of developing and annually updating the Florida Seaport Dredged-Material Management Plan; providing for membership of the committee; providing components and requirements of the plan; authorizing issuance of certain permits relating to dredged-material management; providing exemption from or credit for environmental mitigation relating to dredged-material management; amending s. 403.021, F.S.; requiring maintenance of water depths in deepwater ports of the state to be in compliance with port master plans; adding Fernandina and Key West as deepwater ports to which certain maintenance provisions apply; amending s. 403.061, F.S., relating to powers and duties of the Department of Environmental Protection; requiring the department to establish a permit system for port-maintenance dredging as part of overall dredged-material management in specified seaports; amending ss. 163.3177, 380.24, F.S., relating to coastal management elements of comprehensive plans, to conform; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Bankhead and failed:

Amendment 1 (with Title Amendment)—On page 1, line 31, insert:

Section 1. A new subsection (5) is added to section 320.072, Florida Statutes, to read:

320.072 Additional fee imposed on certain motor vehicle registration transactions.—

(5) Notwithstanding the provisions of subsection (4), in fiscal year 1995-1996, $5 million from the moneys required by that subsection to be distributed to the General Revenue Fund shall be transferred to the Florida Seaport Transportation and Economic Development Council; and in each fiscal year beginning in fiscal year 1996-1997 and continuing through fiscal year 2020-2021, $10 million from the moneys required by that subsection to be distributed to the General Revenue Fund shall be transferred to the Florida Seaport Transportation and Economic Development Council. These sums shall be distributed on a 50-50 matching basis to ports listed in s. 311.09(1) to be used solely for the purposes established under s. 311.07(3)(b) and related bond issuance costs. Such revenues may be bonded and pledged for the payment of debt service by the ports or the appropriate local government having jurisdiction over the port; however, such debt shall not constitute a debt obligation of the State of Florida. This revenue source is in addition to any amounts provided for and appropriated in accordance with s. 311.07.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 320.072, F.S.; redirecting certain motor vehicle registration fee moneys from the General Revenue Fund to the Florida Seaport Transportation and Economic Development Council; providing for distribution to ports; providing for uses; providing for bonding;

Amendment 2—On page 9, line 3, insert:

Section 6. Section 315.17, Florida Statutes, is created to read:

315.17 Notwithstanding any limitation expressed or implied in s. 125.031, Florida Statutes, or otherwise, a lease entered into by a county with another governmental entity for the benefit of a seaport created or authorized under the provisions of s. 125.01, Florida Statutes, shall not be subject to the 30 year lease term limitation of s. 125.031, Florida Statutes.

(Renumber subsequent section.)

Senator Bankhead moved the following amendment:

Amendment 3 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Paragraph (g) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(g) For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the policies that shall guide the local government's decisions and program implementation with respect to the following objectives:

1. Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

2. Continued existence of viable populations of all species of wildlife and marine life.

3. The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.

4. Avoidance of irreversible and irretrievable loss of coastal zone resources.

5. Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.

6. Proposed management and regulatory techniques.

7. Limitation of public expenditures that subsidize development in high-hazard coastal areas.

8. Protection of human life against the effects of natural disasters.

9. The orderly development, *maintenance,* and use of ports identified in s. 403.021(9)*(b)* to facilitate deepwater commercial navigation and other related activities.

10. Preservation, including sensitive adaptive use of historic and archaeological resources.

Section 2. Subsection (2) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the *revenues deposited* ~~proceeds transferred~~ into the State Transportation Trust Fund ~~from the Gas Tax Collection Trust Fund~~ a maximum of *5 percent* ~~$.9 million~~ in each fiscal year shall be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund created in s. 215.605, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under ss. 215.605 and 337.276, *or at minimum an amount sufficient to provide for the debt service requirements of outstanding bonds. Notwithstanding the 5-percent annual transfer authorized in this subsection, the annual amount transferred under this subsection shall not exceed $100 million. Such transfer shall be payable from the motor and special fuel taxes transferred to the State Transportation Trust Fund from the Gas Tax Collection Trust Fund.*

Section 3. Paragraph (a) of subsection (3) of section 311.07, Florida Statutes, 1994 Supplement, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(3)(a) Program funds shall be used to fund approved projects on a 50-50 matching basis with any of the deepwater ports, as listed in s. 403.021(9)(b), which is governed by a public body or any other deepwater port which is governed by a public body and which complies with the water quality provisions of s. 403.061, the comprehensive master plan requirements of s. 163.3178(2)(k), the local financial management and reporting provisions of part III of chapter 218, and the auditing provisions of s. 11.45(3)(a)4. *Program funds also may be used by the Florida Seaport Transportation and Economic Development Council to develop with the Florida Trade Data Center such trade data information products which will assist Florida's seaports and international trade community.* ~~Moneys in the trust fund may also be used for the acquisition of economic benefit and trade data information.~~

Section 4. Section 311.105, Florida Statutes, is created to read:

311.105 Florida Seaport Dredged-Material Management Committee; Florida Seaport Dredged-Material Management Plan; individual port dredged-material management plans; permitting; mitigation.—

(1)(a) There is created the Florida Seaport Dredged-Material Management Committee, which shall be under the direction of the Florida Seaport Transportation and Economic Development Council and which is created for the purpose of developing and annually updating the Florida Seaport Dredged-Material Management Plan for submission to the Department of Environmental Protection.

(b) The committee shall consist of the following members: the Secretary of Environmental Protection, or designee, as an ex officio nonvoting member; a designee from the United States Army Corps of Engineers, as an ex officio nonvoting member; a designee from the Florida Inland Navigation District, as an ex officio nonvoting member; the Secretary of Community Affairs, or designee, as an ex officio nonvoting member; and five port directors, as voting members, appointed to the committee by the council chair, who shall also designate one such member as committee chair.

(c) The committee shall meet at the call of the chair, but must meet at least semiannually. A majority of the voting members constitutes a quorum for the purpose of transacting business of the committee, and a vote of a majority of the voting members present is sufficient for official action by the committee.

(2) The committee shall develop and annually update the Florida Seaport Dredged-Material Management Plan and shall submit the plan to the Florida Seaport Transportation and Economic Development Council for its approval and subsequent submission, not later than October 1 each year, to the Department of Environmental Protection. The Florida Seaport Dredged-Material Management Plan consists of the dredged-material management plans prepared, at the option of each port listed in s. 311.09(1), and annually submitted to the committee by the directors of participating seaports, together with such supplementary information as may be added by the committee.

(3) Each dredged-material management plan submitted by a port director to the committee pursuant to subsection (2) must address the following:

(a) Separate plan components for:

1. Maintenance of existing channels and harbors.

2. Port development, including navigation channels, port harbors, turning basins, and harbor berths.

(b) A description of dredged-material management maintenance activities expected to be conducted for the 5-year period following October 1 of the year of submission of the plan to the department.

(c) A description of dredged-material management and other activities associated with port development, including navigation channels, port harbors, turning basins, and harbor berths, expected to be conducted for a period of up to 15 years following October 1 of the year of submission of the plan to the department.

(d) Proposed methods of dredged-material management.

(e) A characterization of the materials to be dredged and the materials within dredged-material management sites.

(f) Dredged-material management sites and plans.

(g) Such measures, including environmental compliance monitoring, to minimize adverse environmental effects of dredged-material management.

(h) Such environmental mitigation for dredged-material management as may be proposed for port development, including navigation channels, port harbors, turning basins, and harbor berths.

(i) Such scheduling information as may be required to facilitate state supplementary funding of federal dredged-material management programs consistent with beach restoration criteria of the Department of Environmental Protection.

(4) The committee shall review each dredged-material management plan to ensure that the plan provides for suitable dredged material to be deposited on Florida's beaches to the extent the committee determines to be economically feasible and consistent with beach restoration criteria of the Department of Environmental Protection.

(5) Upon request by a seaport listed in s. 311.09(1), the Department of Environmental Protection shall process a port-maintenance dredging permit application for all port-maintenance dredging activities conducted in accordance with a dredged-material management plan contained in the Florida Seaport Dredged-Material Management Plan approved by the council and submitted to the department. Upon approval of the permit application, the department shall issue a port-maintenance dredging permit, which shall be extended annually for an additional year upon the department's review of a current dredged-material management plan if the maintenance dredging activities specified in the plan remain consistent with the conditions of the permit. For purposes of this section, a port-maintenance dredging permit shall be as described in s. 403.061(38).

(6) Upon request by a seaport listed in s. 311.09(1), the Department of Environmental Protection may issue a conceptual permit for a period of up to 15 years for dredged-material management and other activities associated with port development, including navigation channels, port harbors, turning basins, and harbor berths, conducted in accordance with a dredged-material management plan contained in the Florida Seaport Dredged-Material Management Plan approved by the council and submitted to the department. A conceptual permit issued by the department shall be a part of the port master plan developed pursuant to s. 163.3178(2)(k).

(7) Environmental mitigation shall not be required for dredged-material management maintenance for a harbor or channel if all prior permit conditions for construction of the harbor or channel issued by the Department of Environmental Protection or its predecessor agency are met.

(8) The Department of Environmental Protection shall provide mitigation credits to those deepwater ports that provide for innovative approaches to the onshore and nearshore placement of suitable dredged material consistent with beach restoration criteria of the department.

Section 5. Section 315.17, Florida Statutes, is created to read:

315.17 Notwithstanding any provision of law to the contrary, a lease entered into by a county with another governmental entity for the benefit of a seaport created or authorized under the provisions of s. 125.01 shall not be subject to the 30-year lease term limitation of s. 125.031.

Section 6. Section 320.20, Florida Statutes, 1994 Supplement, is amended to read:

320.20 Disposition of license tax moneys.—The revenue derived from the registration of motor vehicles, including any delinquent fees and excluding those revenues collected and distributed under the provisions of s. 320.081, shall be distributed monthly, as collected, *as follows* ~~to the following funds~~:

(1) The first proceeds, to the extent necessary to comply with the provisions of s. 18 of Art. XII of the State Constitution of 1885, as adopted by s. 9(d), Art. XII, 1968 revised constitution, and the additional provisions of s. 9(d) and s. 236.602, shall be deposited in the district Capital Outlay and Debt Service School Trust Fund.

(2) Twenty-five million dollars per year of such revenues shall be deposited in the State Transportation Trust Fund, with priority use assigned to completion of the interstate highway system. However, any excess funds may be utilized for general transportation purposes, consistent with the Department of Transportation's legislatively approved

objectives. Prior to such utilization, the department's comptroller shall certify that adequate funds are available to assure expeditious completion of the interstate highway system and to award all such contracts by 1990.

(3) Notwithstanding any other provision of law, on July 1, 1995, $5 million and annually thereafter $10 million shall be deposited in the State Transportation Trust Fund solely for the purposes of funding the Florida Seaport Transportation and Economic Development Program. Such revenues shall be distributed on a 50-50 matching basis to any port listed in s. 311.09(1) to be used for funding projects as described in s. 311.07(3)(b), for related bond issuance costs, or for current or future debt service payments. Such revenues may be bonded by the individual port or appropriate local government having jurisdiction thereof, or collectively by interlocal agreement among any of the ports, and in either event, pledged for the payment of debt service by the ports or the appropriate local government having jurisdiction over the port; however, such debt shall not constitute a debt of the State of Florida. Any revenues which are not bonded may be utilized for purposes authorized under the Florida Seaport Transportation and Economic Development Program. This revenue source is in addition to any amounts provided for and appropriated in accordance with s. 311.07. The Florida Seaport Transportation and Economic Development Council shall approve distribution of funds to ports for projects which have been approved pursuant to s. 311.09(5)-(9). The council and the Department of Transportation are hereby authorized to perform such acts as are required to facilitate and implement the provisions of this subsection.

(4)~~(3)~~(a) Except as provided in paragraph (c), the remainder of such revenues shall be deposited in the State Transportation Trust Fund.

(b) Beginning July 1, 1989, the State Comptroller each month shall deposit in the State Transportation Trust Fund an amount, drawn from other funds in the State Treasury which are not immediately needed or are otherwise in excess of the amount necessary to meet the requirements of the State Treasury, which when added to such remaining revenues each month will equal one-twelfth of the amount of the anticipated annual revenues to be deposited in the State Transportation Trust Fund under paragraph (a) as estimated by the most recent revenue estimating conference held pursuant to s. 216.136(3). The transfers required hereunder may be suspended by action of the Administration Commission in the event of a significant shortfall of state revenues.

(c) In any month in which the remaining revenues derived from the registration of motor vehicles exceed one-twelfth of those anticipated annual remaining revenues as determined by the revenue estimating conference, the excess shall be credited to those state funds in the State Treasury from which the amount was originally drawn, up to the amount which was deposited in the State Transportation Trust Fund under paragraph (b). A final adjustment shall be made in the last months of a fiscal year so that the total revenue deposited in the State Transportation Trust Fund each year equals the amount derived from the registration of motor vehicles, less the amount distributed under subsection (1). For the purposes of this paragraph and paragraph (b), the term "remaining revenues" means all revenues deposited into the State Transportation Trust Fund under paragraph (a) and subsection (2). In order that interest earnings continue to accrue to the General Revenue Fund, the Department of Transportation may not invest an amount equal to the cumulative amount of funds deposited in the State Transportation Trust Fund under paragraph (b) less funds credited under this paragraph as computed on a monthly basis. The amounts to be credited under this and the preceding paragraph shall be calculated and certified to the Comptroller by the Executive Office of the Governor.

Section 7. Section 380.24, Florida Statutes, 1994 Supplement, is amended to read:

380.24 Local government participation.—Units of local government abutting the Gulf of Mexico or the Atlantic Ocean, or which include or are contiguous to waters of the state where marine species of vegetation listed by rule as ratified in s. 373.4211 constitute the dominant plant community, shall develop a coastal zone protection element pursuant to s. 163.3177. Such units of local government shall be eligible to receive technical assistance from the state in preparing coastal zone protection elements and shall be the only units of local government eligible to apply to the department for available financial assistance. Local government participation in the coastal management program authorized by this act shall be voluntary. *All permitting of activities within the deepwater ports identified in s. 403.021(9)(b) shall be done through the Department of Environmental Protection.*

Section 8. Subsection (9) of section 403.021, Florida Statutes, is amended to read:

403.021 Legislative declaration; public policy.—

(9)(a) The Legislature finds and declares that it is essential to preserve and maintain authorized water depth in ~~the existing~~ navigation channels, port harbors, turning basins, and harbor berths of this state in order to provide for the continued safe navigation of deepwater shipping commerce. The department shall recognize that maintenance of authorized *water* ~~channel~~ depths *in accordance with port master plans developed pursuant to s. 163.3178(2)(k)* is an ongoing, continuous, beneficial, and necessary activity *that is in the public interest*; and it shall develop a regulatory process *that* ~~which~~ shall enable the ports of this state to conduct such activities in an environmentally sound, *safe,* expeditious, and efficient manner. *It is the further intent of the Legislature that the permitting of activities related to Florida's deepwater ports pursuant to this chapter and chapters 161, 253, and 373 be consolidated within the department.*

(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, ~~and~~ Pensacola, *Fernandina, and Key West.*

Section 9. Subsection (38) is added to section 403.061, Florida Statutes, 1994 Supplement, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(38) Establish a permit system to provide for dredged-material management, as may be requested by seaports listed in s. 311.09(1), to facilitate the management of dredged material from maintenance dredging of navigation channels, port harbors, turning basins, and harbor berths. A port-maintenance dredging permit may be granted for a period of from 5 to 25 years.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 10. It is the intent of the Legislature to foster the economic growth of Florida's deepwater seaports. Florida's seaports are working together as political subdivisions of the state to accomplish the planning for and development of Florida's future economic growth. The Legislature intends that state funds be used on a matching basis with Florida's ports for the investment in port facility expansion. The Legislature also recognizes that the dredging of port channels and harbors and the safe navigation of shipping is in the public interest. Therefore, the Legislature establishes a planning process by which seaports and environmental agencies would work in advance of the need for a dredging permit to resolve environmental issues to provide for a more timely and efficient environmental permitting process for Florida's deepwater seaports.

Section 11. This act shall take effect upon becoming a law.

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 seaports; amending s. 163.3177, F.S.; providing for maintenance of ports under coastal management elements of comprehensive plans; amending s. 206.46, F.S.; revising the formula for distributing funds from the State Transportation Trust Fund to the Right-of-Way Acquisition and Bridge Construction Trust Fund; amending s. 311.07, F.S.; authorizing certain program funds to be used to develop certain trade data information products; creating s. 311.105, F.S.; creating the Florida Seaport Dredged-Material Management Committee for the purpose of developing and annually updating the Florida Seaport Dredged-Material Management Plan; providing for membership of the committee; providing components and requirements of the plan; authorizing issuance of certain permits relating to dredged-material management; providing exemption from or credit for environmental mitigation relating to dredged-material management; creating s. 315.17, F.S.; waiving a term limitation for certain leases entered into by a county for the benefit of a seaport created or authorized under s. 125.01, F.S.; amending

s. 320.20, F.S.; providing for distribution of revenues derived from the registration of motor vehicles to the Florida Seaport Transportation and Economic Development Council for certain purposes; 380.24, F.S.; requiring permitting activities relating to deepwater ports to be undertaken by the Department of Environmental Protection; amending s. 403.021, F.S.; requiring maintenance of water depths in deepwater ports of the state to be in compliance with port master plans; adding Fernandina and Key West as deepwater ports to which certain maintenance provisions apply; amending s. 403.061, F.S., relating to powers and duties of the Department of Environmental Protection; requiring the department to establish a permit system for port-maintenance dredging as part of overall dredged-material management in specified seaports; providing legislative intent with respect to Florida's deepwater seaports; providing an effective date.

Senator Rossin moved the following amendment to **Amendment 3** which was adopted:

Amendment 3A (with Title Amendment)—On page 13, between lines 8 and 9, insert:

Section 6. Notwithstanding the provisions of chapter 90-264, Laws of Florida, it is the intent of the Legislature that chapter 12026, Laws of Florida, 1927, as amended, shall continue in full force and effect. Section 7 of chapter 90-264, Laws of Florida, is repealed.

Section 7. Upon the expiration of the terms of office of the commissioners currently serving on the board of the Florida Inland Navigation District, each new appointee must be confirmed by the Senate.

Section 8. The Florida Inland Navigation District is designated the local interest sponsor for the sole purpose of maintaining navigability of that portion of the Okeechobee Waterway located in Martin County and extending from the Intracoastal Waterway to the St. Lucie Lock.

Section 9. The Florida Inland Navigation District shall identify all special acts directly affecting its duties and responsibilities and report to the Speaker of the House of Representatives and the President of the Senate by November 1, 1995, whether such special acts can be consolidated and enacted by general law.

Section 10. Subsection (5) of section 374.976, Florida Statutes, is amended to read:

374.976 Authority to address impacts of waterway development projects.—

(5) The Florida Inland Navigation District may furnish assistance and support to seaports for the purpose of planning and carrying out dredge material management projects and other environmental mitigation projects. Port projects shall benefit publicly maintained channels and harbors. Any port eligible for funding shall be located in a member county of the district, and each port shall contribute matching funds for funded projects. *Financial assistance for such port projects may exceed the proportional share of ad valorem tax collections of the county within which the port is located.*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 15, line 28, after "seaports;" insert: repealing s. 7, ch. 90-264, Laws of Florida, relating to abolition of the district; requiring that new commissioners of the district be confirmed by the Senate; designating the district as local interest sponsor for purposes of maintaining navigability for a specified section of the Okeechobee Waterway; requiring a study; deleting a limitation on financial assistance for port projects;

On motion by Senator Bankhead, further consideration of **CS for SB 2506** with pending **Amendment 3** as amended was deferred.

On motion by Senator Kurth, by two-thirds vote **CS for HB 1161** was withdrawn from the Committees on Transportation and Community Affairs.

On motion by Senator Kurth, the rules were waived and—

CS for HB 1161—A bill to be entitled An act relating to seaplanes and helistops; amending s. 330.30, F.S.; providing certain helistops an exemption from airport licensing requirements; amending s. 330.36, F.S.; revising a provision that authorizes municipalities to regulate seaplane landings; providing an effective date.

—a companion measure, was substituted for **SB 1556** and read the second time by title.

Senator Kurth moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, between lines 5 and 6, insert:

Section 3. Paragraph (b) of subsection (19) of section 380.06, Florida Statutes, 1994 Supplement, is amended to read:

380.06 Developments of regional impact.—

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 5 percent or 300 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 5 percent or 1,000 spectators, whichever is greater.

2. A new runway, a new terminal facility, a *25-percent lengthening of* ~~10 percent expansion to~~ an existing runway, or a *25-percent* ~~20 percent~~ increase in the *number of gates* ~~floor area~~ of an existing terminal, *but only if the increase adds at least three additional gates. However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.*

3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.

4. An increase in industrial development area by 5 percent or 32 acres, whichever is greater.

5. An increase in the average annual acreage mined by 5 percent or 10 acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 5 percent or 300,000 gallons, whichever is greater. An increase in the size of the mine by 5 percent or 750 acres, whichever is less.

6. An increase in land area for office development by 5 percent or 6 acres, whichever is greater, or an increase of gross floor area of office development by 5 percent or 60,000 gross square feet, whichever is greater.

7. An increase in the storage capacity for chemical or petroleum storage facilities by 5 percent, 20,000 barrels, or 7 million pounds, whichever is greater.

8. An increase of development at a waterport of wet storage for 20 watercraft, dry storage for 30 watercraft, or wet/dry storage for 60 watercraft in an area identified in the state marina siting plan as an appropriate site for additional waterport development or a 5-percent increase in watercraft storage capacity, whichever is greater.

9. An increase in the number of dwelling units by 5 percent or 50 dwelling units, whichever is greater.

10. An increase in commercial development by 6 acres of land area or by 50,000 square feet of gross floor area, or of parking spaces provided for customers for 300 cars or a 5-percent increase of any of these, whichever is greater.

11. An increase in hotel or motel facility units by 5 percent or 75 units, whichever is greater.

12. An increase in a recreational vehicle park area by 5 percent or 100 vehicle spaces, whichever is less.

13. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

14. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 100 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 100 percent has been reached or exceeded.

15. A 15-percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

16. Any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The further refinement of such areas by survey shall be considered under subsubparagraph (e)5.b.

Section 4. Paragraph (a) of subsection (3) of section 380.0651, Florida Statutes, 1994 Supplement, is amended to read:

380.0651 Statewide guidelines and standards.—

(3) The following statewide guidelines and standards shall be applied in the manner described in s. 380.06(2) to determine whether the following developments shall be required to undergo development-of-regional-impact review:

(a) Airports.—

1. Any of the following airport construction projects shall be ~~presumed to be~~ a development of regional impact:

a. A new commercial service or general aviation airport with paved runways.

b. A new commercial service or general aviation paved runway.

c. A new passenger terminal facility.

2.~~a.~~ *Lengthening* ~~Expansion~~ of an existing runway *by 25 percent* or *an increase in the number of gates* ~~terminal facility~~ by 25 percent or *three gates* ~~50,000 square feet~~, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights *is* ~~shall be presumed to be~~ a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport shall not be ~~presumed to be~~ a development of regional impact.

~~b. For the purpose of this section, runway expansion shall include strengthening the runway when the strengthening will result in an increase in aircraft size or the addition of jet aircraft utilizing the airport.~~

3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity *is* ~~shall~~ not ~~be presumed to be~~ a development of regional impact. *Notwithstanding paragraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2-7 and insert: An act relating to aviation facilities; amending s. 330.30, F.S.; providing certain helistops an exemption from airport licensing requirements; amending s. 330.36, F.S.; revising a provision that authorizes municipalities to regulate seaplane landings; amending ss. 380.06, 380.0651, F.S.; revising criteria under which a new runway or terminal facility is subject to review as a development of regional impact; providing certain exceptions;

On motion by Senator Kurth, by two-thirds vote **CS for HB 1161** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Jones, by two-thirds vote **CS for HB 1659** was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator Jones—

CS for HB 1659—A bill to be entitled An act relating to local government comprehensive planning; amending s. 163.3167, F.S., prohibiting an initiative or referendum in regard to any development order or local comprehensive plan or map amendment that affects five or fewer parcels of land; amending s. 163.3184, F.S.; revising requirements relating to review of plan amendments by the state land planning agency; revising the time period for review by the agency of amendments that result from a compliance agreement; revising the requirements for publication of notice of intent by the agency to find a comprehensive plan or plan amendment in compliance or not in compliance; revising requirements relating to administrative proceedings subsequent to a notice of intent by the agency to find a plan amendment adopted pursuant to a compliance agreement in compliance; amending s. 163.3187, F.S.; revising conditions under which small scale development amendments may be made to a comprehensive plan without regard to statutory limits on the frequency of plan amendments; revising notice requirements; providing for challenge to such amendments; providing for hearings and findings by the hearing officer and the agency; providing effective date of such amendments; providing for a report by the agency relating to an increase in the annual total acreage threshold for small scale amendments; amending ss. 163.3177 and 163.3202, F.S.; extending the deadline for adoption and implementation of plan amendments and land development regulations to implement portions of the intergovernmental coordination element; directing the state land planning agency to evaluate rules and statutes regarding the intergovernmental coordination element, in consultation with a technical committee, and submit its recommendations, including a proposed new rule, to the Governor and Legislature; providing for legislative review of the rule and providing for adoption thereof; providing for repeal of existing rules; amending s. 163.3191, F.S.; providing that the schedule for completion and transmittal of plan amendments to implement portions of that element shall not be dependent upon or established by the rule adopting a schedule for submittal of evaluation and appraisal reports; extending the deadline for completion of a sufficiency determination of an evaluation and appraisal report; amending s. 186.507, F.S.; revising provisions relating to the adoption of a strategic regional policy plan and amendments thereto by the governing body of a regional planning council; amending s. 380.06, F.S., relating to developments of regional impact; revising provisions relating to notice of adoption of or amendments to a development order; increasing the extension period for the date of a buildout of a development which is presumed to create a substantial deviation; specifying extension periods that are not substantial deviations; revising provisions relating to calculation of extension periods and effect of extensions; specifying those changes to a development order that are not subject to public hearing or determination requirements and those changes which are not substantial deviations; revising notice requirements with respect thereto; requiring the regional planning agency or state land planning agency to advise a local government and developer of whether it objects to a proposed change to an approved development of regional impact; revising a restriction on appeal by the state land planning agency of a local government's decision on such a change; providing for retroactive effect; revising the statutory exemption for the addition of seats or parking spaces for certain sports facilities; establishing a process to abandon a development of regional impact; providing for rules; amending s. 380.0651, F.S., which provides statewide guidelines and standards to determine whether a development is required to undergo development-of-regional-impact review; providing for review of certain movie theaters; providing guidelines and standards for construction of a public, private, or proprietary postsecondary educational campus; providing an effective date.

—a companion measure, was substituted for **CS for SB 1812** and read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for HB 1659** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—1

SB 1010—A bill to be entitled An act relating to greenways; creating the Florida Greenways Coordinating Council; providing for the composition of the council and its duties; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources recommended the following amendment which was moved by Senator Sullivan and adopted:

Amendment 1—On page 1, strike everything after the title and insert:

WHEREAS, a greenway is a corridor of protected open space benefiting sensitive lands and wildlife and providing people with access to healthful outdoor natural activities, and

WHEREAS, many public and private organizations are actively involved in greenways projects across Florida, including the Florida Greenways Commission established by Governor Chiles, the Cross Florida Greenways State Recreation and Conservation Area, the Loxahatchee Greenways Network in Palm Beach and Martin Counties, the Apalachee Greenways Network in a 6-county area surrounding Tallahassee, and the Suncoast Greenways Network in west central Florida, and

WHEREAS, the Florida Greenways Commission's December 1994 report contained specific executive and legislative recommendations for creating a statewide system of greenways for people, for wildlife, for Florida, and

WHEREAS, the Legislature discerns a need for the coordination and promotion of greenways throughout the state by creating the Florida Greenways Coordinating Council, NOW, THEREFORE,

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

Section 1. Florida Greenways Coordinating Council; composition; duties.—

(1) There is created within the Department of Environmental Protection the Florida Greenways Coordinating Council to promote greenways initiatives throughout the state with technical support, leadership, education, advocacy, and other service-oriented efforts. The council will serve as a facilitator for the formation of partnerships involving public agencies, private businesses, environmental organizations, community-based organizations, and citizen volunteers.

(2) The council is assigned for administrative purposes to the Department of Environmental Protection and is authorized to employ its own separate staff and consultants funded through the department's budget.

(3) The council is authorized to contract for and to accept gifts, grants, loans, or other aid from the United States Government or any person or corporation.

(4) The council is to be composed of 26 members, consisting of:

(a) Four members appointed by the Governor, four members appointed by the President of the Senate, and four members appointed by the Speaker of the House of Representatives. Each appointing authority must consider ethnic and gender balance and appoint one member who is representative of:

1. Business interests;

2. The interests of landowners;

3. Conservation interests; and

4. Recreation interests.

The Governor shall designate one of his appointees as chairman of the council.

(b) Six members appointed by the Governor with the concurrence of the President of the Senate and the Speaker of the House of Representatives, one of whom represents the government of an urban county, one of whom represents the government of a rural county, two of whom represent a municipal government, one of whom represents the state's water management districts, and one of whom represents a federal land management entity active in the state.

(c) Eight ex officio members consisting of the head or designee of the following state agencies: the Department of Environmental Protection, the Department of Transportation, the Department of Community Affairs, the Division of Forestry of the Department of Agriculture and Consumer Services, the Game and Fresh Water Fish Commission, the Department of Commerce, the Department of Education, and the Division of Historical Resources of the Department of State.

(5) Council members must be appointed by October 1, 1995, to serve 4-year terms. Vacancies of appointed members must be filled by the original appointing authority. The organizational meeting of the council must be held on or before December 1, 1995. Members are entitled to per diem and travel expenses under section 112.061, Florida Statutes.

(6) The council shall:

(a) Hold at least 4 meetings each year;

(b) Hold at least 2 public hearings each year to announce and take public testimony on its activities;

(c) Assist the Department of Environmental Protection in the preparation of a 5-year Florida Greenways System Implementation Plan;

(d) Develop benchmarks to measure progress in implementing the statewide system of greenways;

(e) Assist state and regional agencies involved in greenways to develop and execute memoranda of understanding that define the roles and responsibilities that each entity will assume in working with the council to develop and implement the statewide system of greenways; and

(f) Evaluate the need for establishing a nongovernmental organization to provide advocacy, education, and technical assistance for the statewide greenways system.

(g) Submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 1999, a report making specific recommendations for action necessary to manage the Florida greenways system.

(h) Develop an outreach to businesses and industries including but not limited to forestry, mining, and agriculture to create an industry/state partnership in the development of the Florida greenways system.

(i) Seek, identify, and develop incentives to encourage private participation.

(7) The Department of Environmental Protection is designated as lead state agency to create a statewide system of greenways on public lands and to assist the council in coordinating with other government agencies and private entities involved in the statewide greenways system.

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

On motion by Senator Sullivan, by two-thirds vote **SB 1010** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motion by Senator Williams, by two-thirds vote **HB 793** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Williams—

HB 793—A bill to be entitled An act relating to the Department of Revenue; amending s. 20.04, F.S.; exempting the department from certain requirements relating to internal structure; amending s. 20.21, F.S.; eliminating the divisions and offices within the department and transferring their responsibilities to the department; authorizing the department to pay insurance premiums for out-of-state employees; amending ss. 189.412, 195.087, 195.096, 195.097, 200.068, 200.0684, 213.053, 213.2201, and 409.2599, F.S., relating to approval of property appraisers' and tax collectors' budgets, review of assessment rolls, certification of compliance of taxing authorities, child support enforcement, and department publications, to conform; amending s. 213.015, F.S.; correcting a reference; amending s. 2, ch. 94-124, Laws of Florida; correcting the name of a trust fund; repealing s. 213.045, F.S., which establishes division director, assistant division director, bureau chief, and General Counsel positions within the department; providing an effective date.

—a companion measure, was substituted for **SB 1420** and read the second time by title.

Senator Williams moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 20, strike all of lines 23 and 24 and insert:

Section 15. Effective July 1, 1997, subsection (3) of section 20.04, Florida Statutes, is amended to read:

20.04 Structure of executive branch.—The executive branch of state government is structured as follows:

(3) For their internal structure, all departments, except for the Departments of Health and Rehabilitative Services, Corrections, ~~Revenue,~~ and Transportation, must adhere to the following standard terms:

(a) The principal unit of the department is the "division." Each division is headed by a "director."

(b) The principal unit of the division is the "bureau." Each bureau is headed by a "chief."

(c) The principal unit of the bureau is the "section." Each section is headed by an "administrator."

(d) If further subdivision is necessary, sections may be divided into "subsections," which are headed by "supervisors."

Section 16. Effective July 1, 1997, section 20.21, Florida Statutes, is amended to read:

20.21 Department of Revenue.—There is created a Department of Revenue.

(1) The head of the Department of Revenue is the Governor and Cabinet.

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

(a) Division of Administration.

(b) Division of Ad Valorem Tax.

(c) Division of Audits.

(d) Division of Collection and Enforcement.

(e) Division of Information Systems and Services.

(f) Division of Taxpayer Assistance.

(g) Division of Tax Processing.

(h) Division of Child Support Enforcement.

(3)~~(2)~~(a) The ~~administrative~~ responsibilities of the *Division of Administration shall be* ~~Department of Revenue are~~ to plan, organize, and control the administrative support services for the department. *The* ~~Administrative~~ functions *of this division shall* include, but are not limited to, finance and accounting, revenue accounting, personnel, and office services.

(b) The ~~ad valorem tax~~ responsibilities of the *Division of Ad Valorem Tax shall be* ~~department are~~ to carry out the relevant provisions of ad valorem tax law. *The* ~~Ad valorem tax~~ functions *of this division shall* include, but are not limited to, ad valorem administration, assessment standards and review, central property valuation, and field operations.

(c) The ~~audit~~ responsibilities of the *Division of Audits shall be* ~~department are~~ to plan, organize, administer, and control tax auditing activities. *The* ~~Audit~~ functions *of this division shall* include, but are not limited to, audit selection and standards development for those taxes collected by the department. The standards development function shall include development of standard audit criteria and provision of functional direction to field audit staff.

(d) The ~~collection and enforcement~~ responsibilities of the *Division of Collection and Enforcement shall include* ~~department are to conduct~~ tax collection and enforcement activities. *The* ~~Collection and enforcement~~ functions *of this division shall* include, but are not limited to, investigative services and central and field operations.

(e) The ~~information systems and services~~ responsibilities of *the Division of Information Systems and Services shall include development, maintenance, and management of* ~~department are to develop, maintain, and manage~~ all information systems for tax return processing and taxpayer registration activities. *The* ~~Information systems and services~~ functions *of this division shall* include, but are not limited to, automation of all information systems.

(f) The ~~taxpayer assistance~~ responsibilities of the *Division of Taxpayer Assistance shall include the rendering of* ~~department are to render~~ advice to department personnel and the public on tax matters. *The* ~~Taxpayer assistance~~ functions *of the division shall* include, but are not limited to, the preparation of departmental rules for all taxes, the rendition of opinions pursuant to s. 213.22, and the provision of informal assistance to the public on tax matters.

(g) The ~~tax processing~~ responsibilities of the *Division of Tax Processing* ~~department~~ include, but are not limited to, receipts processing, tax returns processing, license registration, and taxpayer registration.

(h) The ~~child support enforcement~~ responsibilities of the *Division of Child Support Enforcement* ~~department~~ include the administration of the child support enforcement program established by Title IV-D of the Social Security Act, 42 U.S.C. ss. 651 et seq.

(4) The following offices are established within the Department of Revenue:

(a) Office of the Inspector General.

(b) Office of the General Counsel.

(c) Office of Tax Research.

(d) Office of Legislative and Cabinet Affairs.

(e) Office of Planning and Budgeting.

(5)~~(3)~~ The position of taxpayers' rights advocate is created within the Department of Revenue. The taxpayers' rights advocate shall be appointed by and report to the executive director of the department. The responsibilities of the taxpayers' rights advocate include, but are not limited to, the following:

(a) Facilitating the resolution of taxpayer complaints and problems which have not been resolved through normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by employees of the department.

(b) Issuing a stay action on behalf of a taxpayer who has suffered or is about to suffer irreparable loss as a result of action by the department.

(6)~~(4)~~ Necessary legal services, pursuant to chapter 16, including litigation shall be provided to the Department of Revenue by the Department of Legal Affairs, except for the establishment of paternity or support obligations, and the modification, enforcement, and collection of support obligations, for which legal services may be provided under a contract entered into by the Department of Revenue as the Title IV-D agency.

(7)~~(5)~~ Notwithstanding any other law, the department may process taxes, fines, or license or regulatory fees for the benefit of any other state agency. Such processing may be done only pursuant to a written agreement between the department and the agency requesting this service.

(8)~~(6)~~ Notwithstanding the provisions of s. 110.123, relating to the state group insurance program, the department may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time out-of-state employees, pursuant to such rules as it may adopt, and such payments shall be in addition to the regular salaries of such full-time out-of-state employees.

Section 17. Effective July 1, 1997, subsection (2) of section 189.412, Florida Statutes, is amended to read:

189.412 Special District Information Program; duties and responsibilities.—The Special District Information Program of the Department of Community Affairs is hereby created and shall have the following special duties:

(2) Within an appropriate timeframe, the collection and maintenance of special district compliance status reports from the Auditor General, the Department of Banking and Finance, the Division of Bond Finance

of the State Board of Administration, the Division of Retirement of the Department of Management Services, the *Division of Ad Valorem Tax of the* Department of Revenue, and the Commission on Ethics for the reporting required in ss. 11.45, 112.3144, 112.3145, 112.3148, 112.3149, 112.63, 200.068, 218.32, 218.34, and 218.38 and chapter 121 and from state agencies administering programs that distribute money to special districts. The special district compliance status reports shall consist of a list of special districts used in that state agency and information indicating which special districts did not comply with the reporting statutorily required by that agency.

Section 18. Effective July 1, 1997, subsections (1) and (2) of section 195.087, Florida Statutes, are amended to read:

195.087 Property appraisers and tax collectors to submit budgets to Department of Revenue.—

(1)(a) On or before June 1 of each year, every property appraiser, regardless of the form of county government, shall submit to the *Division of Ad Valorem Tax of the* Department of Revenue a budget for the operation of his office for the ensuing fiscal year beginning October 1. The property appraiser shall submit his budget in the manner and form required by the department. A copy of such budget shall be furnished at the same time to the board of county commissioners. The *division* ~~department~~ shall, upon proper notice to the county commission and property appraiser, review the budget request and may amend or change the budget request as it deems necessary, in order that the budget be neither inadequate nor excessive. On or before July 15, the *division* ~~department~~ shall notify the property appraiser and the board of county commissioners of its tentative budget amendments and changes. Prior to August 15, the property appraiser and the board of county commissioners may submit additional information or testimony to the *division* ~~department~~ respecting the budget. On or before August 15, the *division* ~~department~~ shall make its final budget amendments or changes to the budget and shall provide notice thereof to the property appraiser and board of county commissioners.

(b) The Governor and Cabinet, sitting as the Administration Commission, may hear appeals from the final action of the *Division of Ad Valorem Tax* ~~department~~ upon a written request being filed by the property appraiser or the presiding officer of the county commission no later than 15 days after the conclusion of the hearing held pursuant to s. 200.065(2)(d). The Administration Commission may amend the budget if it finds that any aspect of the budget is unreasonable in light of the work load of the office of the property appraiser in the county under review. The budget request as approved by the *division* ~~department~~ and as amended by the commission shall become the operating budget of the property appraiser for the ensuing fiscal year beginning October 1, except that the budget so approved may subsequently be amended under the same procedure. After final approval, the property appraiser shall make no transfer of funds between accounts without the written approval of the *division* ~~department~~. However, all moneys received by property appraisers in complying with chapter 119 shall be accounted for in the same manner as provided for in s. 218.36, for moneys received as county fees and commissions, and any such moneys may be used and expended in the same manner and to the same extent as funds budgeted for the office and no budget amendment shall be required.

(2) On or before August 1 of each year, each tax collector, regardless of the form of county government, shall submit to the Department of Revenue his budget for the operation of his office for the ensuing fiscal year, in the manner and form prescribed by the Department *of Revenue*. A copy of such budget shall be furnished at the same time to the board of county commissioners. The department shall examine the budget and, if it is found adequate to carry on the work of the tax collector, shall approve the budget and certify it back to the tax collector. If the department finds the budget inadequate or excessive, it shall return such budget to the tax collector, together with its ruling thereon. The tax collector shall revise the budget as required and resubmit it to the department. After the final approval of the budget by the department, there shall be no reduction or increase by any officer, board, or commission without the approval of the department. However, all moneys received by tax collectors in complying with chapter 119 shall be accounted for in the same manner as provided for in s. 218.36, for moneys received as county fees and commissions, and any such moneys may be used and expended in the same manner and to the same extent as funds budgeted for the office and no budget amendment shall be required. This subsection does not apply in a county in which the office of tax collector has been abolished and the duties of that office have been transferred to another office pursuant to s. 1(d), Art. VIII of the State Constitution or in a county in which a resolution is in effect pursuant to s. 145.022 or in any charter county where the charter specifically provides for a different method for the submission of the tax collector's budget.

Section 19. Effective July 1, 1997, section 195.096, Florida Statutes, is amended to read:

195.096 Review of assessment rolls.—

(1) The assessment rolls of each county shall be subject to review by the *Division of Ad Valorem Tax* ~~Department of Revenue~~.

(2) The *Division of Ad Valorem Tax* ~~department~~ shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. The *Division of Ad Valorem Tax* ~~department~~ need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value of each classification specified in subsection (3). Such in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property.

(a) The *Division of Ad Valorem Tax* ~~department~~ shall, at least 30 days prior to the beginning of an in-depth review in any county, notify the property appraiser in the county of the pending review. At the request of the property appraiser, the *Division of Ad Valorem Tax* ~~department~~ shall consult with the property appraiser regarding the classifications and strata to be studied, in order that the review will be useful to the property appraiser in evaluating his or her procedures.

(b) Every property appraiser whose upcoming roll is subject to an in-depth review shall, if requested by the department on or before January 1, deliver upon completion of the assessment roll a list of the parcel numbers of all parcels that did not appear on the assessment roll of the previous year, indicating the parcel number of the parent parcel from which each new parcel was created or "cut out."

(c) In conducting assessment ratio studies, the *Division of Ad Valorem Tax* ~~department~~ must use a representative or statistically reliable sample of properties in tests of each classification, stratum, or roll made the subject of a ratio study published by it. For purposes of this section, the *division* ~~department~~ shall rely primarily on an assessment-to-sales-ratio study in conducting assessment ratio studies in those classifications of property specified in subsection (3) for which there are adequate market sales. The department shall compute the median and the value-weighted mean for each classification or subclassification studied and for the roll as a whole.

(d) In the conduct of these reviews, the *Division of Ad Valorem Tax* ~~department~~ shall adhere to all standards to which the property appraisers are required to adhere.

(e) The *Division of Ad Valorem Tax* ~~department~~ and each property appraiser shall cooperate in the conduct of these reviews, and each shall make available to the other all matters and records bearing on the preparation and computation of the reviews. The property appraisers shall provide any and all data requested by the *Division of Ad Valorem Tax* ~~department~~ in the conduct of the studies, including electronic data processing tapes. Any and all data and samples developed or obtained by the *Division of Ad Valorem Tax* ~~department~~ in the conduct of the studies shall be confidential and exempt from the provisions of s. 119.07(1) until a presentation of the findings of the study is made to the property appraiser. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. After the presentation of the findings, the *Division of Ad Valorem Tax* ~~department~~ shall provide any and all data requested by a property appraiser developed or obtained in the conduct of the studies, including tapes. Direct reimbursable costs of providing the data shall be borne by the party who requested it. Copies of existing data or records, whether maintained or required pursuant to law or rule, or data or records otherwise maintained, shall be submitted within 30 days from the date requested, in the case of written or printed information, and within 14 days from the date requested, in the case of computerized information.

(f) Within 120 days following the receipt of a county assessment roll by the executive director of the department pursuant to s. 193.1142(1), or within 10 days after approval of the assessment roll, whichever is later, the *Division of Ad Valorem Tax* ~~department~~ shall complete the review for that county and forward its findings, including a statement of the con-

fidence interval for the median and such other measures as may be appropriate for each classification or subclassification studied and for the roll as a whole, employing a 95-percent level of confidence, and related statistical and analytical details to the Senate Finance, Taxation, and Claims Committee; the House Finance and Taxation Committee; and the appropriate property appraiser.

(3)(a) Upon completion of review pursuant to paragraph (2)(f), the *Division of Ad Valorem Tax* ~~department~~ shall publish the results of reviews conducted pursuant to this section. The results shall include all statistical and analytical measures computed pursuant to this section for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following real property classes whenever such classes constituted 5 percent or more of the total assessed value of real property in a county on the previous tax roll:

1. Residential property that consists of one primary living unit, including, but not limited to, single-family residences, condominiums, cooperatives, and mobile homes.

2. Residential property that consists of two or more primary living units.

3. Agricultural and other use-valued property.

4. Vacant lots.

5. Nonagricultural acreage and other undeveloped parcels.

6. Improved commercial and industrial property.

7. Taxable institutional or governmental, utility, locally assessed railroad, oil, gas and mineral land, subsurface rights, and other real property.

When one of the above classes constituted less than 5 percent of the total assessed value of all real property in a county on the previous assessment roll, the *division* ~~department~~ may combine it with one or more other classes of real property for purposes of assessment ratio studies or use the weighted average of the other classes for purposes of calculating the level of assessment for all real property in a county. The *division* ~~department~~ shall also publish such results for any subclassifications of the above classes or assessment rolls it may have chosen to study.

(b) When necessary for compliance with s. 236.081, and for those counties not being studied in the current year, the *Division of Ad Valorem Tax* ~~department~~ shall project value-weighted mean levels of assessment for each county. The *Division of Ad Valorem Tax* ~~department~~ shall make its projection based upon the best information available, utilizing professionally accepted methodology, and shall separately allocate changes in total assessed value to:

1. New construction, additions, and deletions.

2. Changes in the value of the dollar.

3. Changes in the market value of property other than those attributable to changes in the value of the dollar.

4. Changes in the level of assessment.

In lieu of the statistical and analytical measures published pursuant to paragraph (a), the department shall publish details concerning the computation of estimated assessment levels and the allocation of changes in assessed value for those counties not subject to an in-depth review.

(4) It is declared to be the legislative intent that approval of the rolls by the department pursuant to s. 193.1142 and certification by the value adjustment board pursuant to s. 193.122(1) shall not be deemed to impugn the use of postcertification reviews to require adjustments in the preparation of succeeding assessment rolls to ensure that such succeeding assessment rolls do meet the constitutional mandates of just value.

(5) It is the legislative intent that the *Division of Ad Valorem Tax* ~~department~~ utilize to the fullest extent practicable objective measures of market value in the conduct of reviews pursuant to this section.

(6) Reviews conducted pursuant to this section shall include an evaluation of whether nonhomestead exempt values determined by the appraiser pursuant to applicable provisions of chapter 196 are correct and whether agricultural classifications were granted in accordance with law.

(7) The Auditor General shall have the responsibility to perform performance audits of the administration of ad valorem tax laws by the department pursuant to the general authority granted in chapter 11. Such performance audits shall be conducted biennially following completion of reviews pursuant to this section. The *first* performance audit conducted pursuant to this subsection shall be formally submitted to the Legislature no later than April 1, *1984* ~~on a biennial basis~~, reporting on the activities of the *Division of* Ad Valorem Tax ~~program of the Department of Revenue~~ related to the *1982 and 1983* ad valorem tax rolls*, and biennially thereafter*. The Auditor General shall include, for at least four counties so reviewed, findings as to the accuracy of assessment procedures, projections, and computations made by the *division* ~~department~~, utilizing the same generally accepted appraisal standards and procedures to which the *division* ~~department~~ and the property appraisers are required to adhere. However, the report shall not include any findings or statistics related to any ad valorem tax roll which is in litigation between the state and county officials at the time the report is to be issued.

(8) When a roll is prepared as an interim roll pursuant to s. 193.1145, the department shall compute assessment levels for both the interim roll and the final approved roll.

(9) Chapter 120 shall not apply to this section.

Section 20. Effective July 1, 1994, subsections (1) and (4) of section 195.097, Florida Statutes, are amended to read:

195.097 Postaudit notification of defects; supervision by the department.—

(1)(a) Upon evaluation of any reviews, studies, or findings of the *Division of Ad Valorem Tax* ~~Department of Revenue~~, the executive director of the department shall issue a notice to any property appraiser who he has determined has one or more classes or other strata of property listed on the assessment rolls in a manner inconsistent with the requirements of law, or is otherwise not assessing in accordance with law. The executive director shall specify in his notice the classes or strata of property that have been improperly assessed on the prior year's roll, the nature of the defect or defects, and the requirements of the department to obtain approval of the current year's assessment roll. Such notice shall be provided to the property appraiser no later than November 15.

(b) Notwithstanding other provisions of this section, the executive director is not required to notice as a defect a class or stratum of property which, based upon the evaluation of any review, study, or finding of the *Division of Ad Valorem Tax* ~~department~~, indicates an assessment level of more than 100 percent of just value in any class or stratum of property on the prior year's tax roll.

(4) Upon the issuance of the administrative order, the *Division of Ad Valorem Tax* ~~department~~ shall commence continuing supervision of the preparation of the current rolls to ensure that every reasonable effort is being taken by the property appraiser to comply with the order. Supervision may include, but shall not be limited to, the conduct of ratio or other mass-data studies on the roll being prepared, onsite inspection of the property appraiser's office or field operations, and interviews with the property appraiser's personnel or consultants. The executive director may require the property appraiser to certify in writing the specific steps taken to comply with the administrative order. During such supervision, the executive director may seek any judicial remedy available to him under law to force compliance with his order, and may request removal of the property appraiser by the Governor when he deems such action necessary. No later than May 1, the executive director shall notify the property appraiser, in writing, as to whether he is in substantial compliance with the order. In the event that the executive director determines that the property appraiser is not in substantial compliance at that time, he shall send to the property appraiser and the governing body of each tax-levying agency in the county a notice of intent to disapprove the tax roll in whole or in part.

Section 21. Effective July 1, 1997, section 200.068, Florida Statutes, is amended to read:

200.068 Certification of compliance with this chapter.—Not later than 30 days following adoption of an ordinance or resolution establishing a property tax levy, each taxing authority shall certify compliance with the provisions of this chapter to the *Division of Ad Valorem Tax of the* Department of Revenue. In addition to a statement of compliance, such certification shall include a copy of the ordinance or resolution so adopted; a copy of the certification of value showing rolled-back millage and proposed millage rates, as provided to the property appraiser pursuant to s. 200.065(1) and (2)(b); and a certified copy of the advertisement,

as published pursuant to s. 200.065(3). In certifying compliance, the governing body of the county shall also include a certified copy of the notice required under s. 194.037. However, if the value adjustment board completes its hearings after the deadline for certification under this section, the county shall submit such copy to the department not later than 30 days following completion of such hearings.

Section 22. Effective July 1, 1997, section 200.0684, Florida Statutes, is amended to read:

200.0684 Annual compliance report for Department of Community Affairs.—An annual report indicating which special districts levying ad valorem taxes are certified and which special districts levying ad valorem taxes are not certified as being in compliance with this chapter as specified in s. 200.068 must be prepared by the *Division of Ad Valorem Tax of the* Department of Revenue and forwarded to the Special District Information Program of the Department of Community Affairs.

Section 23. Effective July 1, 1997, subsection (2) of section 213.015, Florida Statutes, is amended to read:

213.015 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical terms, the rights and obligations of the Department of Revenue and taxpayers. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed Florida taxpayers in the Florida Statutes and the departmental rules are:

(2) The right to request assistance from a taxpayers' rights advocate of the department, who shall be responsible for facilitating the resolution of taxpayer complaints and problems not resolved through the normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment by department employees. The taxpayers' rights advocate may issue a stay order if a taxpayer has suffered or is about to suffer irreparable loss as a result of an action by the department (see ss. 20.21*(5)*~~(3)~~ and 213.018).

Section 24. Effective July 1, 1997, subsection (15) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(15) The department may disclose location information limited to the names and addresses contained in returns, reports, accounts, or declarations filed with the department by persons subject to a tax enumerated in s. 213.05 to the *Division of* Child Support Enforcement ~~program~~ to assist in the location of parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. Additionally, the department may disclose asset information limited to the number of units, value, and description of all intangible personal property contained in returns, reports, accounts, or declarations filed with the department by persons subject to the tax imposed in chapter 199 to the *Division of* Child Support Enforcement ~~program~~ to assist in the location of assets owned by parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. Nothing in this subsection authorizes the disclosure of information if such disclosure is prohibited by federal law. Employees of the *Division of* Child Support Enforcement ~~program~~ are bound by the same requirements of confidentiality and the same penalties for violation of the requirements as the department. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 25. Effective July 1, 1997, section 213.2201, Florida Statutes, is amended to read:

213.2201 Publications by the department.—The department, *through the Division of Administration,* may from time to time cause the laws under its jurisdiction, together with any rules and other publications, to be published in pamphlet form for free distribution in this state. The department may make charges for these technical and educational publications and mimeographed material of use for educational or reference purposes, except that charges may not be made for providing publications to any agency of the state. The charges shall be made at the discretion of the *Division of Administration* ~~department~~. The charges may be sufficient to cover the cost of research, preparation, printing, binding, publishing, and distribution. All moneys received for publications shall be deposited into the fund from which the cost of the publication was paid. The department may also enter into agreements with persons, firms, corporations, governmental agencies, and other institutions whereby publications may be exchanged reciprocally in lieu of payments for the publications.

Section 26. Effective July 1, 1997, section 409.2599, Florida Statutes, is amended to read:

409.2599 Data processing services; interagency agreement.—The Department of Health and Rehabilitative Services shall provide to the *Division of* Child Support Enforcement ~~program~~ in the Department of Revenue data processing services that meet the standards for federal certification pursuant to an interagency agreement.

Section 27. Effective July 1, 1997, section 213.0451, Florida Statutes, is created to read:

213.0451 Division directors; assistant directors; other positions.—There is established with the Division of Tax Processing, and within currently authorized positions, a division director and an assistant division director. There is established within the Division of Information Systems and Services, and within currently authorized positions, the additional position of bureau chief. There is established within currently authorized positions the position of General Counsel. The Executive Office of the Governor shall provide additional annual salary rates as required to establish these positions.

Section 28. Within 60 days after the beginning of each fiscal year, the Department of Revenue shall report to the Senate Ways and Means Committee and the House Appropriations Committee on the department's structure and the allocation of resources within that structure. Any substantive organization changes made after the report is submitted must be shown in an interim report to the committees.

Section 29. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, line 24, strike "providing an effective date" and insert: amending ss. 20.04, 20.21, 189.412, 195.087, 195.096, 195.097, 200.068, 200.0684, 213.053, 213.2201, 409.2599, and 213.015, F.S., effective July 1, 1997, to delete changes made by this act; creating s. 213.0451, F.S., effective July 1, 1997, to restore positions deleted by this act; requiring a report; providing effective dates.

On motion by Senator Williams, by two-thirds vote **HB 793** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

Consideration of **CS for SB 798** was deferred.

On motion by Senator Williams, by two-thirds vote **HB 1465** was withdrawn from the Committees on Regulated Industries; Higher Education; and Ways and Means.

On motion by Senator Williams—

HB 1465—A bill to be entitled An act relating to the State University System; amending s. 240.5095, F.S.; transferring the pari-mutuel wagering funded research and development programs to the University of Florida; providing an effective date.

—a companion measure, was substituted for **SB 1310** and read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 1465** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Crist, by unanimous consent—

HB 271—A bill to be entitled An act relating to confidentiality of investigation information concerning executive branch lobbyists; reenacting s. 112.3215(7) and (13), F.S., which provide an exemption from public records requirements for such information held by the Commission on Ethics; saving such exemption from repeal; providing an effective date.

—was taken up out of order and read the second time by title.

The Committee on Executive Business, Ethics and Elections recommended the following amendment which was moved by Senator Crist and adopted:

Amendment 1 (with Title Amendment)—On page 1, line 12, strike everything after the enacting clause and insert:

Section 1. Notwithstanding the October 1, 1995, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (7) and (13) of section 112.3215, Florida Statutes, are reenacted and amended to read:

112.3215 Executive branch lobbyists; registration and reporting; investigation by commission.—

(7) The commission shall investigate every sworn complaint *that* ~~which~~ is filed with it alleging that a person covered by this section has failed to register, has failed to submit an expenditure report, or has knowingly submitted false information in any report or registration required *in this section* ~~herein~~. All proceedings, the complaint, and other records relating to the investigation *are* ~~shall be~~ confidential and exempt from the provisions of s. 119.07(1) *and s. 24(a), Art. I of the State Constitution, and any meetings held pursuant to an investigation are exempt from the provisions of s. 286.011(1) and s. 24(b), Art. I of the State Constitution* either until the alleged violator requests in writing that such investigation and *associated* records *and meetings* be made public ~~records~~ or until the commission determines, based on the investigation, whether probable cause exists to believe that a violation *has* occurred. *These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(13) The commission shall adopt rules to *administer* ~~implement the provisions of~~ this section, which shall *prescribe* ~~include~~ forms for registration and expenditure reports, procedures for registration, and procedures *that* ~~which~~ will prevent disclosure of information *that* ~~which~~ is confidential as provided *in this section* ~~herein~~.

Section 2. The Legislature finds that exempting from the public meetings law any meetings held by the Commission on Ethics pursuant to investigating alleged violations of executive branch lobbyists enables the commission to effectively and efficiently administer its responsibilities under law, which administration would be significantly impaired without the exemption. The exemption serves to protect information of a sensitive personal nature concerning individuals, the preliminary release of which could defame such individuals or cause unwarranted damage to the reputation of the individuals prior to a finding of probable cause.

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

And the title is amended as follows:

In title, on page 1, strike all of lines 2-9 and insert: An act relating to executive-branch lobbyists; reenacting and amending s. 112.3215, F.S.; which provides an exemption from public records requirements for investigatory records held by the Commission on Ethics pursuant to investigations of alleged violations of executive branch lobbyist registration and reporting; saving such exemption from repeal; creating a public meetings exemption with respect to said investigations; providing for future legislative review and repeal of these exemptions pursuant to the Open Government Sunset Review Act; providing a statement of public necessity for said meetings exemption; providing an effective date.

On motion by Senator Crist, by two-thirds vote **HB 271** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 2186—A bill to be entitled An act relating to homebuyers; creating the Homebuyer's Protection Act; creating s. 489.126, F.S.; prohibiting acts by a certified or registered contractor; providing penalties; amending s. 489.131, F.S.; requiring local boards or agencies licensing contractors to transmit to the Construction Industry Licensing Board reports of disciplinary actions against contractors and unlicensed persons; creating s. 489.1425, F.S.; providing duty of contractor to notify a residential property owner about filing claims and buying title insurance; amending s. 501.1375, F.S.; requiring notice to a buyer of residential property that any deposit must be placed in an escrow account; eliminating a buyer's right to waive the escrow provision; creating s. 627.7866, F.S.; requiring certain persons to provide a residential property buyer a warning of consequences of not purchasing title insurance; creating s. 713.165, F.S.; providing for lists of subcontractors and supplier to be furnished to property owner; amending s. 713.31, F.S.; providing a penalty for filing a fraudulent lien; amending s. 713.35, F.S.; providing a penalty for making false statements relating to subcontractors, sub-subcontractors, or suppliers; providing an effective date.

—was read the second time by title.

The Committee on Commerce and Economic Opportunities recommended the following amendment which was moved by Senator Latvala:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. This act may be cited as the "Homebuyer's Protection Act."

Section 2. Section 252 361, Florida Statutes, 1994 Supplement, is renumbered as section 489.126, Florida Statutes, and amended to read:

489.126 ~~252.361~~ Moneys received by contractors ~~during an emergency order or proclamation.~~—

(1) For purposes of this section, the term "contractor" includes all definitions as set forth in s. 489.105(3), and any person performing or contracting or promising to perform work described therein, without regard to the licensure of the person.

~~(2) During the term of the executive order or proclamation issued under s. 252.36, any contractor who receives any payment of money for the repair, restoration, improvement, or construction of residential real property damaged by the disaster may use the funds only:~~

~~(a) For the purchase of materials to be used on the real property;~~

~~(b) To pay for work performed on the real property;~~

~~(c) To pay for permit fees, impact fees, or other government fees or charges actually paid in connection with the work to be done on the real property;~~

~~(d) To pay other necessary expenses and overhead incurred with respect to the real property, the total of paid expenses and overhead not to exceed 15 percent of the money received.~~

(2)~~(3) During the term of the executive order or proclamation issued under s. 252.36,~~ A contractor who receives money totaling more than 10 percent of the contract price for repair, restoration, improvement, or construction to residential real property ~~damaged by the disaster~~ must:

(a) Apply for permits necessary to do work within 30 days after the date payment is made; and

(b) Start the work within 90 days after the date all necessary permits for work are issued, unless the person who made the payment agreed, in writing, to a longer period.

(3)~~(4)~~(a) ~~During the term of the executive order or proclamation issued under s. 252.36,~~ A contractor who receives money for repair, restoration, addition, improvement or construction of residential real property ~~damaged in the disaster~~ in excess of the value of the work performed shall not, with intent to defraud the owner, fail or refuse to perform any work for any 90-day period.

(b) Proof that a contractor received money for the repair, restoration, addition, improvement, or construction of residential real property ~~damaged by the disaster~~ and *that* the amount received exceeds the value of the work performed by the contractor and that:

1. The contractor failed to perform any of the work for which he contracted during any 60-day period;

2. The failure to perform any such work during the 60-day period was not related to the owner's termination of the contract or a material breach of the contract by the owner; and

3. The contractor failed, for an additional 30-day period after the date of mailing of notification as specified in paragraph (c), to perform any work for which he contracted,

gives rise to an inference that the money in excess of the value of the work performed was taken with the intent to defraud.

(c) Notification as contemplated in paragraph (b) consists of a certified letter, return receipt requested, mailed to the address of the contractor as listed in the written contracting agreement. The letter must indicate that the contractor has failed to perform any work for a 60-day period, that the failure to perform the work was not the result of the owner's termination of the contract or a material breach of the contract by the owner, and that the contractor must recommence construction within 30 days after the date of mailing of the letter. If there is no address for the contractor listed in the written contracting agreement, or no written agreement exists, the letter must be mailed to the address of the contractor listed in the building permit application.

(4)~~(5)~~ Any person who violates any provision of this section is guilty of theft and shall be prosecuted and punished under s. 812.014.

~~(6) This section applies in the case of a major or catastrophic disaster that causes damage to a significant number of residential structures.~~

Section 3. Section 489.1265, Florida Statutes, is created to read:

489.1265 Prohibited acts by licensed contractors; penalties.—

(1) A certified or registered contractor, or contractor authorized by a local construction regulation board to do contracting, may not enter into an agreement, oral or written, whereby his or her certification number or registration number is used, or to be used, by a person who is not certified or registered as provided for in this chapter, or used, or to be used, by a business organization that is not duly qualified as provided for in this chapter to engage in the business, or act in the capacity, of a contractor.

(2) A certified or registered contractor, or contractor authorized by a local construction regulation board to do contracting, may not knowingly allow his or her certification number or registration number to be used by a person who is not certified or registered as provided for in this chapter, or used by a business organization that is not qualified as provided for in this chapter to engage in the business, or act in the capacity of, a contractor.

(3) A certified or registered contractor, or contractor authorized by a local construction regulation board to do contracting, may not apply for or obtain a building permit for construction work unless the certified or registered contractor, or contractor authorized by a local construction regulation board to do contracting, or business organization duly qualified by said contractor, has entered into a contract to make improvements to, or perform the contracting at, the real property specified in the application or permit. This subsection does not prohibit a contractor from applying for or obtaining a building permit to allow the contractor to perform work for another person without compensation or to perform work on property that is owned by the contractor.

(4)(a) A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who violates this section after having been previously found guilty of such violation commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Paragraph (c) of subsection (6) of section 489.131, Florida Statutes, 1994 Supplement, is amended to read:

489.131 Applicability.—

(6)

(c) Each local board or agency *that* ~~which~~ licenses contractors *must transmit* ~~transmits~~ monthly to the board a report of any disciplinary action taken against contractors and of any administrative or disciplinary action taken against unlicensed persons for engaging in the business or acting in the capacity of a contractor including any cease and desist orders issued pursuant to s. 489.113(2)(b) and any fine issued pursuant to s 489 127(4).

Section 5. Section 489.1425, Florida Statutes, is created to read:

489.1425 Duty of contractor to notify residential property owner of recovery fund.—

(1) No later than the date a residential property owner makes the initial payment on a contract for repair, restoration, improvement, or construction to residential real property, and at the time final payment is made on the contract, the contractor shall inform the residential property owner clearly and conspicuously in writing how and where to file a claim and an explanation of the consumer's rights under the Construction Industries Recovery Fund. The written statement must be on a form prepared by the Department of Legal Affairs, and must contain a telephone number for the Department of Business and Professional Regulation which the residential property owner can contact to obtain information regarding the consumer's rights and obligations under this chapter. The Department of Legal Affairs shall also prepare a concise and understandable explanation of the contractor's responsibilities regarding the written statement.

(2) By November 1, 1995, the Construction Industry Licensing Board shall provide copies and an explanation of the written statement required under subsection (1) and the disclosure form required under s. 713.135(7) to each person certified or registered under this part.

(3)(a) Upon the Construction Industry Licensing Board finding a first violation of subsection (1), the Construction Industry Licensing Board may fine the contractor up to $500 and the moneys must be deposited into the Construction Industries Recovery Fund.

(b) Upon the Construction Industry Licensing Board finding a second or subsequent violation of subsection (1), the Construction Industry Licensing Board shall fine the contractor $1,000 per violation and the moneys must be deposited into the Construction Industries Recovery Fund.

Section 6. Subsections (2) and (3) of section 501.1375, Florida Statutes, are amended to read:

501.1375 Deposits received for purchase of residential dwelling units; placement in escrow required; exceptions.—

(2) NOTICE TO BUYER *THAT* ~~OF RIGHT TO HAVE~~ DEPOSIT *WILL BE* PLACED IN ESCROW ACCOUNT.—In all offers to purchase, sales agreements, or written contracts *for the construction and purchase of a completed home* made between a building contractor or a developer and a prospective buyer of a one-family or two-family residential dwelling unit, the building contractor or developer shall notify the prospective buyer that any deposit (up to 10 percent of the purchase price) made by the buyer to the building contractor or developer shall~~,~~ ~~unless waived in writing by the buyer,~~ be deposited in an escrow account with a savings and loan association, bank, or trust company, an attorney who is a member of The Florida Bar, a licensed Florida real estate broker, or a title insurance company authorized to insure title to real property in this state. The escrowed funds may be deposited in separate accounts or commingled with other escrow or trust accounts. Any such offer, agreement, or contract used by the building contractor or developer with respect to the sale of a one-family or two-family residential dwelling unit shall contain the following legend in conspicuous type: THE BUYER OF A ONE-FAMILY OR TWO-FAMILY RESIDENTIAL DWELLING UNIT *SHALL PLACE* ~~HAS THE RIGHT TO HAVE ALL~~ DEPOSIT FUNDS (UP TO 10 PERCENT OF THE PURCHASE PRICE) ~~DEPOSITED~~ IN AN INTEREST-BEARING ESCROW ACCOUNT. ~~THIS RIGHT MAY BE WAIVED, IN WRITING, BY THE BUYER.~~

(3) ESCROW ACCOUNTS; INTEREST RATE; WITHDRAWALS — ~~In the event that the buyer of a one-family or two-family residential dwelling unit does not waive his right to have deposits placed in an escrow account,~~ The building contractor or developer shall place the funds (up to 10 percent of the purchase price) in an escrow account bearing interest at no less than the passbook rate of interest. The account shall be in the name of the building contractor or developer and the purchaser and shall be clearly denoted on the records of the escrow holder as an escrow account. All withdrawals from the account shall require the signatures of both the building contractor or developer and the buyer or *the buyer's* ~~his~~ agent, except as provided *in this section* ~~herein~~.

Section 7. Section 627.7866, Florida Statutes, is created to read:

627.7866 Title insurance; warning to residential property owner.—

(1) For all transactions regarding the purchase of a completed one-family or two-family residential dwelling unit, any title insurer, business trust title insurer, agent of a title insurer, members of a business trust title insurer, realtor, real estate broker, or agent, employee, or official of a lending or other institution that issues title insurance to a mortgagee lender on residential property shall instruct the residential property owner, in writing, of the consequences of not purchasing owner's title insurance by providing a warning in substantially the following form:

WARNING

If you decide to elect not to purchase owner's title insurance in connection with the purchase of your residential property or the improvement of your residential property you could be subject to serious financial loss. A lender's title insurance policy protects only the interest of the lender in your property and not your equity interest.

(2) The residential property owner must affirmatively decide in writing whether or not to purchase title insurance by executing a form in substantially the same form as that approved in chapter 4-186.002, Florida Administrative Code.

Section 8. Present subsection (7) of section 713.135, Florida Statutes, 1994 Supplement, is redesignated as subsection (8), and a new subsection (7) is added to that section, to read:

713.135 Notice of commencement and applicability of lien.—

(7)(a) Except as provided in paragraph (c), the issuing authority of a county or municipality may not issue a building permit to a licensed contractor to construct or make improvements of a value greater than $2,500, to a single-family detached home on property owned by another person until the issuing authority receives a disclosure statement in substantially the following form that bears an original signature of the person listed as the owner on the building permit application:

DISCLOSURE STATEMENT REGARDING
THE CONSTRUCTION LIEN LAW
READ THIS DISCLOSURE STATEMENT VERY CAREFULLY IF YOU CANNOT AFFORD TO PAY TWICE FOR THE LABOR AND MATERIALS USED FOR YOUR CONSTRUCTION PROJECT

The Construction Lien Law allows subcontractors and material suppliers to place a lien on your property for any amounts that remain unpaid for labor, services, or materials used on your construction project. THESE LIENS CAN BE ASSERTED AGAINST YOUR PROPERTY EVEN IF YOU PAY YOUR CONTRACTOR, UNLESS YOU MAKE ONLY PROPER PAYMENTS TO YOUR CONTRACTOR. IF YOU FAIL TO MAKE PROPER PAYMENTS, YOU MAY BE RESPONSIBLE FOR PAYING THESE BILLS A SECOND TIME.

To avoid having construction liens filed against your property, YOU SHOULD:

1. LEARN ABOUT HOW TO MAKE PROPER PAYMENTS UNDER THE CONSTRUCTION LIEN LAW (Chapter 713, Part I, Florida Statutes) OR LET A PROFESSIONAL PERSON HANDLE THE PAYMENTS TO THE CONTRACTOR. If you do not know about the requirements for proper payments, do not waive your right to have those payments made by a licensed professional.

2. DO NOT LET YOUR CONTRACTOR BE THE ONLY ONE VERIFYING THAT SUBCONTRACTORS AND SUPPLIERS ARE BEING PAID. If you are unsure about how proper payments should be made under the lien law, do not rely on your contractor for that purpose. Make sure you obtain an attorney or a certified public accountant who understands the lien law to help you make proper payments to the contractor.

3. YOU SHOULD NOT WAIVE YOUR RIGHT TO HAVE A PROFESSIONAL PERSON HELP YOU MAKE PROPER PAYMENTS TO YOUR CONTRACTOR. If you are considering waiving your rights to have a professional person help you make proper payments to your contractor, talk to an attorney, a certified public accountant, or a local building official about the consequences of that decision.

4. TALK WITH AN ATTORNEY, A CERTIFIED PUBLIC ACCOUNTANT, OR A BANKER ABOUT WHERE TO GET HELP.

I have read and understand my right to obtain a professional person to help me make proper payments under the Construction Lien Law. I also understand that if I choose to waive that right and I fail to make proper payments to my contractor, I may be required to pay twice for labor or materials used on my construction projects.

With all of those considerations in mind, I HEREBY

(check one)
( ) WAIVE
OR
( ) DO NOT WAIVE

my right to hire an appropriate professional person to help me make proper payments to my contractor.

WITNESSES:

Owner (as shown on building permit application)

(b) The contractor shall provide the disclosure statement to the owner on or before the date the contract to build or improve the home is signed by the owner. Any person who forges the owner's signature on the form or who intentionally misleads the owner about the consequences of waiving the owner's right to get professional assistance in making proper payments to the contractor is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) This subsection does not apply to any project being constructed on property owned by the contractor or owned by a legal entity owned by the contractor.

(d) This subsection applies to building permit applications submitted after January 1, 1996.

Section 9. Section 713.165, Florida Statutes, is created to read:

713.165 Request for list of subcontractors and suppliers.—

(1) An owner of real property may request from the contractor a list of all subcontractors and suppliers who have any contract with the contractor to furnish any material or to perform any service for the contractor with respect to the owner's real property or improvement to the real property. The request must be in writing and delivered by registered or certified mail to the address of the contractor shown in the contract or the recorded notice of commencement.

(2) The contractor must within 10 days after receipt of the property owner's written request, furnish to the property owner or the property owner's agent a list of the subcontractors and suppliers who have a contract with the contractor as of the date the request is received by the contractor. If the contractor fails to furnish the list, the contractor thereby forfeits the contractor's right to assert a lien against the owner's property to the extent the owner is prejudiced by the contractor's failure to furnish the list or by any omissions from the list.

Section 10. Subsection (3) is added to section 713.31, Florida Statutes, to read:

713.31 Remedies in case of fraud or collusion.—

(3) Any person who willfully files a fraudulent lien, as defined in this section, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Section 713.35, Florida Statutes, is amended to read:

713.35 Making or furnishing false statement ~~shall constitute perjury.~~—Any person, firm or corporation who *knowingly and intentionally makes* ~~shall willfully make~~ or *furnishes* ~~furnish~~ to another person, firm or corporation, *a written statement in the form of an affidavit, whether or not under oath,* ~~an affidavit~~ containing ~~a~~ false *information about the payment status of subcontractors, sub-subcontractors, or suppliers* ~~statement~~ in connection with the improvement of real property in this state, knowing that the one to whom it was furnished *might* ~~may~~ rely on it, and the one to whom it was furnished *will* ~~shall~~ part with anything of value relying on the truth of such statement as an inducement to do so *is,* ~~shall be~~ guilty of *a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083* ~~perjury and shall be prosecuted and, upon conviction, punished in accordance with the provisions of the laws of this state~~.

Section 12. This act shall take effect October 1, 1995.

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 construction contracting; creating the Homebuyer's Protection Act; renumbering and amending s. 252.361, F.S.; providing for requirements with respect to moneys received by contractors; providing for the application of the section at all times rather than during an emergency order or proclamation; creating s. 489.1265, F.S.; providing for prohibited acts by licensed contractors; providing penalties; amending s. 489.131, F.S.; requiring local boards or agencies licensing contractors to transmit to the Construction Industry Licensing Board reports of disciplinary actions against contractors and unlicensed persons; creating s. 489.1425, F.S.; providing duty of contractor to notify a residential property owner about filing claims; providing penalties; amending s. 501.1375, F.S.; requiring notice to a buyer of residential property that any deposit must be placed in an escrow account; eliminating a buyer's right to waive the escrow provision; creating s. 627.7866, F.S.; requiring certain persons to provide a residential property buyer a warning of consequences of not purchasing title insurance; amending s. 713.135, F.S.; prohibiting the issuance of a building permit until the property owner signs a disclosure statement regarding the construction lien law; providing form of the disclosure statement; providing a penalty; creating s. 713.165, F.S.; providing for lists of subcontractors and suppliers to be furnished to property owner; amending s. 713.31, F.S.; providing a penalty for filing a fraudulent lien; amending s. 713.35, F.S.; providing a penalty for making false statements relating to subcontractors, sub-subcontractors, or suppliers; providing an effective date.

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

Amendment 1A—On page 7, line 5, strike "*construction and*"

The Committee on Judiciary recommended the following amendments to **Amendment 1** which were moved by Senator Grant and adopted:

Amendment 1B (with Title Amendment)—On page 8, line 9, through page 9, line 4, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 14, strike all of lines 20-23 and insert: amending s. 713.135, F.S.;

Amendment 1C (with Title Amendment)—On page 9, line 5, through page 11, line 29, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 14, strike all of lines 23-28 and insert: creating s. 713.165, F.S.;

Amendment 1D—On page 12, between lines 20 and 21, insert:

(3) A list furnished under this section shall not constitute a notice to owner.

Amendment 1E—On page 12, line 26, strike "*s. 775.082 or s. 775.083*" and insert: *s. 775.082, s. 775.083, or s. 775.084*

Amendment 1F—On page 13, line 8, strike "anything of value" and insert: *draw payments or final payment* ~~anything of value~~

Amendment 1 as amended was adopted.

On motion by Senator Latvala, by two-thirds vote **SB 2186** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **SB 2434** was deferred.

The Senate resumed consideration of—

CS for HB 2619—A bill to be entitled An act relating to insurance; amending s. 215.555, F.S.; providing definitions; revising provisions relating to reimbursement contracts and premiums of the Florida Hurricane Catastrophe Fund; specifying powers and duties of the State Board of Administration; providing that violations of certain rules constitute violations of the Insurance Code; specifying applicability; amending s. 624.424, F.S.; requiring reports; amending s. 626.752, F.S.; providing an exception to exchange of business reporting requirements; amending s. 627.062, F.S.; providing for recoupment of Florida Hurricane Catastrophe Fund premium; creating s. 627.0626, F.S.; requiring separate calculation, reporting, and notice of wind premium; creating s. 627.0628, F.S.; creating the Florida Commission on Hurricane Loss Projection Methodology; providing legislative findings and intent; specifying membership, terms, powers, and duties; providing for per diem, travel, and staff support; requiring the commission to review actuarial methods, principles, standards, models, and output ranges; specifying effect of approval by the commission; amending s. 627.0629, F.S.; revising provisions relating to building code standards and enforcement; authorizing appointment of a windstorm loss mitigation committee to provide advice to the Department of Insurance; creating s. 627.4025, F.S.; defining "residential coverage"; amending s. 627.351, F.S.; revising provisions relating to the windstorm insurance risk apportionment plan, the Florida Property and Casualty Joint Underwriting Association, and the Residential Property and Casualty Joint Underwriting Association; specifying underwriting standards and limits; removing provisions relating to immediate activation of the Florida Property and Casualty Joint Underwriting Association; providing immunities; specifying scope of the Residential Property and Casualty Joint Underwriting Association; providing for apportionment of losses and expenses; providing for servicing of association policies; specifying policy forms that may be offered; revising provisions relating to the eligibility of particular risks for coverage; requiring the association to seek reinsurance coverage; providing for renewal surcharges; providing for lines of credit; providing rate standards; providing for rate filings; specifying revenues to be pledged to retire bonds; revising provision requiring credits against assessment; removing exemption from the insurance premium tax; transferring obligations, rights, assets, and liabilities of the Florida Property and Casualty Joint Underwriting Association to the Residential Property and Casualty Joint Underwriting Association; creating s. 627.3511, F.S.; providing for depopulation of the Residential Property and Casualty Joint Underwriting Association; providing legislative findings and intent; providing for bonuses, credits, and exemptions for insurers and agents with respect to risks removed from the association; specifying applicability; creating s. 627.3512, F.S.; providing for recoupment of residual market deficit assessments; amending s. 627.3515, F.S.; revising provisions relating to structure, duties, governance, and funding of the market assistance plan; amending s. 627.701, F.S.; restricting deductible provisions relating to wind coverage; requiring offer of certain deductibles; amending s. 627.7013, F.S.; specifying cancellations and nonrenewals subject to moratorium phaseout provisions; providing an appropriation; providing an effective date.

—with pending **Amendment 1** by Senator Grant.

Senator Myers moved the following amendment to **Amendment 1** which failed:

Amendment 1A—On page 70, between lines 9 and 10, insert:

Section 17. Paragraph (c) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(c) If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund revenue bonds to pay reimbursement at the levels promised in the reimbursement contracts, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state. Pursuant to the emergency assessment, each such insurer shall pay to the fund by July 1 of each year an amount equal to 2 percent of its gross direct written premium for the prior year from all property and casualty business in this state except for workers' compensation *and medical malpractice insurance*. The annual assessments under this paragraph shall continue until the revenue bonds issued with respect to which

the assessment was imposed are retired. An insurer shall not at any time be subject to more than one assessment under this paragraph. Within 90 days after the assessment is levied under this paragraph, each insurer subject to the assessment shall make a rate filing for all coverages on which the assessment is based. If the filing reflects a rate change attributable entirely to the assessment, the filing shall consist of a certification so stating and shall be deemed approved when made, subject to the authority of the Department of Insurance to require actuarial justification as to the adequacy of any rate at any time.

(Renumber subsequent section.)

The question recurred on **Amendment 1** which was adopted.

On motion by Senator Grant, by two-thirds vote **CS for HB 2619** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

MOTION

On motion by Senator Jennings, the rules were waived and the time of recess was extended until 12:30 p.m.

CS for SB 798—A bill to be entitled An act relating to mining; creating s. 378.901, F.S.; providing for issuing a life-of-the-mine permit as an alternative to certain other permits; providing procedures for application and issuance of such permit; providing criteria; authorizing the Department of Environmental Protection to adopt certain rules; prohibiting the department from adopting certain rules; providing for a fee for such permits; providing for duration of such permits; providing for renewal; requiring the department to coordinate certain other permit applications with a life-of-the-mine permit application; amending s. 373.406, F.S.; exempting life-of-the-mine permitholders from certain surface water permit requirements; amending s. 403.809, F.S.; prohibiting the Secretary of Environmental Regulation from delegating authority to issue life-of-the-mine permits; amending s. 378.403, F.S.; providing a definition; amending s. 378.601, F.S.; authorizing the Department of Environmental Protection to require an annual report from certain operators; providing an effective date.

—was read the second time by title.

Senator Bronson moved the following amendments which were adopted:

Amendment 1—On page 9, between lines 6 and 7, insert:

Section 6. For purposes of Rule 62-302.520(2), Florida Administrative Code, new sources of heated water discharges shall include an expansion, modification, alteration, replacement, or repair of an existing source only if that charge increases the potential thermal loading to surface waters of the state by 10 percent or more compared to the potential thermal loading from that source as of August 1972.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 25, after the semicolon (;) insert: providing clarification of department water-discharge rules;

Senator Thomas moved the following amendment which was adopted:

Amendment 3—On page 4, strike all of lines 26 and 27 and insert: of-the-mine permit which exceeds 25 years shall be the fee for a permit which equals 25 years plus an additional amount for each year over 25 years equal to the pro rata share of a 25 year permit fee.

On motion by Senator Thomas, by two-thirds vote **CS for SB 798** 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

Consideration of **CS for CS for HB's 461 and 1885, CS for HB 687, CS for HB 2533** and **CS for SB's 956, 1500 and 2364** was deferred.

CS for SB 2622—A bill to be entitled An act relating to radon protection; amending s. 553.98, F.S., relating to building codes for radon-resistant buildings for residential and commercial use; providing legislative approval for the department's standards; providing for adoption of department standards for radon-resistant construction for residential buildings by local jurisdictions; providing local applicability of the standards; prohibiting adoption of certain radon requirements by local jurisdictions; providing an effective date.

—was read the second time by title.

Amendments were adopted to **CS for SB 2622** to conform the bill to **CS for HB 1647**.

Pending further consideration of **CS for SB 2622** as amended, on motion by Senator Dantzler, by two-thirds vote **CS for HB 1647** was withdrawn from the Committee on Community Affairs.

On motions by Senator Dantzler, the rules were waived and by two-thirds vote—

CS for HB 1647—A bill to be entitled An act relating to radon protection; amending and transferring s. 404.056(3), F.S.; removing Radon Protection Trust Fund from the Department of Health and Rehabilitative Services to the Department of Community Affairs; providing for the use of a surcharge; transferring from the Department of Health and Rehabilitative Services to the Department of Community Affairs certain positions and funds; providing for the transfer of funds in the Radiation Protection Trust Fund; amending s. 553.98, F.S., relating to building codes for radon-resistant buildings for residential and commercial buildings; providing legislative approval for the department's standards; providing for adoption of department standards for radon-resistant construction for residential buildings by local jurisdictions; providing local applicability of the standards; prohibiting adoption of certain radon requirements by local jurisdictions; providing an effective date.

—a companion measure, was substituted for **CS for SB 2622** and by two-thirds vote read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for HB 1647** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **SB 1660** was deferred.

CS for SB 1006—A bill to be entitled An act relating to the Florida Inland Navigation District; repealing s. 7, ch. 90-264, Laws of Florida, relating to abolition of the district; requiring that new commissioners of the district be confirmed by the Senate; designating the district as local interest sponsor for purposes of maintaining navigability for a specified section of the Okeechobee Waterway; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **CS for SB 1006** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

Consideration of **CS for SB 1372** was deferred.

SB 2148—A bill to be entitled An act relating to housing for the elderly; amending s. 420.5087, F.S.; clarifying provisions relating to use of funds under the State Apartment Incentive Loan Program; increasing the maximum amount of certain loans; reducing the amount of matching funds required; extending the maximum term of such loans; providing an effective date.

—was read the second time by title.

Senator Dyer moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 3, strike line 6 and insert:

Section 2. Effective January 1, 1996, subsections (5) and (6) are added to section 420.5099, Florida Statutes, to read:

420.5099 Allocation of the low-income housing tax credit.—

(5) For purposes of implementing this program in Florida, neither the tax credits, nor the value of the equity generated by tax credits allocated to or invested in low-income housing tax credit developments, shall be considered as income to the property, and the rental income from rent restricted units in a low-income tax credit development shall be the actual rents charged.

(6) The agency is authorized to expend fees received in conjunction with the allocation of low-income housing tax credits only for the purpose of administration of the program, including private legal services which relate to interpretation of s. 42 of the Internal Revenue Code of 1986, as amended.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to affordable housing; amending s. 420.5099, F.S.; providing neither tax credits nor the value of equity generated by tax credits allocated to low-income housing projects shall be considered income to the property; providing guidelines for administration of low-income housing tax credits by the Florida Housing Finance Agency;

Senator Grant moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 3, between lines 5 and 6, insert:

Section 2. Subsection (1) of section 196.1975, Florida Statutes, is amended to read:

196.1975 Exemption for property used by nonprofit homes for the aged.—Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(1) The applicant must be a corporation not for profit that has been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt charitable organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act. *A corporation will not be disqualified under this subsection if, for purposes of allocating tax credits under s. 42(h)(5) of the Internal Revenue Code of 1986 by the Florida Housing Finance Agency as defined by s. 420.0004(4), the property is leased to a Florida limited partnership, the sole general partner of which is the nonprofit corporation, and the home for the aged was in existence or under construction on or before April 1, 1995*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 9, after the semicolon insert: amending s. 196.1975, F.S.; providing an exemption from ad valorem taxation for certain property that is used for a nonprofit home for the aged and is leased to a Florida limited partnership under specified conditions;

On motion by Senator Holzendorf, by two-thirds vote **SB 2148** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB's 956, 1500 and 2364—A bill to be entitled An act relating to child support; creating s. 61.13016, F.S.; providing for suspension of driver's license and motor vehicle registration by court order; providing procedures; amending s. 322.058, F.S.; requiring the Department of Highway Safety and Motor Vehicles to suspend a driver's license and motor vehicle registration under certain conditions; providing procedures; providing for reinstatement of driver's license and motor vehicle registration; creating s. 409.2565, F.S.; authorizing the Department of Revenue to make available for publication the names of delinquent support obligors and related information; amending s. 409.2598, F.S.; authorizing the department to petition the court to order the denial or suspension of vessel registrations; creating s. 327.031, F.S.; requiring the Department of Environmental Protection to allow applicants for vessel registrations to be screened by the department; requiring the department to deny or suspend a license when ordered by the court; requiring the Department of Revenue to study child-support-enforcement procedures and report its findings and recommendations to the Legislature; requiring the Department of Banking and Finance to withhold repayment of motor vehicle impact fees from delinquent child-support obligors; requiring transfer of such fees to the Department of Revenue; amending s. 322.245, F.S.; providing for notice of delinquency and intent to suspend driver's license and motor vehicle registration to be given by depository and clerk of traffic court; repealing s. 287.059(2)(b), F.S., which provides an exemption from the requirement for approval by the Attorney General of private attorney services procured by the Department of Revenue for child support enforcement; providing an effective date.

—was read the second time by title.

Senator Wexler moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 61.13016, Florida Statutes, is created to read:

61.13016 Suspension of driver's licenses and motor vehicle registrations.—

(1) The driver's license and motor vehicle registration of a child support obligor who is delinquent in payment may be suspended. Upon a delinquency in child support in IV-D cases, the Title IV-D agency may serve notice on the obligor of the delinquency and the intent to suspend as provided under s. 322.245. Upon a delinquency in child support in non IV-D cases, and upon the request of the obligee, the depository or the clerk of the court must serve notice by certified mail, return receipt requested, on the obligor of the delinquency and the intent to suspend as provided under s. 322.245. In either case, the notice must state:

(a) The terms of the order creating the child support obligation;

(b) The period of the delinquency and the total amount of the delinquency as of the date of the notice;

(c) The intent of the Title IV-D agency in IV-D cases or the depository or clerk of the court in non-IV-D cases to notify the Department of Highway Safety and Motor Vehicles to suspend the driver's license and motor vehicle registration unless within 15 days after receipt of the notice the obligor:

1. Pays the delinquency in full;

2. Enters into a written agreement for payment with the obligee in non-IV-D cases or with the Title IV-D agency in IV-D cases; or

3. Files a petition with the circuit court to contest the delinquency action.

If the obligor in non-IV-D cases enters into a written agreement for payment prior to the expiration of the 15-day period, he must provide a copy of the signed written agreement to the depository or the clerk of the court.

(2) If the obligor does not, within 15 days after receipt of the notice, pay the delinquency, enter into a payment agreement, or file a motion to contest, the Title IV-D agency in IV-D cases, or the depository or clerk of the court in non-IV-D cases shall file the notice with the Department of Highway Safety and Motor Vehicles and request the suspension of the obligor's driver's license and motor vehicle registration in accordance with section 322.058.

(3) The obligor may, within 15 days after receipt of a notice of delinquency and intent to suspend, file in the circuit court a petition to contest the notice of delinquency and intent to suspend on the ground of mistake of fact regarding the existence of a delinquency or the identity of the obligor. The obligor must serve a copy of the petition on the Title IV-D agency in IV-D cases or depository or clerk of the court in non-IV-D cases. When an obligor timely files a petition to contest, the court must hear the matter within 15 days after the petition is filed. The court must enter an order resolving the matter within 10 days after the hearing, and a copy of the order must be served on the parties. The timely filing of a petition to contest stays the notice of delinquency and intent to suspend until the entry of a court order resolving the matter.

(4) The Title IV-D agency shall submit a report that describes the measured results and effectiveness of the driver's license suspension process set forth in this section for IV-D cases to the Senate and the House of Representatives by February 1, 1997.

Section 2. Section 322.058, Florida Statutes, 1994 Supplement, is amended to read:

322.058 Suspension of driving privileges due to child support delinquency.—

(1) When ~~If~~ the department receives notice from the Title IV-D agency *or depository or the clerk of the court* that any person licensed to operate a motor vehicle in the State of Florida under the provisions of this chapter has a delinquent *child-support* ~~child support~~ obligation, the department shall suspend *the driver's* ~~such~~ license *of the person named in the notice* ~~or driving privilege~~ and the registration of all motor vehicles owned by that person. ~~The Title IV-D agency shall give notice to the licensee that a delinquency exists in the support obligation. The notice shall specify that the licensee has 15 days from the date on which service of the notice is complete to pay the delinquency or reach an agreement to pay the delinquency with the Title IV-D agency. The notice shall specify that, if an agreement cannot be reached, the driving privilege and vehicle registration of the licensee shall be suspended. If the licensee fails to respond to the notice from the Title IV-D agency and a delinquency still exists, the Title IV-D agency shall send a second notice to the licensee stating that the licensee has 15 days from the date on which service of the notice is complete to pay the delinquency or reach an agreement to pay the delinquency with the Title IV-D agency. If the licensee fails to respond to either notice from the Title IV-D agency or if the licensee fails to pay the delinquency or reach an agreement to pay the delinquency, the Title IV-D agency shall petition the court which entered the support orders or the court which is enforcing the support order to suspend the driving privilege and vehicle registration of the licensee.~~

(2) The department *must* ~~shall~~ reinstate the driving privilege and allow registration of a motor vehicle *when* ~~only if~~ the Title IV-D agency *in IV-D cases or the depository or the clerk of the court in non-IV-D cases* provides to the department *an affidavit* ~~written notice~~ stating that:

(a) The person has paid the delinquency; ~~or~~

(b) The person has reached *a written* ~~an~~ agreement for payment with the Title IV-D agency *or the obligee in non-IV-D cases; or*.

(c) A court has entered an order granting relief to the obligor ordering the reinstatement of the license and motor vehicle registration. ~~Any non-IV-D obligee may petition the court for an order to suspend the license or driving privilege of, and the registration of all motor vehicles owned by, a person with a delinquent child support obligation, provided that the non-IV-D obligee complies with the notice provisions of this section. The court may act upon the petition of the non-IV-D obligee in the same manner provided in this section.~~

(3) The department shall not be held liable for any license or vehicle registration suspension resulting from the discharge of its duties under this section. ~~Notice shall be served under this section by mailing it by certified mail, return receipt requested, to the obligor at his last address of record with the local depository. If the obligor has no address of record with the local depository, or if the last address of record with the local depository is incorrect, service shall be by publication as provided in chapter 49. When service of the notice is made by mail, service is complete upon the receipt of the notice by the obligor.~~

(4) This section applies only to the annual renewal in the owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which is inclusive of the annual renewals. This section does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

Section 3. Section 409.2565, Florida Statutes, is created to read:

409.2565 Publication of delinquent obligors.—For support orders that are being enforced by the department, the department may compile and make available for publication a listing of cases in which payment of the child support obligation is overdue. Each case on the list may be identified only by the name of the support obligor, the support obligor's court-order docket or case number, the county in which the obligor's support order is filed, the arrearage amount, and a photograph. The department need not give prior notice to the obligor of the publication and listing of cases.

Section 4. Subsections (1) and (2) of section 409.2598, Florida Statutes, are amended to read:

409.2598 Suspension or denial of new or renewal licenses; *registrations;* certifications.—

(1) The Title IV-D agency may petition the court *that* ~~which~~ entered the support order or the court *that* ~~which~~ is enforcing the support order to deny *or suspend* the license, *registration,* or certificate issued *under chapter* ~~pursuant to chapters~~ 231, *chapter* 409, *chapter* 455, *or chapter* ~~and~~ 559 *or s. 327.031* of any obligor with a delinquent *child-support* ~~child support~~ obligation. However, *a* ~~no~~ petition may *not* be filed until the Title IV-D agency has exhausted all other available remedies. The purpose of this section is to promote the public policy of the state as established in s. 409.2551.

(2) The Title IV-D agency is authorized to screen all applicants for new or renewal licenses, *registrations,* or certificates and current licenses, *registrations,* or certificates and current licensees, *registration holders,* and certificateholders of all licenses, *registrations,* and certificates issued *under chapter* ~~pursuant to chapters~~ 231, *chapter* 409, *chapter* 455, *or chapter* ~~and~~ 559 *or s. 327.031* to ensure compliance with any *child-support* ~~child support~~ obligation. If the Title IV-D agency determines that an applicant, licensee, *registration holder,* or certificateholder is an obligor who is delinquent on a support obligation, the Title IV-D agency shall certify the delinquency pursuant to s. 61.14.

Section 5. Section 327.031, Florida Statutes, is created to read:

327.031 Suspension or denial of a vessel registration due to child support delinquency.—The department must allow applicants for new or renewal registrations to be screened by the Department of Revenue, as the title IV-D child support agency under s. 409.2598, or by a non-IV-D obligee to assure compliance with a support obligation. The purpose of this section is to promote the public policy of this state as established in s. 409.2551. The department must, when directed by the court, deny or suspend the vessel registration of any applicant found to have a delinquent child-support obligation. The department must issue or reinstate a registration when notified by the Title IV-D agency or the court that the applicant has complied with the terms of the court order. The department may not be held liable for any registration denial or suspension resulting from the discharge of its duties under this section.

Section 6. The Department of Revenue, with the cooperation of representatives of the sheriffs, clerks of the circuit court, circuit court judges, state attorneys, the Office of the State Courts Administrator, the depository and the Division of Administrative Hearings must study and evaluate the use of administrative, judicial, and quasi-judicial proceedings that may be used to improve the child-support-enforcement system. The study must be completed and a report and recommendations for proposed legislation must be submitted to the Senate and the House of Representatives before February 1, 1996.

Section 7. The Department of Revenue must notify the Department of Banking and Finance of the names of delinquent child-support obligors and the amount of the delinquencies. If a delinquent child-support obligor is entitled to receive a refund of the motor vehicle impact fee from the state, the Department of Banking and Finance must, upon such notice, withhold the amount of the delinquency from the refund to that obligor. The Department of Banking and Finance shall notify the obligors that their refund is being withheld pursuant to this section for the purpose of paying the obligor's delinquent child support obligations. The Department of Banking and Finance must transmit the amount withheld to the Department of Revenue to be applied to the delinquent child-support obligation and transmit the balance, if any, to the delinquent obligor.

Section 8. The Department of Education shall develop a model rule that will allow an entity adopting it to deny participation in sports or other extracurricular activities to any person who has been determined by a court to be delinquent in paying a child support obligation. The model rule may be adopted by any district school board for all schools under its jurisdiction, any community college district board of trustees, or any institution in the State University System.

Section 9. Section 322.245, Florida Statutes, is amended to read:

322.245 Suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or chapter 322 to comply with directives ordered by traffic court *or upon failure to pay child support in non-IV-D cases as provided in chapter 61.*—

(1) If a person who is charged with a violation of any of the criminal offenses enumerated in s. 316.655(4) or with the commission of any offense constituting a misdemeanor under chapter 320 or this chapter fails to comply with all of the directives of the court within the time allotted by the court, the clerk of the traffic court shall mail to the person, at the address specified on the uniform traffic citation, a notice of such failure, notifying him that, if he does not comply with the directives of the court within 30 days after the date of the notice and pay a delinquency fee of $10 to the clerk, his driver's license will be suspended. The notice shall be mailed no later than 5 days after such failure. The delinquency fee may be retained by the office of the clerk to defray the operating costs of the office.

(2) In non-IV-D cases, if a person fails to pay child support under chapter 61 and the obligee so requests, the depository or the clerk of the court shall mail to the person, at the last address of record as maintained by the local depository, the notice specified in s. 61.13016 notifying him that if he does not comply with the requirements of that section and pay a delinquency fee of $10 to the depository or the clerk, his driver's license and motor vehicle registration will be suspended. The delinquency fee may be retained by the depository or the office of the clerk to defray the operating costs of the office.

(3)~~(2)~~ If the person fails to comply with the directives of the court within the 30-day period, *or, in non-IV-D cases, fails to comply with the requirements of s. 61.13016 within the 15-day period specified in that statute, the depository or* the clerk of the ~~traffic~~ court shall notify the department of such failure within 5 days. Upon receipt of the notice, the department shall immediately suspend the driver's license of the person.

(4)~~(3)~~ After suspension of the driver's license of a person pursuant to this section, the license may not be reinstated until the person complies with all court directives imposed upon him, including payment of the delinquency fee imposed by subsection (1), and presents certification of such compliance to a driver licensing office and complies with the requirements of this chapter *or, in the case of a license suspended for nonpayment of child support in non-IV-D cases, until the person complies with the reinstatement provisions of s. 322.058 and makes payment of the delinquency fee imposed by subsection (2).*

Section 10. Subsection (2) of section 287.059, Florida Statutes, 1994 Supplement, is amended to read:

287.059 Private attorney services.—

(2) No agency shall contract for private attorney services without the prior written approval of the Attorney General, except that such written approval is not required for private attorney services:

(a) Procured by the Executive Office of the Governor or any department under the exclusive jurisdiction of a single Cabinet officer.

~~(b) Procured by the Department of Revenue for child support enforcement pursuant to s. 409.2557.~~

(b)~~(c)~~ Provided by legal services organizations to indigent clients.

(c)~~(d)~~ Necessary to represent the state in litigation involving the Florida Casualty Insurance Risk Management Trust Fund pursuant to part II of chapter 284.

(d)~~(e)~~ Procured by the Board of Regents and the universities of the State University System.

(e)~~(f)~~ Procured by community and junior colleges and multicounty special districts.

Section 11. Paragraph (b) of subsection (2) of section 287.059, Florida Statutes, as amended by section 13 of chapter 94-124, Laws of Florida, is repealed.

Section 12. This act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to child support; creating s. 61.13016, F.S.; providing for suspension of driver's license and motor vehicle registration; providing procedures; amending s. 322.058, F.S.; requiring the Department of Highway Safety and Motor Vehicles to suspend a driver's license and motor vehicle registration under certain conditions; providing procedures; providing for reinstatement of driver's license and motor vehicle registration; creating s. 409.2565, F.S.; authorizing the Department of Revenue to make available for publication the names of delinquent support obligors and related information; amending s. 409.2598, F.S.; authorizing the department to petition the court to order the denial or suspension of certain licenses, certificates, or registrations; creating s. 327.031, F.S.; requiring the Department of Environmental Protection to allow applicants for vessel registrations to be screened by the department; requiring the department to deny or suspend a registration when ordered by the court; requiring the Department of Revenue in cooperation with other agencies to study child-support-enforcement procedures and report its findings and recommendations to the Legislature; requiring the Department of Banking and Finance to withhold repayment of motor vehicle impact fees from delinquent child-support obligors; requiring transfer of such fees to the Department of Revenue; providing for the denial of a delinquent obligor the right to participate in sports and extracurricular activities at educational institutions; amending s. 322.245, F.S.; providing for notice of delinquency and intent to suspend driver's license and motor vehicle registration to be given by depository and clerk of court; amending s. 287.059, F.S.; providing for approval by the Attorney General of private attorney services procured by the Department of Revenue for child support enforcement; repealing s. 287.059(2)(b), F.S., which provides an exemption from the requirement for approval by the Attorney General of private attorney services procured by the Department of Revenue for child support enforcement; providing an effective date.

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

Amendment 1A (with Title Amendment)—On page 10, between lines 26 and 27, insert:

Section 12. Subsection (7) is added to section 409.2564, Florida Statutes, to read:

409.2564 Actions for support.—

(7) In a judicial circuit with a work experience and job training pilot project, if the obligor is a noncustodial parent of a child receiving public assistance as defined in chapter 409, is unemployed or underemployed or has no income, then the court shall order the obligor to seek employment, if the obligor is able to engage in employment, and to immediately notify the court upon obtaining employment, upon obtaining any income, or upon obtaining any ownership of any asset with a value of $500 or more. If the obligor is still unemployed 30 days after any order for support, the court shall order the obligor to enroll in a work experience, job placement, and job training program for noncustodial parents as established in s. 409.2565.

Section 13. Section 409.2565, Florida Statutes, is created to read:

409.2565 Pilot work experience and job training for noncustodial parents program.—

(1) There shall be established a work experience and job training pilot program for noncustodial parents residing in two judicial circuits, one of which must be in a circuit with a mandatory family transition program in operation. The program shall be administered by the Department of Health and Rehabilitative Services.

(2) An obligor who resides in the judicial circuit shall be eligible for entrance into the pilot program if, 30 days after any order for support, the obligor is still unemployed.

(3) If the court orders an obligor to participate in the work experience and job training program, the obligor must register with the local pilot program service provider.

(4) Every obligor ordered into the experience and job training pilot program must participate in work experience, peer support, job training, job placement, or educational activities for up to 40 hours a week.

(5) Any noncustodial parent ordered to participate in the pilot program under this section who fails without good cause to participate as ordered by the court may be held in contempt.

(6) The local work experience and job training pilot program service provider shall directly, or through contract:

(a) If necessary, enroll the obligor in a mandatory job training readiness program of up to 4 weeks in duration;

(b) Assess the obligor's employment skills;

(c) Assess the obligor's educational and literacy skills and enroll the obligor in a local adult educational program if necessary;

(d) Perform job search assistance and job matching functions which shall include on-the-job training to combine skill-building and immediate income;

(e) Monitor the progress of the obligor's employment;

(f) Offer a peer support program to educate the obligor about the responsibilities of a noncustodial parent, to encourage positive parental behavior and sexual responsibility, and to enhance the obligor's life skills;

(g) Offer support services to custodial and noncustodial parents to resolve conflicts concerning visitation, household expenditures, lifestyles, child care, and school arrangements;

(h) Advise the court when the obligor becomes employed and of the obligor's continuing employment progress every 30 days;

(i) Counsel the obligor about job retention and advancement; and

(j) Offer follow-up and support services for a period of 6 months.

(7) If the obligor becomes employed before starting the pilot program or becomes employed through the efforts of the local work experience and job training pilot program service provider, but cannot earn an adequate wage level for court-ordered child support as determined by s. 61.30 or otherwise by a court of competent jurisdiction, the service provider shall assist the obligor in obtaining federal earned income tax credits and, if the wages and the earned income tax credits are less than an adequate amount for the court-ordered child support, the service provider shall attempt to obtain additional or improved employment for the obligor. To determine whether the obligor has an adequate wage level, the following criteria shall be considered:

(a) All earnings, income, and resources of the obligor.

(b) The ability of the obligor to earn.

(c) The reasonable necessities of the obligor.

(d) The needs of the dependent child for whom support is sought.

(8) The local pilot program service provider shall not:

(a) Charge the obligor for services obtained under this program; or

(b) Enroll the obligor in a community work program.

(9) The Department of Health and Rehabilitative Services shall contract with a private service provider for job training, placement, and support services. The Department of Health and Rehabilitative Services shall develop a request for proposal to include procedures and criteria for the competitive acceptance of proposals from interested service providers. Each interested service provider seeking a pilot program pursuant to this section must be able to demonstrate:

(a) Experience in executing large-scale social experiments;

(b) Experience in doing research involving waivers of federal AFDC, JOBS, and Child Support Enforcement policies;

(c) An understanding of the demographics and experiences of economically disadvantaged noncustodial parents; and

(d) Experience in working directly with state programs designed to assist disadvantaged noncustodial parents.

(10)(a) The Department of Health and Rehabilitative Services, in consultation with the Departments of Revenue and Labor and Employment Security, shall conduct, or shall contract with one or more entities to conduct, a comprehensive evaluation of the program or programs funded through this section. An initial phase of such evaluation must be designed to monitor the extent to which the local work experience and job training pilot program is being implemented and to make recommendations on how best to expand the local work experience and job training pilot program to other sites, including validation of estimated program costs and savings related to factors such as support services, child support paid, job training and placement, peer support components, staffing ratios, and service integration. The initial phase of the evaluation must provide information on the preliminary outcomes of the program, including rates of job placement and job retention and participant salary levels. The Department of Health and Rehabilitative Services shall report results of the initial evaluation within 18 months after the demonstration projects begin.

(b) Following the initial implementation of the pilot projects, a subsequent phase of evaluation must be conducted to determine the impact of the local work experience and job training pilot program on participants. The evaluation must include, but is not limited to:

1. The effect of the program on postprogram levels of earnings for noncustodial parents;

2. The effect of the program on longer-term job retention for noncustodial parents;

3. The payment of child support and its impact on net income for the custodial parent;

4. The effect of the payment of child support on the well-being of the children; and

5. Estimates of the impact of the local work experience and job training pilot program on aggregate expenditures for AFDC, food stamps, Medicaid, child care, other support services, funds expended under the Job Opportunities and Basic Skills Training (JOBS) program, the Job Training Partnership Act (JTPA), and similar publicly funded programs and services.

(c) In order to provide evaluation findings with the highest feasible level of scientific validity, the Department of Health and Rehabilitative Services is specifically authorized to contract for an evaluation design that includes random assignment of program participants to program groups and control groups. Under such design, members of control groups must be given the level of job training and placement services generally available to noncustodial parents who are not included in the local work experience and job training pilot program areas. The provisions of s. 402.105 or similar provisions of federal or state law do not apply under this section.

(d) If the secretary determines that procurement procedures for the evaluation will delay the application or approval of any required federal waivers or would otherwise delay initial implementation of local work experience and job training pilot program beyond January 1, 1996, the secretary may proceed with such procurement, nonwithstanding any provisions of chapter 287. However, the professional standards of any contractor selected must be consistent with the provisions of this section, and the amount of the contract must not exceed the funds provided for this purpose.

(e) A copy of the evaluation report shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and appropriate substantive committees of the Legislature by June 30, 1999.

(11) The Department of Health and Rehabilitative Services shall obtain the necessary waivers from the United States Department of Health and Human Services in order to implement the provisions of this section.

(12) The Department of Health and Rehabilitative Services, in consultation with the Departments of Revenue and Labor and Employment Security, shall adopt rules for the implementation of this section within 180 days of its becoming a law.

Section 14. Paragraph (e) is added to subsection (1) of section 61.13, Florida Statutes, 1994 Supplement, to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(e) In a judicial circuit with a work experience and job training pilot project, if the obligor is unemployed or has no income, and does not have an account at a financial institution, then the court shall order the obligor to seek employment, if the obligor is able to engage in employment, and to immediately notify the court upon obtaining employment, upon obtaining any income, or upon obtaining any ownership of any asset with a value of $500 or more. If the obligor is still unemployed 30 days after any order for support, the court may order the obligor to enroll in the work experience, job placement and job training pilot program for noncustodial parents as established in s. 409.2565, if the obligor is eligible for entrance into the pilot program.

Section 15. Subsection (5) of section 61.14, Florida Statutes, is amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(5)*(a)* When a court of competent jurisdiction enters an order for the payment of alimony or child support or both, the court shall make a finding of the obligor's imputed or actual present ability to comply with the order. If the obligor subsequently fails to pay alimony or support and a contempt hearing is held, the original order of the court creates a presumption that the obligor has the present ability to pay the alimony or support and to purge himself from the contempt. At the contempt hearing, the obligor shall have the burden of proof to show that he lacks the ability to purge himself from the contempt. This presumption is adopted as a presumption under s. 90.302(2) to implement the public policy of this state that children shall be maintained from the resources of their parents and as provided for in s. 409.2551, and that spouses be maintained as provided for in s. 61.08. The court shall state in its order the reasons for granting or denying the contempt.

(b) In a judicial circuit with a work experience and job training pilot project, if at the time of the contempt hearing the obligor is unemployed or has no income, then the court shall order the obligor to seek employment, if the obligor is able to engage in employment, and to immediately notify the court upon obtaining employment, upon obtaining any income, or upon obtaining any ownership of any asset with a value of $500 or more. If the obligor is still unemployed 30 days after any order for support, the court may order the obligor to enroll in a work experience, job placement, and job training program for noncustodial parents as established in s. 409.2565, if the obligor is eligible for entrance into the pilot program.

Section 16. Section 88.211, Florida Statutes, is amended to read:

88.211 Order of support.—

(1) If the responding court finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to the order. The court shall enter a separate order for income deduction pursuant to chapter 61. Support orders made pursuant to this act shall require that payments be made to the local depository for forwarding to the department in IV-D cases or to the initiating jurisdiction in non-IV-D cases. The court and the petitioner's representative have the same powers and duties to enforce the order as have those of the circuit in which it was first issued. If enforcement is impossible or cannot be completed in the circuit in which the order was issued, the petitioner's representative shall prosecute the order in any circuit in which it appears that proceedings to enforce the order would be effective. The petitioner's representative shall report the results of the proceedings to the court first issuing the order.

(2) In a judicial circuit with a work experience and job training pilot project, if the respondent is unemployed or has no income, then the court shall order the respondent to seek employment, if the respondent is able to engage in employment, and to immediately notify the court upon obtaining employment, upon obtaining any income, or upon obtaining any ownership of any asset with a value of $500 or more. If the respondent is still unemployed 30 days after any order for support, the court may order the respondent to enroll in the work experience, job placement, and job training pilot program for noncustodial parents, as established in s. 409.2565, if the respondent is eligible for entrance into the pilot program.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 12, line 29, after the semicolon (;) insert: amending s. 409.2564, F.S.; providing for obligors to participate in a work experience and job training pilot program; creating s. 409.2565, F.S.; requiring the Department of Health and Rehabilitative Services to establish a work experience and job training pilot program for noncustodial parents; directing the department to enter into private contracts for the providing of services; amending s. 61.13, F.S., relating to support of children; providing for obligors to participate in a work experience and job training pilot program; amending s. 61.14, F.S., relating to enforcement of child support orders; providing for obligors to participate in a work experience and job training pilot program; amending s. 88.211, F.S., relating to court orders of support; providing for obligors to participate in a work experience and job training pilot program.

Amendment 1 as amended was adopted.

On motion by Senator Wexler, by two-thirds vote **CS for SB's 956, 1500 and 2364** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 932—A bill to be entitled An act relating to animals; amending s. 534.021, F.S.; authorizing the Department of Agriculture and Consumer Services to record a livestock mark or brand for statewide use; amending s. 534.041, F.S.; requiring the department to make notification of renewal of a registered mark or brand at an earlier time; deleting obsolete transition provisions; transferring, renumbering, and amending s. 585.69, F.S.; removing the requirement for a standardized rabies vaccination certificate for certain dogs and cats; repealing s. 534.083(1), (2), (3), F.S., which provides for a livestock hauler's permit and fee; providing an effective date.

—was read the second time by title.

The Committee on Agriculture recommended the following amendment which was moved by Senator Bronson and failed:

Amendment 1—On page 2, line 29, strike "5" and insert: *10* ~~5~~

Senator Bronson moved the following amendments which were adopted:

Amendment 2—On page 1, line 12, strike "*10* ~~5~~" and insert: 5

Amendment 3 (with Title Amendment)—On page 5, strike all of lines 18 and 19 and renumber subsequent section.

And the title is amended as follows:

In title, on page 1, strike all of lines 13-15 and insert: certain dogs and cats; providing an effective

Senator Childers offered the following amendment which was moved by Senator Bronson and adopted:

Amendment 4 (with Title Amendment)—On page 5, strike all of lines 20 and 21 and insert:

Section 5. Section 616.252, Florida Statutes, is amended to read:

616.252 Florida State Fair Authority; membership; number, terms, compensation.—

(1)(a) The authority shall be composed of *21* ~~34~~ members. The ~~Governor, the~~ Commissioner of Agriculture, *or his designee,* ~~the Dean for Extension at the Institute of Food and Agricultural Sciences of the University of Florida, and the Program Director for Agriculture and Natural Resources in the Department of Education~~ shall serve *as a voting member* ~~ex officio~~. There shall also be a member who is the member of the Board of County Commissioners of Hillsborough County representing the county commission district in which the Florida State Fairgrounds is located, who shall serve as a voting member. The Commissioner of Agriculture shall ~~nominate three persons for each other membership, from whom the Governor shall~~ appoint *each other* ~~a~~ member of the authority. Each *member appointed by the Commissioner of Agriculture shall serve at the pleasure of the Commissioner of Agriculture* ~~appointment shall be subject to Senate confirmation. At least one member shall be selected from each congressional district.~~ The term of each member *appointed by the Commissioner of Agriculture* shall be 4 years, except, *to provide staggered terms, nine of the members shall be initially appointed for a two-year term and ten of the members shall be initially appointed for a three-year term* ~~the Governor shall appoint any member for a shorter term to ensure that no more than seven appointed members have terms that expire in any calendar year.~~ *Members may be appointed for more than one term.* Any vacancy shall be filled for the remainder of the unexpired term pursuant to the method provided in this section for appointment. Six of the members may be from Hillsborough County. *Notwithstanding the term of any current member, all current members' positions, except the position held by the member of the Board of County Commissioners of Hillsborough County, shall be deemed vacated and abolished on July 1, 1995. The Commissioner of Agriculture shall appoint an executive director. The executive director shall serve at the pleasure of the Commissioner of Agriculture.*

(b) ~~At least 60 percent of the~~ Members of the authority *may* ~~shall~~ be persons who are or have been directors or officers of a fair association or who have otherwise actively participated in conducting a public fair, festival, show, exposition, or similar activity. Holding a commission as a member of another board or authority does not render a person ineligible to serve as a member of the fair authority so long as the common-law rule of incompatibility does not prohibit holding both commissions.

(2) The authority shall meet at the call of its chair, at the request of a majority of its membership, at the request of the *Commissioner of Agriculture* ~~department~~, or at such times as may be prescribed by its rules.

(3) Members of the authority shall not be entitled to compensation for their services as members, but shall be reimbursed for travel expenses as provided in s. 112.061 and may be compensated for any special or full-time service performed in its behalf as officers or agents of the authority.

Section 6. Section 616.253, Florida Statutes, is amended to read:

616.253 Florida State Fair Authority; officers; quorum.—The authority shall elect from among its members an executive committee to consist of a chair, who shall preside, a vice chair, a secretary, a treasurer, and such other officers as the authority may deem necessary or expedient in the performance of its functions. The same person may serve both as secretary and treasurer, if thus designated. ~~No more than three directors from any congressional district or county may serve on the executive committee.~~ The authority may delegate to any of its members, officers, agents, or employees any of its powers or duties, which delegation it deems necessary to fulfill its responsibilities, and shall establish bylaws and such rules of conduct and procedure as it may deem necessary to govern its own functioning. A majority of the ~~appointed~~ members of the authority shall constitute a quorum. No vacancy in the membership shall impair the right of a quorum to exercise all of the powers, functions, and duties of the authority.

Section 7. Section 616.256, Florida Statutes, is amended to read:

616.256 Powers of authority.—The authority shall have power to:

(1) Have a seal and alter the same at pleasure.

(2) Acquire, hold, lease, and dispose of real and personal property for authorized purposes.

(3) Own, operate, maintain, repair, and improve its facilities.

(4) Acquire in its own name by purchase, grant, gift, or lease, on such terms and conditions and in such manner as it may deem proper, real and personal property, and acquire, construct, reconstruct, improve, alter, repair, maintain, operate, sell, convey, lease, and dispose of any building, structure, or facility.

(5) Employ, *in addition to an executive director, other managers,* consulting engineers, architects, ~~superintendents or managers,~~ accountants, inspectors, attorneys, and such other employees as may be deemed necessary and prescribe their powers and duties and fix their compensation.

(6) Accept loans or grants of money, property, or personal services from any agency, corporation, or person.

(7) Make and enter into all contracts or agreements, as the authority may determine, which are necessary or incidental to the performance of its duties or the execution of its powers under this part.

(8) Borrow money for any of its authorized purposes and for expenses incidental thereto, including expenses incurred during the period of organization and construction prior to the operation of the Florida State Fair, and incur obligations with respect to such borrowings, including notes, secured or unsecured, and negotiable revenue bonds, as hereinafter provided, payable solely from revenues accruing from the operation of the Florida State Fair or any part or parts thereof and from authorized activities incidental thereto; pay interest with respect to such borrowings not exceeding the maximum allowable by law; provide for the payment of such borrowings and interest as hereinafter provided; fix rates and make collections for the use of the facilities and services of the authority; and execute mortgages, trust indentures, or other instruments, as may be required for the financing of the authorized activities of the authority.

(9) Engage in any lawful business or activity deemed by it to be necessary, convenient, appropriate, or useful in the full exercise of its powers to establish, finance, and operate the Florida State Fair under the provisions of this part, including the leasing for revenue of any land, improved real estate, or personal property directly related to, or appropriate in connection with, the financing or conduct of the Florida State Fair or reserved for its future use or expansion. Within the meaning of this part, any use of the property of the authority, real or personal, shall be deemed necessary, convenient, appropriate, or useful which stimulates, assists, fosters, and promotes all phases of the economy of the state, including agricultural, industrial, commercial, cultural, and recreational pursuits, or which provides revenue to the authority from the property, pending its future use for any of the purposes of the state fair.

(10) Adopt, pursuant to chapter 120, rules necessary to carry out its duties and responsibilities.

Section 8. Section 616.263, Florida Statutes, is amended to read:

616.263 Annual reports and audit of authority.—

(1) The authority shall submit each year, at least 60 days prior to the convening of the Legislature in regular session, a comprehensive report to ~~the Governor and~~ the Commissioner of Agriculture outlining the progress and the activities of the authority, including all land bought, leased, acquired, sold, mortgaged, or conveyed, and all buildings and improvements erected, in the preceding 12 months and, as ascertainable, purchases, leases, acquisitions, sales, mortgages, and conveyances of land, and buildings and improvements, proposed for the subsequent 12 months in the year preceding that session. The Commissioner of Agriculture shall transmit the report to the Legislature, together with *a plan for oversight of the authority, including, but not limited to program review, goal setting, objectives to be achieved, strategies, and any recommendations for legislation* ~~any comments and recommendations for legislation~~.

(2) The authority shall at all times maintain proper accounting systems and procedures and shall be subject to annual auditing by the Auditor General as provided in s. 11.45.

Section 9. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, strike all of lines 15 and 16 and insert: hauler's permit and fee; amending s. 616.252, F.S.; revising composition of members and terms of the Authority; providing authority to the Commissioner of Agriculture to appoint members; abolishing terms of current members with an exception; providing for an appointment of an executive director; amending s. 616.253, F.S.; deleting limitation on executive committee membership; amending s. 616.256, F.S.; revising powers of authority; amending s. 616.263, F.S.; deleting references to the Governor; providing an effective date.

On motion by Senator Bronson, further consideration of **SB 932** as amended was deferred.

CS for SB 940—A bill to be entitled An act relating to agriculture; amending s. 581.031, F.S.; revising the powers and duties of the Department of Agriculture and Consumer Services relating to the plant industry; specifying the maximum annual registration fee to be imposed on a citrus source tree; providing for delinquency fees; amending s. 581.083, F.S.; authorizing the department to use certain findings in permitting the use of organisms for biological control; amending s. 581.131, F.S.; regulating the advertising for sale of nursery stock; requiring a certificate to move certain citrus plants; amending s. 581.212, F.S.; deleting provisions requiring that certain funds be deposited in the Plant Industry Trust Fund; amending s. 586.045, F.S.; requiring notice of renewal and extension of a renewal date for the honeybee inspection program; creating s. 586.112, F.S.; authorizing the stop-sale and stop-movement of honeybees, honeybee products, or honeybee equipment under certain circumstances; repealing s. 586.165, F.S., which provides for an apiary-protection pilot program; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendment:

Amendment 1 (with Title Amendment)—On page 6, between lines 12 and 13, insert:

Section 8. Section 570.074, Florida Statutes, is created to read:

570.074 Department of Agriculture and Consumer Services, water policy coordination.—The commissioner may create an Office of Water Coordination under the supervision of a senior manager exempt from the career service under s. 110.205 who is a member of the Senior Management Service. The commissioner may designate the bureaus and positions in the various organizational divisions of the department which report to this office relating to any matter over which the department has jurisdiction relating to water policy affecting agriculture, application of such policies, and coordination of such matters with state and federal agencies.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 25, following the semicolon (;) insert: creating s. 570.074, F.S.; providing for an Office of Water Coordination in the department;

On motion by Senator Bronson, further consideration of **CS for SB 940** with pending **Amendment 1** was deferred.

SB 188—A bill to be entitled An act relating to eligibility for social and economic assistance; amending s. 409.185, F.S.; providing that payments under the program of aid to families with dependent children may not be increased in specified circumstances; requiring the Department of Health and Rehabilitative Services to apply for necessary federal waivers and to implement the foregoing restrictions when the waivers have been received; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Brown-Waite and adopted:

Amendment 1—On page 2, line 25, after "request" insert: *and pursue*

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

Amendment 2—On page 2, line 23, after the period (.) insert: *This child is also ineligible to receive AFDC benefits if the child lives with a caretaker relative.*

On motion by Senator Brown-Waite, by two-thirds vote **SB 188** 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—5

THE PRESIDENT PRESIDING

MOTION TO RECONSIDER

Senator Wexler moved that the Senate reconsider the vote by which **SB 188** passed as amended this day.

RECESS

The President declared the Senate in recess at 12:38 p.m. to reconvene at 1:08 p.m.

AFTERNOON SESSION

The Senate was called to order by Senator Burt at 1:37 p.m. A quorum present—38:

Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

SPECIAL ORDER, continued

Consideration of **SB 2358** and **SB 852** was deferred.

SB 1660—A bill to be entitled An act relating to the sales, rental, use, consumption, distribution, and storage tax; amending s. 212.08, F.S.; redefining the term "charitable institutions," for purposes of tax exemption, to include blood banks meeting specified criteria; providing for retroactive applicability; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator McKay and adopted:

Amendment 1 (with Title Amendment)—On page 1, between lines 11 and 12, insert:

Section 1. Subsection (17) of section 212.02, Florida Statutes, 1994 Supplement, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(17) "Sales price" means the total amount paid for tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection. *"Sales price" also includes the full face value of any coupon used by a purchaser to reduce the price paid to a retailer for an item of tangible personal property; where the retailer will be reimbursed for such coupon, in whole or in part, by the manufacturer of the item of tangible personal property; or whenever it is not practicable for the retailer to determine, at the time of sale, the extent to which reimbursement for the coupon will be made.*

Section 2. It is the intent of the Legislature that the amendment to s. 212.02, Florida Statutes, 1994 Supplement, made by this act, is remedial legislation and shall apply retroactively to July 1, 1987.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 3, after the semicolon (;) insert: amending s. 212.02, F.S.; redefining the term "sales price" to include the full face value of certain manufacturers coupon; providing for retroactivity;

Amendment 2—On page 1, strike line 12 and insert:

Section 1. Paragraphs (i) and (o) of subsection (7) of section

Amendment 3—On page 1, line 13, after "amended" insert: and paragraph (gg) is added to said subsection

Amendment 4 (with Title Amendment)—On page 1, between lines 20 and 21, insert:

(i) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention. *Residents of a home for the aged are exempt from payment of taxes on meals provided through the facility. A home for the aged is defined as a facility that is licensed or certified in part or in whole under chapter 400 or chapter 651, or that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act, or other such similar facility designed and operated primarily for the care of the aged.*

And the title is amended as follows:

In title, on page 1, strike all of lines 6 and 7 and insert: exemption; including purchases of certain meals provided by a home for the aged; including blood banks meeting

Amendment 5 (with Title Amendment)—On page 3, line 3, after the period (.) insert: *The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1986, as amended, which provides regular religious services to Florida state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community on a weekly basis.*

And the title is amended as follows:

In title, on page 1, line 4, after the semicolon (;) insert: redefining the term "religious institutions," for purposes of tax exemption, to include certain organizations that provide regular religious services to Florida state prisoners;

Amendment 6 (with Title Amendment)—On page 4, line 3, after "institutions" insert: *under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph* ~~hereunder~~.

And the title is amended as follows:

In title, on page 1, line 6, strike ", to include" and insert: ; including additional organizations; including

Amendment 7 (with Title Amendment)—On page 6, strike all of lines 7-9 and insert:

(gg) Athletic event sponsors.—There shall be exempt from the tax imposed by this part sales or leases to, those organizations which:

1.a. Are incorporated pursuant to chapter 617; and

b. Hold a current exemption from federal corporate income tax liability pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

2.a. Sponsor golf tournaments sanctioned by the PGA Tour, PGA of America, or the LPGA.

Section 2. The amendment to section 212.08(7)(o), Florida Statutes, 1994 Supplement, by this act applies retroactively to March 1, 1994.

And the title is amended as follows:

In title, on page 1, strike all of lines 6 and 7 and insert: exemptions; including blood banks meeting specific criteria; including certain nonprofit or tax-exempt organizations that sponsor certain athletic events; providing for retroactive

On motion by Senator McKay, by two-thirds vote **SB 1660** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Dyer, by two-thirds vote **CS for HB 2377** was withdrawn from the Committee on Natural Resources.

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

CS for HB 2377—A bill to be entitled An act relating to the Little Wekiva River and Seminole and Orange Counties; providing legislative policy; providing for duties and responsibilities of Seminole County and Orange County; providing for intergovernmental coordination; providing for reports; providing for funding; providing an appropriation; providing for future repeal; providing an effective date.

—a companion measure, was substituted for **CS for SB 1048** and by two-thirds vote read the second time by title. On motion by Senator Dyer, by two-thirds vote **CS for HB 2377** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Dyer, by two-thirds vote **CS for HB 1687** was withdrawn from the Committees on Commerce and Economic Opportunities; Judiciary; and Ways and Means.

On motion by Senator Dyer—

CS for HB 1687—A bill to be entitled An act relating to the Florida Vacation Plan and Time-Sharing Act; amending s. 721.03, F.S.; revising language with respect to the scope of the act, amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; providing that sellers and purchasers of timeshare periods must agree in writing on a specific value for each contract benefit; creating s. 721.065, F.S.; providing for resale purchase agreements; amending s. 721.07, F.S.; revising language with respect to public offering statements; creating s. 721.071, F.S.; providing requirements with respect to trade secrets; amending s. 721.075, F.S.; clarifying that incidental benefits must be filed in conjunction with a timeshare plan; amending s. 721.08, F.S.; revising language with respect to escrow accounts, nondisturbance instruments, and alternate security agreements; amending s. 721.10, F.S.; defining the term "benefits made available under the plan" with respect to the right to cancel; amending s. 721.11, F.S.; excluding certain statements from the term "advertising material"; amending s. 721.13, F.S.; revising language with respect to management; amending s. 721.14, F.S.; revising language with respect to the discharge of a managing entity; amending s. 721.15, F.S.; revising language with respect to assessments for common expenses; prohibiting the commingling of certain funds; amending s. 721.20, F.S.; providing an exemption from licensing requirements for persons licensed under chapter 475, F.S., under certain circumstances; amending s. 721.26, F.S.; revising language with respect to regulation by the Division of Florida Land Sales, Condominiums, and Mobile Homes; creating s. 721.265, F.S.; providing for service of process; amending s. 721.27, F.S.; clarifying language with respect to the annual fee for each timeshare period in a timeshare plan; amending s. 721.51, F.S.; revising language with respect to legislative purpose; amending s. 721.52, F.S.; providing definitions; amending s. 721.53, F.S.; revising language with respect to subordination agreements and alternate security arrangements; amending s. 721.54, F.S.; relating to the term of multisite timeshare plans; amending s. 721.55, F.S.; providing for public offering statements with respect to multisite timeshare plans; creating s. 721.551, F.S.; providing for the delivery of multisite timeshare plan public offering statements; creating s. 721.552, F.S.; providing for additions, substitutions, or deletions of component site accommodations or facilities; creating s. 721.553, F.S.; providing for the portrayal of proposed component sites; amending s. 721.56, F.S.; revising language with respect to the management of multisite timeshare plans and reservation systems; creating s. 721.301, F.S.; creating the Florida Timesharing, Vacation Club, and Hospitality Program; specifying activities; allowing designation of funds from the Division of Florida Land Sales, Condominiums and Mobile Homes Trust Fund; requiring private match for such funds; requiring a report; authorizing rule-making; providing appropriations; directing the Division of Florida Land Sales, Condominiums, and Mobile Homes to conduct a study; providing for the application of certain portions of the act; providing an effective date.

—a companion measure, was substituted for **SB 2096** and read the second time by title.

Senator Dyer moved the following amendments which were adopted:

Amendment 1—On page 116, strike all of lines 22-28 and insert:

(c) The director may designate funds from the Florida Land Sales, Condominium and Mobile Homes Trust Fund, not to exceed $50,000 annually, to support the projects and proposals undertaken pursuant to paragraph (b). All state trust funds to be expended pursuant to this section must be matched equally with private moneys and shall comprise no more than half of the total moneys expended annually.

Amendment 2—On page 36, line 16, after the period (.) insert: *Notwithstanding any provisions of section 718.110, a developer may develop a timeshare condominium in phases if the original declaration of condominium submitting the initial phase to condominium ownership or an amendment to the declaration which has been approved by all of the unit owners and unit mortgagees provides for phasing. Notwithstanding any provisions of section 718.403 to the contrary, the original declaration of condominium, or an amendment to the declaration adopted pursuant to this subsection, need only generally describe the developer's*

phasing plan and the land which may become part of the condominium, and, in conjunction therewith, the developer may also reserve all rights to vary his phasing plan as to phase boundaries, plot plans and floor plans, unit types, unit sizes and unit type mixes, numbers of units, and recreational areas and facilities with respect to each subsequent phase. There shall be no time limit during which a developer of a timeshare condominium must complete his phasing plan, and the developer shall not be required to notify owners of existing timeshare estates of his decision not to add one or more proposed phases.

Amendment 3 (with Title Amendment)—On page 119, between lines 8 and 9, insert:

Section 33. Section 721.50, Florida Statutes, is amended to read:

721.50 Short title.—This part may be cited as the *"McAllister Act" in recognition and appreciation for the years of extraordinary and insightful contributions by Mr. Bryan C. McAllister, Examinations Supervisor, Division of Florida Land Sales, Condominiums, and Mobile Homes.* ~~"Florida Vacation Club Act."~~

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 3, line 14, after the semicolon (;) insert: amending s. 721.50, F.S.; naming part of ch. 721, F.S., the "McAllister Act";

Senators Dudley, Johnson and Gutman offered the following amendment which was moved by Senator Dudley and adopted:

Amendment 4 (with Title Amendment)—On page 119, between lines 8 and 9, insert:

Section 33. Subsection (20) of section 718.103, Florida Statutes, is amended to read:

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

(20) "Residential condominium" means a condominium consisting of condominium units, any of which are intended for use as a private temporary or permanent residence, except that a condominium is not a residential condominium if the use for which the units are intended is primarily commercial or industrial and not more than three units are intended to be used for private residence, and are intended to be used as housing for maintenance, managerial, janitorial, or other operational staff of the condominium. *With respect to a condominium that is not a timeshare condominium, a residential unit includes a unit intended as a private temporary or permanent residence as well as a unit not intended for commercial or industrial use. With respect to a timeshare condominium, the timeshare instrument as defined in s. 721.05(28) shall govern the intended use of each unit in the condominium.* If a condominium is a residential condominium but contains units intended to be used for commercial or industrial purposes, then, with respect to those units which are not intended for or used as private residences, the condominium is not a residential condominium. *A condominium which contains both commercial and residential units is a mixed-use condominium subject to the requirements of s. 718.404.*

Section 34. Subsections (13) and (15) of section 718.111, Florida Statutes, 1994 Supplement, are amended to read:

718.111 The association.—

(13) FINANCIAL REPORTS.—Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months, *or a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting principles.* The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

(a) Costs for security;

(b) Professional and management fees and expenses;

(c) Taxes;

(d) Costs for recreation facilities;

(e) Expenses for refuse collection and utility services;

(f) Expenses for lawn care;

(g) Costs for building maintenance and repair;

(h) Insurance costs;

(i) Administrative and salary expenses; and

(j) *Reserves for capital expenditures, deferred maintenance, and any other category for which the association maintains a reserve account or accounts* ~~General reserves, maintenance reserves, and depreciation reserves~~.

(15) COMMINGLING.—All funds shall be maintained separately in the association's name. Reserve and operating funds of the association *shall not* ~~may~~ be commingled ~~for purposes of investment, but separate ledgers must be maintained for each account~~. No manager or business entity required to be licensed or registered under s. 468 432, and no agent, employee, officer, or director of a condominium association shall commingle any association funds with his funds or with the funds of any other condominium association or community association as defined in s. 468.431.

Section 35. Paragraphs (a), (b), (d), and (f) of subsection (2) of section 718.112, Florida Statutes, 1994 Supplement, are amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(a) Administration.—

1. The form of administration of the association shall be described indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of a condominium which has five or fewer units, in which case in a not-for-profit corporation the board shall consist of not fewer than three members. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration. Unless otherwise provided in the bylaws, the members of the board shall serve without compensation.

2. When a unit owner files a written complaint by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days of receipt of the complaint. The board's response shall either give a substantive response to the complainant, notify the complainant that a legal opinion has been requested, or notify the complainant that advice has been requested from the division. If the board requests advice from the division, the board shall, within 10 days of its receipt of the advice, provide in writing a substantive response to the complainant. If a legal opinion is requested, the board shall, within 60 days after the receipt of the complaint, provide in writing a substantive response to the complainant. The failure to provide a substantive response to the complainant as provided herein precludes the board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the complaint.

(b) Quorum; voting requirements; proxies.—

1. Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of the voting interests. Unless otherwise provided in this chapter or in the declaration, articles of incorporation, or bylaws, and except as provided in subparagraph (d)3., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a

quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (f)2.; for votes taken to waive financial statement requirements as provided by s. 718.111(14); for votes taken to amend the declaration pursuant to s. 718.110; for votes taken to amend the articles of incorporation or bylaws pursuant to this section; and for any other matter for which this chapter requires or permits a vote of the unit owners. *Except as provided in paragraph (d),* after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this subparagraph, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare condominium association.

3. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it.

(d) Unit owner meetings.—

1. There shall be an annual meeting of the unit owners. Unless the bylaws provide otherwise, a vacancy on the board of administration caused by the expiration of a director's term shall be filled by electing a new board member, *and the election shall be by closed ballot*; however, if there is only one candidate for election to fill the vacancy, no election is required. If there is no provision in the bylaws for terms of the members of the board of administration, the terms of all members of the board of administration shall expire upon the election of their successors at the annual meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 3.

2. The bylaws shall provide the method of calling meetings of unit owners, including annual meetings. Written notice, which notice must include an agenda, shall be mailed or delivered to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the condominium property or association property upon which all notices of unit owner meetings shall be posted; however, if there is no condominium property or association property upon which notices can be posted, this requirement does not apply. Unless a unit owner waives in writing the right to receive notice of the annual meeting by mail, the notice of the annual meeting shall be sent by mail to each unit owner. Where a unit is owned by more than one person, the association shall provide notice, for meetings and all other purposes, to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the unit shall so advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered, in accordance with this provision, to each unit owner at the address last furnished to the association.

3. After January 1, 1992, the members of the board of administration shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board of administration, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. Not less than 60 days before a scheduled election, the association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivery including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. ~~The board shall hold a meeting within 5 days after the deadline for a candidate to provide notice to the association of intent to run. At this meeting, the board shall accept additional nominations. Any unit owner or other eligible person may nominate himself or may nominate another unit owner or eligible person, if he has permission in writing to nominate the other person.~~ Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association not less than 40 days before a scheduled election. *Together with the written notice and agenda as set forth in subparagraph 2.* ~~Not less than 30 days before the election,~~ the association shall mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing *or delivery* and copying to be borne by the association. However, the association has no liability for the contents of the information sheets prepared by the candidates. *In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper.* The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board of administration. No unit owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 718.303. The regular election shall occur on the date of the annual meeting. The provisions of this subparagraph shall not apply to timeshare condominium associations. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the board.

4. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any statute which provides for such action.

5. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any statute.

6. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

7. Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)3., an association ~~consisting of fewer than 25 units~~ may, by *the affirmative vote of a majority of the total voting interests* ~~a two-thirds vote of the unit owners~~, provide for different voting and election procedures in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. *The different voting and election procedures may provide for elections to be conducted by limited or general proxy.*

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(20). In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor.

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated *remaining useful* life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any *changes in estimates or* extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets ~~in which the level of assessments has been guaranteed pursuant to s. 718.116(10) prior to October 1,~~

~~1979, provided that the absence of reserves is disclosed to purchasers, or to budgets~~ in which the members of an association have, by a *majority* vote ~~of the majority of the total voting interests voting in person or by limited proxy~~ at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves *or reduce the funding of reserves* for the first 2 years of the operation of the association, after which time reserves may only be waived or reduced upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account *or accounts, and shall be used only* for authorized reserve expenditures~~,~~ unless their use for other purposes is approved in advance by a vote of the majority of the voting interests, *voting in person or by limited proxy* ~~present~~ at a duly called meeting of the association. *Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.*

Section 36. Section 718.1255, Florida Statutes, 1994 Supplement, is amended to read:

718.1255 Alternative dispute resolution; voluntary mediation; mandatory nonbinding arbitration; legislative findings.—

(1) DEFINITIONS.—As used in this section, the term "dispute" means any disagreement between two or more parties that involves:

(a) The authority of the board of directors, under *this chapter* ~~any law~~ or association document to:

1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.

2. Alter or add to a common area or element.

(b) The failure of a governing body, when required by *this chapter* ~~law~~ or an association document, to:

1. Properly conduct elections.

2. Give adequate notice of meetings or other actions.

3. Properly conduct meetings.

4. Allow inspection of books and records.

"Dispute" does not include any disagreement that primarily involves title to any unit or common element; the interpretation or enforcement of any warranty; or the levy of a fee or assessment, or the collection of an assessment levied against a party.

(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.

(3) LEGISLATIVE FINDINGS.—

(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that the courts are becoming overcrowded with condominium and other disputes, and further finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. *However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.*

(c) There exists a need to develop a means of alternative dispute resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(4) MANDATORY NONBINDING ARBITRATION OF DISPUTES.—The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation shall employ full-time attorneys to act as arbitrators to conduct the arbitration hearings provided by this chapter. *The division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this section.* No person may be employed by the department as a full-time arbitrator unless he *or she* is a member in good standing of The Florida Bar. The department shall promulgate rules of procedure to govern such arbitration hearings. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence *in the trial de novo.*

(a) Prior to the institution of court litigation, the parties to a dispute shall petition the division for nonbinding arbitration. Arbitration shall be conducted according to rules promulgated by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(b) At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by *the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure* ~~law~~.

(c) The arbitration decision shall be presented to the parties in writing. An arbitration decision shall be final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party may be awarded the costs of the arbitration, reasonable attorney's fees, or both, in an amount determined in the discretion of the arbitrator.

(d) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

(e) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition is granted, the petitioner may recover reasonable attorney's fees and costs incurred in enforcing the arbitration award.

Section 37. Section 718.404, Florida Statutes, is created to read:

718.404 Mixed-use condominiums.—When a condominium consists of both residential and commercial units, the following provisions shall apply:

(1) The condominium documents shall not provide that the owner of any commercial unit shall have the authority to veto amendments to the declaration, articles of incorporation, bylaws, or rules or regulations of the association.

(2) Subject to s. 718.301, where the number of residential units in the condominium equals or exceeds 50 percent of the total units operated by the association, owners of the residential units shall be entitled to vote for a majority of the seats on the board of administration.

(3) Where the number of commercial units in the condominium is less than 50 percent of the total number of units operated by the association, the documents shall not provide that the owners of the residential units shall pay more than 50 percent of the total common expenses of the association, including limited common element expenses.

(4) The provisions of this section shall not apply to timeshare condominiums.

Section 38. Subsection (1) of section 718.502, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

718.502 Filing prior to sale or lease.—

(1) A developer of a residential condominium *or mixed-use condominium* shall file with the division one copy of each of the documents and items required to be furnished to a buyer or lessee by ss. 718.503 and 718.504, if applicable. Until the developer has so filed, a contract for sale of a unit or lease of a unit for more than 5 years shall be voidable by the purchaser or lessee prior to the closing of his purchase or lease of a unit.

(5) In addition to those disclosures described by ss. 718.503 and 718.504, the division is authorized to require such other disclosure as deemed necessary to fully or fairly disclose all aspects of the offering.

Section 39. Subsection (4) is added to section 718.616, Florida Statutes, to read:

718.616 Disclosure of condition of building and estimated replacement costs *and compliance with municipal ordinances.*—

(4) If the proposed condominium is situated within a municipality, the disclosure shall include a letter authorized by the chief administrative official of the municipality acknowledging that the proposed condominium complies with the municipality's code, zoning ordinances, and all other local regulations.

Section 40. Section 719.1035, Florida Statutes, is amended to read:

719.1035 Creation of cooperatives.—The date when cooperative existence shall commence is upon commencement of corporate existence of the cooperative association as provided in s. 607.0203. *The cooperative documents must be recorded in the county in which the cooperative is located before property may be conveyed or transferred to the cooperative. All persons who have any record interest in any mortgage encumbering the interest in the land being submitted to cooperative ownership must either join in the execution of the cooperative documents or execute, with the requirements for deed, and record, a consent to the cooperative documents or an agreement subordinating their mortgage interest to the cooperative documents.*

Section 41. Paragraph (a) of subsection (4) and subsection (7) of section 719.104, Florida Statutes, 1994 Supplement, are amended to read:

719.104 Cooperatives; access to units; records; financial reports; assessments; purchase of leases.—

(4) FINANCIAL REPORT.—

(a) Within 60 days following the end of the fiscal or calendar year or annually on such date as is otherwise provided in the bylaws of the association, the board of administration of the association shall mail or furnish by personal delivery to each unit owner a complete financial report of actual receipts and expenditures for the previous 12 months, *or a complete set of financial statements for the preceding fiscal year prepared in accordance with generally accepted accounting procedures.* The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

1. Costs for security;
2. Professional and management fees and expenses;
3. Taxes;
4. Costs for recreation facilities;
5. Expenses for refuse collection and utility services;
6. Expenses for lawn care;
7. Costs for building maintenance and repair;
8. Insurance costs;
9. Administrative and salary expenses; and
10. *Reserves for capital expenditures, deferred maintenance, and any other category for which the association maintains a reserve account or accounts.* ~~General reserves, maintenance reserves, and depreciation reserves.~~

(7) COMMINGLING.—All funds shall be maintained separately in the association's name. Reserve and operating funds of the association *shall not* ~~may~~ be commingled ~~for purposes of investment, but separate ledgers must be maintained for each account.~~ *No* ~~A~~ manager or business entity required to be licensed or registered under s. 468.432, or an agent, employee, officer, or director of a cooperative association may ~~not~~ commingle any association funds with his own funds or with the funds of any other cooperative association or community association as defined in s. 468.431.

Section 42. Subsection (5) of section 718.113, Florida Statutes, 1994 Supplement, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag, hurricane shutters.—

(5) Each board of administration shall adopt hurricane shutter specifications for each building within each condominium operated by the association which shall include color, style, and other factors deemed relevant by the board. All specifications adopted by the board shall comply with the applicable building code. Notwithstanding any provision to the contrary in the condominium documents, if approval is required by the documents, a board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the board. The board may, subject to the provisions of s. 718.3026, and the approval of a majority of voting interests of the condominium, install hurricane shutters and may maintain, repair, or replace such approved hurricane shutters, whether on or within common elements, limited common elements, units, or association property. However, where laminated glass *or window film* architecturally designed to function as hurricane protection which complies with the applicable building code has been installed, the board may not install hurricane shutters. The board may operate shutters installed pursuant to this subsection without permission of the unit owners only where such operation is necessary to preserve and protect the condominium property and association property. The installation, replacement, operation, repair, and maintenance of such shutters in accordance with the procedures set forth herein shall not be deemed a material alteration to the common elements or association property within the meaning of this section.

Section 43. Paragraph (a) of subsection (2) of section 718.3026, Florida Statutes, is amended to read:

718.3026 Contracts for products and services; in writing; bids; exceptions.—Associations with less than 100 units may opt out of the provisions of this section if two-thirds of the unit owners vote to do so, which opt-out may be accomplished by a proxy specifically setting forth the exception from this section.

(2)(a)1. Notwithstanding the foregoing, contracts with employees of the association, and contracts for attorney, accountant, architect, *community association manager, time-share management firm,* engineering, and landscape architect services are not subject to the provisions of this section.

2. A contract executed before January 1, 1992, and any renewal thereof, is not subject to the competitive bid requirements of this section. If a contract was awarded under the competitive bid procedures of this section, any renewal of that contract is not subject to such competitive bid requirements if the contract contains a provision that allows the board to cancel the contract on 30 days' notice. Materials, equipment, or services provided to a condominium under a local government franchise agreement by a franchise holder are not subject to the competitive bid requirements of this section. A contract with a manager, if made by a competitive bid, may be made for up to 3 years. A condominium whose declaration or bylaws provides for competitive bidding for services may operate under the provisions of that declaration or bylaws in lieu of this section if those provisions are not less stringent than the requirements of this section.

Section 44. Paragraphs (b), (d), and (j) of subsection (1) of section 719.106, Florida Statutes, 1994 Supplement, are amended to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(b) Quorum; voting requirements; proxies.—

1. Unless otherwise provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be a majority of voting interests, and decisions shall be made by owners of a majority of the voting interests. Unless otherwise provided in this chapter, or in the articles of incorporation, bylaws, or other cooperative documents, and except as provided in subparagraph (d)1., decisions shall be made by owners of a majority of the voting interests represented at a meeting at which a quorum is present.

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (j)2., for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and for any other matter for which this chapter requires or permits a vote of the unit owners. *Except as provided in paragraph (d),* after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this section, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare cooperative.

3. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the unit owner executing it.

(d) Shareholder meetings.—There shall be an annual meeting of the shareholders. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. Any unit owner desiring to be a candidate for board membership shall comply with subparagraph 1. The bylaws shall provide the method for calling meetings, including annual meetings. Written notice, which notice shall incorporate an identification of agenda items, shall be given to each unit owner at least 14 days prior to the annual meeting and shall be posted in a conspicuous place on the cooperative property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board shall by duly adopted rule designate a specific location on the cooperative property upon which all notice of unit owner meetings shall be posted. Unless a unit owner waives in writing the right to receive notice of the annual meeting, the notice of the annual meeting shall be sent by mail to each unit owner. An officer of the association shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association, affirming that notices of the association meeting were mailed or hand delivered, in accordance with this provision, to each unit owner at the address last furnished to the association.

1. After January 1, 1992, the board of administration shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the board of administration, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise unless otherwise provided in this chapter. Not less than 60 days before a scheduled election, the association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivery including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration shall give written notice to the association not less than 40 days before a scheduled election. *Together with the written notice and agenda as set forth in this section* ~~The board shall hold a meeting within 5 days after the deadline for a candidate to provide notice to the association of intent to run. At this meeting, the board shall accept additional nominations. Any unit owner or other eligible person may nominate himself or may nominate another unit owner or eligible person, if he has permission in writing to nominate the other person. Not less than 30 days before the election,~~ the association shall mail a second notice of election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate not less than 35 days prior to the election, to be included with the mailing of the ballot, with the costs of mailing *or delivery* and copying to be borne by the association. The association has no liability for the contents of the information sheets provided by the candidates. *In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper.* The division shall by rule establish voting procedures consistent with the provisions contained herein, including rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement. However, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board of administration. No unit owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 719.303. The regular election shall occur on the date of the annual meeting. The provisions of this subparagraph shall not apply to timeshare cooperatives. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file a notice of intent to run or are nominated than vacancies exist on the board.

2. Any approval by unit owners called for by this chapter, or the applicable cooperative documents, shall be made at a duly noticed meeting of unit owners and shall be subject to all requirements of this chapter or the applicable cooperative documents relating to unit owner decision-making, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable cooperative documents or any Florida statute which provides for the unit owner action.

3. Unit owners may waive notice of specific meetings if allowed by the applicable cooperative documents or any Florida statute.

4. Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

5. Any unit owner may tape record or videotape meetings of the unit owners subject to reasonable rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)1., an association ~~consisting of fewer than 25 units~~ may, by *the affirmative vote of a majority of the total voting interests* ~~a two-thirds vote of the unit owners~~, provide for a different voting and election procedure in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. *The different voting and election procedures may provide for elections to be conducted by limited or general proxy.*

(j) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 719.504(20).

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other items for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated *remaining useful* life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any *changes in estimates or* extension of the useful life of a reserve item caused by deferred maintenance. This paragraph shall not apply to any budget in which the members of an association have, ~~by a vote of the majority of the total voting interests voting in person or by limited proxy~~ at a duly called meeting of the association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a devel-

oper pursuant to s. 719.301, the developer may vote to waive the reserves *or reduce the funding of reserves* for the first 2 years of the operation of the association after which time reserves may only be waived or reduced upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine to provide no reserves, or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account *or accounts, and shall be used only* for authorized reserve expenditures~~,~~ unless their use for other purposes is approved in advance by a vote of the majority of the voting interests, *voting in person or by limited proxy* ~~present~~ at a duly called meeting of the association. *Prior to turnover of control of an association by a developer to unit owners other than the developer under s. 719.301, the developer may not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.*

Section 45. The Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation is directed to conduct a study of laws governing condominiums and cooperatives and report to the President of the Senate and the Speaker of the House of Representatives concerning the same on or before January 15, 1996. The study shall evaluate the changes and additions, if any, to the law which may be appropriate to facilitate the use and operation of alternative dispute resolution mechanisms and appropriately refine and clarify the jurisdiction of the division concerning such disputes. The study should further review developer responsibility for reserve funds, and should evaluate the potential staffing efficiencies, improvements, and funding in support of the division's responsibilities. The division is encouraged to accept input from the public, including organizations representing individuals affected by those laws.

Section 46. Section 718.117, Florida Statutes, is amended to read:

718.117 Termination.—

(1) Unless otherwise provided in the declaration, the condominium property may be removed from the provisions of this chapter only by consent of all of the unit owners, evidenced by a recorded instrument to that effect, and upon the written consent by all of the holders of recorded liens affecting any of the condominium parcels. Upon recordation of the instrument evidencing consent of all of the unit owners to terminate the condominium, the association shall notify the division within 30 working days of the termination and the date the document was recorded, the county where the document was recorded, and the book and page number of the public records where the document was recorded.

(2) Notwithstanding any contrary provision in the declaration or the bylaws, the powers and duties of the directors, or other person or persons appointed by the court pursuant to subsection (4), after the commencement of a termination proceeding include, but are not limited to, the following acts in the name and on behalf of the association:

(a) To employ directors, agents, and attorneys to liquidate or wind up its affairs.

(b) To continue the conduct of the affairs of the association insofar as necessary for the disposal or winding up thereof.

(c) To carry out contracts and collect, pay, compromise, and settle debts and claims for and against the association.

(d) To defend suits brought against the association.

(e) To sue in the name of the association, for all sums due or owing to the association or to recover any of its property.

(f) To perform any act necessary to maintain, repair, or demolish unsafe and uninhabitable structures, or other condominium property in compliance with applicable codes.

(g) To sell at public or private sale, exchange, convey, or otherwise dispose of all or any part of the assets of the association for an amount deemed in the best interest of the association, and to execute bills of sale and deeds of conveyance in the name of the association.

(h) To collect and receive any and all rents, profits, accounts receivable, income, maintenance fees, special assessments, and insurance proceeds for the association.

(i) In general, to make contracts and to do any and all things in the name of the association which may be proper or convenient for the purposes of winding up, selling, and liquidating the affairs of the association.

(3) Unless the declaration or the bylaws provide otherwise, a vacancy in the board during a winding up proceeding, resulting from the resignation or expiration of term of any director, may be filled by a majority vote of the unit owners.

(4) If, after a natural disaster, the identity of the directors or their right to hold office is in doubt, or if they are dead or unable to act, or if they fail or refuse to act or their whereabouts cannot be ascertained, any interested person may petition the circuit court to determine the identity of the directors, or, if determined to be in the best interest of the unit owners, to appoint a receiver to wind up the affairs of the association after hearing upon such notice to such persons as the court may direct. The receiver shall be vested with those powers as are given to the board of directors pursuant to the declaration and bylaws and subsection (2) and such others which may be necessary to wind up the affairs of the association and set forth in the order of appointment. The appointment of the receiver shall be subject to such bonding requirements as the court may direct in the order of appointment. The order shall also provide for the payment of a reasonable fee for the services of the receiver from the sources identified in the order, which may include rents, profits, incomes, maintenance fees, or special assessments collected from the condominium property.

(5) After determining that all known debts and liabilities of an association in the process of winding up have been paid or adequately provided for, the board, or other person or persons appointed by the court, pursuant to subsection (4), shall distribute all the remaining assets in the manner set forth in subsection (6). If the winding up is by court proceeding or subject to court supervision, the distribution shall not be made until after the expiration of any period for the presentation of claims that has been prescribed by order of the court.

(6) Assets held by an association upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur, shall be returned, transferred, or conveyed in accordance with the condition. The remaining assets of an association shall be distributed as follows:

(a) If the declaration or bylaws provides the manner of disposition the assets shall be disposed in that manner.

(b) If the declaration or bylaws do not provide the manner of disposition, the assets shall be distributed among the unit owners in accordance with their respective rights therein, as set forth in subsection (7).

(7)~~(2)~~ Unless otherwise provided in the declaration as originally recorded or as amended pursuant to s. 718.110(5), upon removal of the condominium property from the provisions of this chapter, the condominium property is owned ~~in common~~ by the unit owners in the same ~~undivided~~ shares as each owner previously owned in the common elements. All liens shall be transferred to the ~~undivided~~ share in the condominium property attributable to the unit originally encumbered by the lien in its same priority.

(8) Distribution may be made either in money or in property or securities and either in installments from time to time or as a whole, if this can be done fairly and ratably and in conformity with the declaration and shall be made as soon as reasonably consistent with the beneficial liquidation of the assets.

(9) An association that has been terminated nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it, and enabling it to collect and discharge obligations, dispose of and convey its property, and collect and divide its assets, but not for the purpose of conducting its activities except so far as necessary for the winding up thereof.

(10)~~(3)~~ The termination of a condominium does not bar the creation of another condominium affecting all or any portion of the same property.

Section 47. Section 617.0601, Florida Statutes, is amended to read:

617.0601 Members, generally.—

(1)(a) A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the qualifications and rights of the members of each class, any quorum and voting requirements for meetings and activities of the members, and notice requirements sufficient to provide notice of meetings and activities of the members must be set forth in the articles of incorporation or in the bylaws.

(b) The articles of incorporation or bylaws of any corporation not for profit that maintains chapters or affiliates may grant representatives of such chapters or affiliates the right to vote in conjunction with the board of directors of the corporation notwithstanding applicable quorum or voting requirements of this act if the corporation is registered with the Department of State pursuant to ss. 496.001-496.011, the Solicitation of Funds Act.

(c) This subsection does not apply to any condominium association organized under chapter 718.

(2) A corporation may issue certificates of membership.

(3) Corporation members have no voting or other rights except as provided in the articles of incorporation or bylaws. However, members of any corporation existing on July 1, 1991, shall continue to have the same voting and other rights as before such date until changed by amendment of the articles of incorporation or bylaws.

(4) A corporation shall keep a membership book containing, in alphabetical order, the name and address of each member. The corporation shall also keep records in accordance with s. 617.1601.

(5) Membership in the corporation may be terminated in the manner provided by law, by the articles of incorporation, or by the bylaws, and a termination of membership shall be recorded in the membership book. Unless otherwise provided in the articles of incorporation or the bylaws, all the rights and privileges of a member cease on termination of membership.

(6) Subsections (1), (2), (3), and (4) do not apply to a corporation that is an association as defined in s. 617.301.

Section 48. Section 617.0701, Florida Statutes, is amended to read:

617.0701 Meetings of members, generally; failure to hold annual meeting; special meeting; consent to corporate actions without meetings; waiver of notice of meetings.—

(1) The frequency of all meetings of members, the time and manner of notice of such meetings, the conduct and adjournment of such meetings, the determination of members entitled to notice or to vote at such meetings, and the number or voting power of members necessary to constitute a quorum, shall be determined by or in accordance with the articles of incorporation or the bylaws. The place and time of all meetings may be determined by the board of directors.

(2) Failure to hold an annual meeting does not cause a forfeiture or give cause for dissolution of the corporation, nor does such failure affect otherwise valid corporate acts, except as provided in s. 617.1430 in the case of a deadlock among the directors or the members.

(3) Special meetings of the members may be called by the president, the chairman of the board of directors, the board of directors, or such other officers or persons as are provided for in the articles of incorporation or the bylaws.

(4)(a) Unless otherwise provided in the articles of incorporation, action required or permitted by this act to be taken at an annual or special meeting of members may be taken without a meeting, without prior notice, and without a vote if the action is taken by the members entitled to vote on such action and having not less than the minimum number of votes necessary to authorize such action at a meeting at which all members entitled to vote on such action were present and voted. In order to be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the corporation by delivery to its principal office in this state, its principal place of business, the corporate secretary, or another officer or agent of the corporation having custody of the book in which proceedings of meetings of members are recorded. Written consent shall not be effective to take the corporate action referred to in the consent unless the consent is signed by members having the requisite number of votes necessary to authorize the action within 60 days of the date of the earliest dated consent and is delivered in the manner required by this section.

(b) Any written consent may be revoked prior to the date that the corporation receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the corporation at its principal office in this state or its principal place of business, or received by the corporate secretary or other officer or agent of the corporation having custody of the book in which proceedings of meetings of members are recorded.

(c) Within 10 days after obtaining such authorization by written consent, notice must be given to those members who are entitled to vote on the action but who have not consented in writing. The notice must fairly summarize the material features of the authorized action.

(d) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(e) If the action to which the members consent is such as would have required the filing of a certificate under any other section of this act if such action had been voted on by members at a meeting thereof, the certificate filed under such other section must state that written consent has been given in accordance with the provisions of this section.

(f) Whenever action is taken pursuant to this section, the written consent of the members consenting to such action or the written reports of inspectors appointed to tabulate such consents must be filed with the minutes of proceedings of members.

(5)(a) Notice of a meeting of members need not be given to any member who signs a waiver of notice, in person or by proxy, either before or after the meeting. Unless required by the bylaws, neither the affairs transacted nor the purpose of the meeting need be specified in the waiver.

(b) Attendance of a member at a meeting, either in person or by proxy, constitutes waiver of notice and waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, unless the member attends a meeting solely for the purpose of stating, at the beginning of the meeting, any such objection or objections to the transaction of affairs.

(6) Subsections (1) and (3) do not apply to any corporation that is an association as defined in s. 617.301.

Section 49. Section 617.0721, Florida Statutes, is amended to read:

617.0721 Voting by members.—

(1) Members are not entitled to vote except as conferred by the articles of incorporation or the bylaws.

(2) A member who is entitled to vote may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member or by his duly authorized attorney in fact. An appointment of a proxy is not valid after 11 months following the date of its execution unless otherwise provided in the proxy. If directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

(3) If any corporation, whether for profit or not for profit, is a member of a corporation organized under this act, the chairman of the board, president, any vice president, the secretary, or the treasurer of the member corporation, and any such officer or cashier or trust officer of a banking or trust corporation holding such membership, and any like officer of a foreign corporation whether for profit or not for profit, holding membership in a domestic corporation, shall be deemed by the corporation in which membership is held to have the authority to vote on behalf of the member corporation and to execute proxies and written waivers and consents in relation thereto, unless, before a vote is taken or a waiver or consent is acted upon, it is made to appear by a certified copy of the bylaws or resolution of the board of directors or executive committee of the member corporation that such authority does not exist or is vested in some other officer or person. In the absence of such certification, a person executing any such proxies, waivers, or consents or presenting himself at a meeting as one of such officers of a corporate member shall be, for the purposes of this section, conclusively deemed to be duly elected, quali-

fied, and acting as such officer and to be fully authorized. In the case of conflicting representation, the corporate member shall be deemed to be represented by its senior officer, in the order first stated in this subsection.

(4) The articles of incorporation or the bylaws may provide that, in all elections for directors, every member entitled to vote has the right to cumulate his votes and to give one candidate a number of votes equal to the number of votes he could give if one director were being elected multiplied by the number of directors to be elected or to distribute such votes on the same principles among any number of such candidates. A corporation may not have cumulative voting unless such voting is expressly authorized in the articles of incorporation.

(5) If a corporation has no members or its members do not have the right to vote, the directors shall have the sole voting power.

(6) Subsections (1), (2), (4), and (5) do not apply to a corporation that is an association as defined in s. 617.301.

Section 50. Section 617.0831, Florida Statutes, 1994 Supplement, is amended to read:

617.0831 Indemnification and liability of officers, directors, employees, and agents.—Except as provided in s. 617.0834, ss. 607 0831 and 607.0850 apply to a corporation organized under this act and a rural electric cooperative organized under chapter 425. Any reference to "directors" in those sections includes the directors, managers, or trustees of a corporation organized under this act or of a rural electric cooperative organized under chapter 425. However, the term "director" as used in ss. 607.0831 and 607.0850 does not include a director appointed by the developer to the board of directors of a condominium association under chapter 718, a cooperative association under chapter 719, a homeowners' association *defined in s. 617.301,* ~~under ss. 617.301-617.306,~~ or a timeshare managing entity under chapter 721. Any reference to "shareholders" in those sections includes members of a corporation organized under this act and members of a rural electric cooperative organized under chapter 425.

Section 51. Section 617.301, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 617.301, F.S., for present text.)

617.301 Homeowners' associations; definitions.—As used in ss. 617.301-617.312, the term:

(1) "Assessment" or "amenity fee" means a sum or sums of money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel.

(2) "Common area" means all real property within a community which is owned or leased by an association or dedicated for use or maintenance by the association or its members, including, regardless of whether title has been conveyed to the association:

(a) Real property the use of which is dedicated to the association or its members by a recorded plat; or

(b) Real property committed by a declaration of covenants to be leased or conveyed to the association.

(3) "Community" means the real property that is or will be subject to a declaration of covenants which is recorded in the county where the property is located. The term "community" includes all real property, including undeveloped phases, that is or was the subject of a development of regional impact development order, together with any approved modification thereto.

(4) "Declaration of covenants," or "declaration," means a recorded written instrument in the nature of covenants running with the land which subjects the land comprising the community to the jurisdiction and control of an association or associations in which the owners of the parcels, or their association representatives, must be members.

(5) "Developer" means a person or entity that:

(a) Creates the community served by the association; or

(b) Succeeds to the rights and liabilities of the person or entity that created the community served by the association, provided that such is evidenced in writing.

(6) "Governing documents" means:

(a) The recorded declaration of covenants for a community, and all duly adopted and recorded amendments, supplements, and recorded exhibits thereto; and

(b) The articles of incorporation and bylaws of the homeowners' association, and any duly adopted amendments thereto.

(7) "Homeowners' association" or "association" means a Florida corporation responsible for the operation of a community in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The term "homeowners' association" does not include a community development district or other similar special taxing district created pursuant to statute.

(8) "Member" means a member of an association, and may include, but is not limited to, a parcel owner or an association representing parcel owners or a combination thereof.

(9) "Parcel" means a platted or unplatted lot, tract, unit, or other subdivision of real property within a community, as described in the declaration:

(a) Which is capable of separate conveyance; and

(b) Of which the parcel owner, or an association in which the parcel owner must be a member, is obligated:

1. By the governing documents to be a member of an association that serves the community; and

2. To pay to the homeowners' association assessments that, if not paid, may result in a lien.

(10) "Parcel owner" means the record owner of legal title to a parcel.

(11) "Voting interest" means the voting rights distributed to the members of the homeowners' association, pursuant to the governing documents.

Section 52. Section 617.302, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 617.302, F.S., for present text.)

617.302 Homeowners' associations; purposes, scope, and application.—

(1) The purposes of ss. 617.301-617.312 are to give statutory recognition to corporations that operate residential communities in this state, to provide procedures for operating homeowners' associations, and to protect the rights of association members without unduly impairing the ability of such associations to perform their functions.

(2) The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 617.301-617.312 are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

(3) Sections 617.301-617.312 do not apply to:

(a) A community that is comprised of property primarily intended for commercial, industrial, or other nonresidential use; or

(b) The commercial or industrial parcels in a community that contains both residential parcels and parcels intended for commercial or industrial use.

(4) Sections 617.301-617.312 do not apply to any association that is subject to regulation under chapter 718, chapter 719, or chapter 721; or to any nonmandatory association formed under chapter 723.

Section 53. Section 617.303, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 617.303, F.S., for present text.)

617.303 Association powers and duties; meetings of board; official records; budgets; financial reporting.—

(1) POWERS AND DUTIES.—An association which operates a community as defined in s. 617.301, must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be recorded in the official records of the county in which the community is located. An association may operate more than one community. The officers and directors of an association have a fiduciary relationship to the members who are served by the association. The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this chapter, those set forth in the governing documents. A member does not have authority to act for the association by virtue of being a member. An association may have more than one class of members and may issue membership certificates.

(2) BOARD MEETINGS.—A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. All meetings of the board must be open to all members except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice or provision of a schedule of board meetings. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, including any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community

(3) MINUTES.—Minutes of all meetings of the members of an association and of the board of directors of an association must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

(4) OFFICIAL RECORDS.—The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.

(b) A copy of the bylaws of the association and of each amendment to the bylaws.

(c) A copy of the articles of incorporation of the association and of each amendment thereto.

(d) A copy of the declaration of covenants and a copy of each amendment thereto.

(e) A copy of the current rules of the homeowners' association.

(f) The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.

(g) A current roster of all members and their mailing addresses and parcel identifications.

(h) All of the association's insurance policies or a copy thereof, which policies must be retained for at least 7 years.

(i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the association has any obligation or responsibility. Bids received by the association for work to be performed must also be considered official records and must be kept for a period of 1 year.

(j) The financial and accounting records of the association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:

1. Accurate, itemized, and detailed records of all receipts and expenditures.

2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

3. All tax returns, financial statements, and financial reports of the association.

4. Any other records that identify, measure, record, or communicate financial information.

(5) INSPECTION AND COPYING OF RECORDS.—The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community.

(a) The failure of an association to provide access to the records within 10 business days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this subsection.

(b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be $50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

(6) BUDGETS.—The association shall prepare an annual budget. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the association, the developer, or another person. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The copy must be provided to the member within the time limits set forth in subsection (5).

(7) FINANCIAL REPORTING.—The association shall prepare an annual financial report within 60 days after the close of the fiscal year. The association shall, within the time limits set forth in subsection (5), provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

(a) Financial statements presented in conformity with generally accepted accounting principles; or

(b) A financial report of actual receipts and expenditures, cash basis, which report must show:

1. The amount of receipts and expenditures by classification; and

2. The beginning and ending cash balances of the association.

(8) APPLICABILITY.—Sections 617.1601-617.1604 do not apply to a homeowners' association in which the members have the inspection and copying rights set forth in this section.

Section 54. Section 617.305, Florida Statutes, is amended to read:

617.305 *Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights;* failure to fill sufficient number of vacancies on board of directors to constitute a quorum; appointment of receiver upon petition of *any member* ~~parcel owner~~.—

(1) Each member and the member's tenants, guests, and invitees, and each association, are governed by, and must comply with, this chapter, the governing documents of the community, and the rules of the association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member against:

(a) The association;

(b) A member;

(c) Any director or officer of an association who willfully and knowingly fails to comply with these provisions; and

(d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This section does not deprive any person of any other available right or remedy.

(2) If the governing documents so provide, an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed $50 per violation, against any member or any tenant, guest, or invitee.

(a) A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

(b) The requirements of this subsection do not apply to the imposition of suspensions or fines upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the governing documents.

(c) Suspension of common-area-use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(d) An association may not suspend the voting rights of a member.

(3) If *an* ~~a homeowners~~' association fails to fill vacancies on the board of directors sufficient to constitute a quorum in accordance with the bylaws, any *member* ~~parcel owner~~ may apply to the circuit court that has jurisdiction over the community served by the ~~homeowners~~' association for the appointment of a receiver to manage the affairs of the association. At least 30 days before applying to the circuit court, the *member* ~~parcel owner~~ shall mail to the association, *by certified or registered mail,* and post, in a conspicuous place on the property of the community served by the ~~homeowners~~' association, a notice describing the intended action, giving the association *30 days* ~~the opportunity~~ to fill the vacancies. If during such time the association fails to fill *a sufficient number of* ~~the~~ vacancies *so that a quorum can be assembled*, the *member* ~~parcel owner~~ may proceed with the petition. If a receiver is appointed, the homeowners' association shall be responsible for the salary of the receiver, court costs, ~~and~~ attorney's fees, *and all other expenses of the receivership.* The receiver *has* ~~shall have~~ all *the* powers and duties of a duly constituted board of directors and shall serve until the ~~homeowners~~' association fills *a sufficient number of* vacancies on the board *so that a quorum can be assembled* ~~sufficient to constitute a quorum~~.

Section 55. Section 617.306, Florida Statutes, is amended to read:

617.306 *Associations; meetings of members;* voting and election procedures.—

(1) *QUORUM.*—Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be *30 percent* ~~a majority~~ of the *total* voting interests. Unless otherwise provided in this chapter or in the articles of incorporation or bylaws, decisions *that require a vote of the members must* ~~shall~~ be made by *the concurrence of at least* a majority of the voting interests *present, in person or by proxy,* ~~represented~~ at a meeting at which a quorum *has been attained* ~~is present~~.

(2) *ANNUAL MEETING.—The association shall hold a meeting of its members annually for the transaction of any and all proper business at a time, date, and place stated in, or fixed in accordance with, the bylaws. The election of directors, if one is required to be held, must be held at, or in conjunction with, the annual meeting or as provided in the governing documents.* ~~Homeowners may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies may also be used for votes taken to amend the articles of incorporation or bylaws or for any matter that requires or permits a vote of the homeowners.~~

(3) *SPECIAL MEETINGS.—Special meetings must be held when called by the board of directors or, unless a different percentage is stated in the governing documents, by at least 10 percent of the total voting interests of the association. Business conducted at a special meeting is limited to the purposes described in the notice of the meeting.* ~~Any proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. A proxy is not valid for a period longer than 90 days after the date of the first meeting for which it was given. A proxy is revocable at any time at the pleasure of the homeowner who executes it.~~

(4) *CONTENT OF NOTICE.—Unless law or the governing documents require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.* ~~For election of members of the board of directors, homeowners shall vote in person at a meeting of the homeowners or by a ballot that the homeowner personally casts.~~

(5) ADJOURNMENT.—Unless the bylaws require otherwise, adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to s 617.303(2). Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting If a new record date for the adjourned meeting is or must be fixed under s. 617.0707, notice of the adjourned meeting must be given to persons who are entitled to vote and are members as of the new record date but were not members as of the previous record date.

(6) PROXY VOTING.—The members have the right, unless otherwise provided in this subsection or in the governing documents, to vote in person or by proxy. To be valid, a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his place.

(7) ELECTIONS.—Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association shall be eligible to serve on the board of directors, and a member may nominate himself as a candidate for the board at a meeting where the election is to be held. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters.

(8) RECORDING.—Any parcel owner may tape-record or videotape meetings of the board of directors and meetings of the members. The board of directors of the association may adopt reasonable rules governing the taping of meetings of the board and the membership.

Section 56. Section 617.307, Florida Statutes, is created to read:

617.307 Transition of homeowners' association control in a community.—With respect to homeowners' associations as defined in s. 617.301:

(1) Members other than the developer are entitled to elect at least a majority of the members of the board of directors of the homeowners' association when the earlier of the following events occurs:

(a) Three months after 90 percent of the parcels in all phases of the community that will ultimately be operated by the homeowners' association have been conveyed to members; or

(b) Such other percentage of the parcels has been conveyed to members, or such other date or event has occurred, as is set forth in the governing documents in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels.

(c) For purposes of this section, the term "members other than the developer" shall not include builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale.

(2) The developer is entitled to elect at least one member of the board of directors of the homeowners' association as long as the developer holds for sale in the ordinary course of business at least 5 percent of the parcels in all phases of the community. After the developer relinquishes control of the homeowners' association, the developer may exercise the right to vote any developer-owned voting interests in the same manner as any other member, except for purposes of reacquiring control of the homeowners' association or selecting the majority of the members of the board of directors.

(3) This section does not apply to a homeowners' association in existence on the effective date of this act, or to a homeowners' association, no matter when created, if such association is created in a community that is included in an effective development-of-regional-impact development order as of the effective date of this act, together with any approved modifications thereof.

Section 57. Section 617.308, Florida Statutes, is created to read:

617.308 Assessments and charges.—For any community created after October 1, 1995, the governing documents must describe the manner in which expenses are shared and specify the member's proportional share thereof. Assessments levied pursuant to the annual budget or special assessment must be in the member's proportional share of expenses as described in the governing document, which share may be different among classes of parcels based upon the state of development thereof, levels of services received by the applicable members, or other relevant factors. While the developer is in control of the homeowners' association, it may be excused from payment of its share of the operating expenses and assessments related to its parcels for any period of time for which the developer has, in the declaration, obligated itself to pay any operating expenses incurred that exceed the assessments receivable from other members and other income of the association. This section does not apply to an association, no matter when created, if the association is created in a community that is included in an effective development-of-regional-impact development order as of the effective date of this act, together with any approved modifications thereto.

Section 58. Section 617.309, Florida Statutes, is created to read:

617.309 Agreements entered into by the association.—Any grant or reservation made by any document, and any contract with a term in excess of 10 years made by an association before control of the association is turned over to the members other than the developer, which provide for operation, maintenance, or management of the association or common areas must be fair and reasonable.

Section 59. Section 617.31, Florida Statutes, is created to read:

617.31 Recreational leaseholds; right to acquire; escalation clauses.—

(1) Any lease of recreational or other commonly used facilities serving a community, which lease is entered into by the association or its members before control of the homeowners' association is turned over to the members other than the developer, must provide as follows:

(a) That the facilities may not be offered for sale unless the homeowners' association has the option to purchase the facilities, provided the homeowners' association meets the price and terms and conditions of the facility owner by executing a contract with the facility owner within 90 days, unless agreed to otherwise, from the date of mailing of the notice by the facility owner to the homeowners' association. If the facility owner offers the facilities for sale, he shall notify the homeowners' association in writing stating the price and the terms and conditions of sale.

(b) If a contract between the facility owner and the association is not executed within such 90-day period, unless extended by mutual agreement, then, unless the facility owner thereafter elects to offer the facilities at a price lower than the price specified in his notice to the homeowners' association, he has no further obligations under this subsection, and his only obligation shall be as set forth in subsection (2).

(c) If the facility owner thereafter elects to offer the facilities at a price lower than the price specified in his notice to the homeowners' association, the homeowners' association will have an additional 10 days to meet the price and terms and condition of the facility owner by executing a contract.

(2) If a facility owner receives a bona fide offer to purchase the facilities that he intends to consider or make a counteroffer to, his only obligations shall be to notify the homeowners' association that he has received an offer, to disclose the price and material terms and conditions upon which he would consider selling the facilities, and to consider any offer made by the homeowners' association. The facility owner shall be under no obligation to sell to the homeowners' association or to interrupt or delay other negotiations, and he shall be free at any time to execute a contract for the sale of the facilities to a party or parties other than the homeowners' association.

(3)(a) As used in subsections (1) and (2), the term "notify" means the placing of a notice in the United States mail addressed to the president of the homeowners' association. Each such notice shall be deemed to have been given upon the deposit of the notice in the United States mail.

(b) As used in subsection (1), the term "offer" means any solicitation by the facility owner directed to the general public.

(4) This section does not apply to:

(a) Any sale or transfer to a person who would be included within the table of descent and distribution if the facility owner were to die intestate.

(b) Any transfer by gift, devise, or operation of law.

(c) Any transfer by a corporation to an affiliate. As used herein, the term "affiliate" means any shareholder of the transferring corporation; any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation; or any other corporation or entity owned or controlled, directly or indirectly, by any shareholder of the transferring corporation.

(d) Any transfer to a governmental or quasi-governmental entity.

(e) Any conveyance of an interest in the facilities incidental to the financing of such facilities.

(f) Any conveyance resulting from the foreclosure of a mortgage, deed of trust, or other instrument encumbering the facilities or any deed given in lieu of such foreclosure.

(g) Any sale or transfer between or among joint tenants in common owning the facilities.

(h) The purchase of the facilities by a governmental entity under its powers of eminent domain.

(5)(a) The Legislature declares that the public policy of this state prohibits the inclusion or enforcement of escalation clauses in land leases or other leases for recreational facilities, land, or other commonly used facilities that serve residential communities, and such clauses are hereby declared void. For purposes of this section, an escalation clause is any clause in a lease which provides that the rental rate under the lease or agreement is to increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.

(b) This public policy prohibits the inclusion of such escalation clauses in leases entered into after the effective date of this amendment.

(c) This section is inapplicable:

1. If the lessor is the Federal Government, this state, any political subdivision of this state, or any agency of a political subdivision of this state; or

2. To a homeowners' association that is in existence on the effective date of this act, or to an association, no matter when created, if the association is created in a community that is included in an effective development-of-regional-impact development order as of the effective date of this act, together with any approved modifications thereto.

Section 60. Section 617.311, Florida Statutes, is created to read:

617.311 Dispute resolution.—The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. At any time after the filing in a court of competent jurisdiction of a complaint relating to a dispute under ss. 617.301-617.312, the court may order that the parties enter mediation or arbitration procedures.

Section 61. Section 617.312, Florida Statutes, is created to read:

617.312 Declaration of covenants; survival after tax deed or foreclosure.—All provisions of a declaration of covenants relating to a parcel that has been sold for taxes or special assessments survive and are enforceable after the issuance of a tax deed or master's deed, or upon the foreclosure of an assessment, a certificate or lien, a tax deed, tax certificate, or tax lien, to the same extent that they would be enforceable against a voluntary grantee of title to the parcel immediately before the delivery of the tax deed or master's deed or immediately before the foreclosure.

Section 62. Section 689.26, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 689.26, F.S., for present text.)

689 26 Prospective purchasers subject to association membership requirement; disclosure required.—

(1) A prospective parcel owner in a community must be presented a disclosure summary before executing the contract for sale. The disclosure summary must be in a form substantially similar to the following form:

DISCLOSURE SUMMARY
FOR
(NAME OF COMMUNITY)

1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS COMMUNITY.

3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE ASSOCIATION, WHICH ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

4. YOUR FAILURE TO PAY THESE ASSESSMENTS COULD RESULT IN A LIEN ON YOUR PROPERTY.

5. THERE (IS) (IS NOT) AN OBLIGATION TO PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. (If such obligation exists, then the amount of the current obligation shall be set forth.)

6. THE RESTRICTIVE COVENANTS (CAN) (CANNOT) BE AMENDED WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP.

7. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING DOCUMENTS.

DATE: PURCHASER:
PURCHASER:

The disclosure must be supplied by the developer, or by the parcel owner if the sale is by an owner that is not the developer.

(2) This section does not apply to any association regulated under chapter 718, chapter 719, chapter 721, or chapter 723 or to a subdivider registered under chapter 498, and also does not apply if disclosure regarding the association is otherwise made in connection with the requirements of chapter 718, chapter 719, chapter 721, or chapter 723.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to community associations; amending s. 721.03, F.S.; revising language with respect to the scope of the act; amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; providing that sellers and purchasers of timeshare periods must agree in writing on a specific value for each contract benefit; creating s. 721.065, F.S.; providing for resale purchase agreements; amending s. 721.07, F.S.; revising language with respect to public offering statements; creating s. 721.071, F.S.; providing requirements with respect to trade secrets; amending s. 721.075, F.S.; clarifying that incidental benefits must be filed in conjunction with a timeshare plan; amending s. 721.08, F.S.; revising language with respect to escrow accounts, nondisturbance instruments, and alternate security agreements; amending s. 721.10, F.S.; defining the term "benefits made available under the plan" with respect to the right to cancel; amending s. 721.11, F.S.; excluding certain statements from the term "advertising material"; amending s. 721.13, F.S.; revising language with respect to management; amending s. 721.14, F.S.; revising language with respect to the discharge of a managing entity; amending s. 721.15, F.S.; revising language with respect to assessments for common expenses; prohibiting the commingling of certain funds; amending s. 721.20, F.S.; providing an exemption from licensing requirements for persons licensed under chapter 475, F.S., under certain circumstances; amending s. 721.26, F.S.; revising language with respect to regulation by the Division of Florida Land Sales, Condominiums, and Mobile Homes; creating s. 721.265, F.S.; providing for service of process; amending s. 721.27, F.S.; clarifying language with respect to the annual fee for each timeshare period in a timeshare plan; amending s. 721.51, F.S.; revising language with respect to legislative purpose; amending s. 721.52, F.S.; providing definitions; amending s. 721.53, F.S.; revising language with respect to subordination agreements and alternate security arrangements; amending s. 721.54, F.S.; relating to the term of multisite timeshare plans; amending s. 721.55, F.S.; providing for public offering statements with respect to multisite timeshare plans; creating s. 721.551, F.S.; providing for the delivery of multisite timeshare plan public offering statements; creating s. 721.552, F.S.; providing for additions, substitutions, or deletions of component site accommodations or facilities; creating s. 721.553, F.S.; providing for the portrayal of proposed component sites; amending s. 721.56, F.S.; revising language with respect to the management of multisite timeshare plans and reservation systems; creating s. 721.301, F.S.; creating the Florida Timesharing, Vacation Club, and Hospitality Program; specifying activities; allowing designation of funds from the Division of Florida Land Sales, Condominiums and Mobile Homes Trust Fund; requiring private match for such funds; requiring a report; authorizing rule-making; providing appropriations; directing the Division of Florida Land Sales, Condominiums, and Mobile Homes to conduct a study; providing for the application of certain portions of the act; amending s. 718.103, F.S.; redefining the term "residential condominium"; amending ss. 718.111 and 719.104, F.S.; revising language with respect to financial reports and commingling of funds for condominiums and cooperatives; amending s. 718.112, F.S., relating to bylaws; revising language with respect to unit owner meetings and annual budgets for condominiums; amending s. 718.1255, F.S.; revising language with respect to mandatory nonbinding arbitration; creating s. 718.404, F.S.; providing for mixed-use condominiums; amending s. 718.502, F.S.; providing reference to mixed-use condominiums with respect to the provision of law concerning filing prior to sale or lease; providing for disclosure of all aspects of the offering; amending s. 718.616, F.S.; providing for compliance with municipal ordinances; amending s. 719 1035, F.S.; providing for the recording of required cooperative documents, amending s. 718.113, F.S.; adding window film to provisions relating to hurricane protection compliance; amending s. 718.3026, F.S.; exempting certain persons from contract requirements; amending s. 719.06, F.S.; revising mandatory requirements for cooperatives relating to voting, shareholder meetings, and annual budgets; directing the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to conduct a study of laws governing condominiums and cooperatives; amending s. 718.117, F.S.; providing a procedure for the dissolution of the condominium association upon termination; providing for the powers and duties of the directors to dissolve; providing for a procedure to fill vacancies, identify directors, and appoint a receiver; providing for distribution; providing for the continued existence of the association during the period of dissolution; amending ss. 617.0601, 617.0701, 617.0721, and 617.0831, F.S.; providing for the inapplicability of provisions of those sections to mandatory homeowners' associations; amending s. 617.301, F.S.; defining the term "homeowners' association" and other terms used in ss. 617.301-617.312, F.S.; amending s. 617.302, F.S.; providing the purposes, scope, and applicability of provisions relating to homeowners' associations; amending s. 617.303, F.S.; providing for association powers and duties, meetings of boards of directors, notice of meetings, official records, budgets, and financial reporting; providing for the inapplicability of ss. 617.1601-617.1604, F.S., in specified circumstances;

amending s. 617.305, F.S.; providing for obligations of association members and for the levy of fines and the suspension of use rights; granting rights of legal action in specified circumstances; providing requirements for a quorum; providing for appointing a receiver if a quorum cannot be assembled; amending s. 617.306, F.S.; providing for meetings of association members; establishing the proportion that constitutes a quorum if the bylaws do not prescribe a quorum requirement; providing for regular meetings and special meetings, and for adjournment and continuation of meetings at a later date; providing for the right to vote by proxy; establishing requirements for the content of notices of meetings; providing requirements for elections; creating s. 617.307, F.S.; providing for the transition of control of a homeowners' association from the developer to other members; creating s. 617.308, F.S.; providing for assessments and charges and for description of certain relevant materials in the governing documents; providing for the inapplicability of this section under specified conditions; creating s. 617.309, F.S.; providing standards and procedures for agreements entered into by an association; creating s. 617.31, F.S.; providing standards for and restrictions upon recreational leaseholds; prohibiting escalation clauses; providing for the inapplicability of the section under specified conditions; creating s. 617.311, F.S.; providing for alternative dispute resolution; allowing courts to order mediation or arbitration; creating s. 617.312, F.S.; providing that a declaration of covenants survives and is enforceable as to a parcel after the parcel is sold to pay delinquent taxes or special assessments or is foreclosed upon; amending s. 689.26, F.S.; providing that purchasers are subject to association membership requirements and must receive copies of the governing documents before the sale; allowing the prospective purchaser to waive the right to disclosure; providing that a prospective parcel owner must be given a separate disclosure summary and specifying a format for the disclosure summary; providing applicability;

On motion by Senator Dyer, further consideration of **CS for HB 1687** as amended was deferred.

RECONSIDERATION

On motion by Senator Jones, the Senate reconsidered the vote by which—

SB 2186—A bill to be entitled An act relating to homebuyers; creating the Homebuyer's Protection Act; creating s. 489.126, F.S.; prohibiting acts by a certified or registered contractor; providing penalties; amending s. 489.131, F.S.; requiring local boards or agencies licensing contractors to transmit to the Construction Industry Licensing Board reports of disciplinary actions against contractors and unlicensed persons; creating s. 489.1425, F.S.; providing duty of contractor to notify a residential property owner about filing claims and buying title insurance; amending s. 501.1375, F.S.; requiring notice to a buyer of residential property that any deposit must be placed in an escrow account; eliminating a buyer's right to waive the escrow provision; creating s. 627.7866, F.S.; requiring certain persons to provide a residential property buyer a warning of consequences of not purchasing title insurance; creating s. 713.165, F.S.; providing for lists of subcontractors and supplier to be furnished to property owner; amending s. 713.31, F.S.; providing a penalty for filing a fraudulent lien; amending s. 713.35, F.S.; providing a penalty for making false statements relating to subcontractors, sub-subcontractors, or suppliers; providing an effective date.

—passed as amended this day.

On motion by Senator Jones, by two-thirds vote the Senate reconsidered the vote by which **SB 2186** was read the third time.

Senator Hargrett moved the following amendments which were adopted:

Amendment 2—On page 6, strike all of lines 1-27 and renumber subsequent sections.

Amendment 3—In title, on page 1, strike all of lines 18-21 and insert: provision;

On motion by Senator Jones, by two-thirds vote **SB 2186** 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

The Senate resumed consideration of—

SB 932—A bill to be entitled An act relating to animals; amending s. 534.021, F.S.; authorizing the Department of Agriculture and Consumer Services to record a livestock mark or brand for statewide use; amending s. 534.041, F.S.; requiring the department to make notification of renewal of a registered mark or brand at an earlier time; deleting obsolete transition provisions; transferring, renumbering, and amending s. 585.69, F.S.; removing the requirement for a standardized rabies vaccination certificate for certain dogs and cats; repealing s. 534.083(1), (2), (3), F.S., which provides for a livestock hauler's permit and fee; providing an effective date.

—which had been considered and amended this day.

The Committee on Agriculture recommended the following amendments which were moved by Senator Bronson and adopted:

Amendment 5—On page 4, lines 20 and 21, hyphen through "and the animal control authority"

Amendment 6—On page 4, line 25, strike "owner" and insert: *veterinarian* ~~owner~~

On motion by Senator Bronson, by two-thirds vote **SB 932** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—3

The Senate resumed consideration of—

CS for SB 940—A bill to be entitled An act relating to agriculture; amending s. 581.031, F.S.; revising the powers and duties of the Department of Agriculture and Consumer Services relating to the plant industry; specifying the maximum annual registration fee to be imposed on a citrus source tree; providing for delinquency fees; amending s. 581.083, F.S.; authorizing the department to use certain findings in permitting the use of organisms for biological control; amending s. 581.131, F.S.; regulating the advertising for sale of nursery stock; requiring a certificate to move certain citrus plants; amending s. 581.212, F.S.; deleting provisions requiring that certain funds be deposited in the Plant Industry Trust Fund; amending s. 586.045, F.S.; requiring notice of renewal and extension of a renewal date for the honeybee inspection program; creating s. 586.112, F.S.; authorizing the stop-sale and stop-movement of honeybees, honeybee products, or honeybee equipment under certain circumstances; repealing s. 586.165, F.S., which provides for an apiary-protection pilot program; providing an effective date.

—which had been considered this day. Pending **Amendment 1** by Senator Williams was adopted.

Senator Forman moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 6, between lines 12 and 13, insert:

Section 8. Section 482.2265, Florida Statutes, is amended to read:

482.2265 Consumer information; notice of application of pesticide; ~~registry of pesticide-sensitive persons.—~~

(1) Any person, partnership, firm, corporation, or other business entity that is licensed or certified under this chapter to engage in the business of pest control, or any other person who is a limited certificateholder under this chapter, shall, upon request, provide a customer of its pest control services with the following information:

(a) The business name of the licensee or certificateholder or the name of the limited certificateholder.

(b) The identification card number of the person applying the pesticide or, if a limited certificateholder, the name of that person.

(c) The common or brand name of the pesticide to be used and the common name of the active ingredient in that pesticide.

(d) Appropriate safety information pertaining to the pesticide product to be used, as provided on the label for that product.

(2) Any person who is licensed or certified under this chapter, including any person who is a limited certificateholder, shall post a notice in a conspicuous location at the time of application of a pesticide to a lawn or to exterior foliage. The department shall provide for the wording and physical makeup of such notice by rule, but the notice must:

(a) Be at least 4 inches by 5 inches in size;

(b) Be constructed of rigid, durable weatherproof material;

(c) Have a background and lettering of contrasting colors; and

(d) Clearly set forth the business name of the licensee or name of the limited certificateholder making the pesticide application.

The notice may be made part of a larger sign containing additional information, but the department may not require a sign larger than 4 inches by 5 inches unless the licensee or limited certificateholder seeks to include additional information on the sign.

~~(3)(a) The department shall maintain a current registry of pesticide-sensitive persons. Upon request, the department shall register any person who pays a registration fee of $50 and submits to the department:~~

~~1. A certificate from a physician qualified in a category established by department rule which states that the person has a sensitivity to a particular pesticide or class of pesticides and which either states that the physician has a preexisting doctor-patient relationship with that person or provides a detailed medical history of that person for the particular pesticide sensitivity designation; or~~

~~2. A physician's certificate stating that the person is currently under the physician's care for a diagnosed condition or ailment for which the physician has documented proof that the normal application of a pesticide according to good industry practice and standards would aggravate the condition or ailment to such an extent that placement on the registry for prior notification of the application of a pesticide is necessary to protect that person's health. Persons placed on the registry pursuant to this subparagraph must provide an annual update of their physician's certificate in order to renew their registry participation.~~

~~A person desiring to have his name continue to appear on the registry from year to year must submit an annual renewal fee of $10. In a bona fide case of a person's financial inability to pay the initial registration renewal fee or any subsequent registration fee, the department may grant a waiver of the fee or all such fees.~~

~~(b) The department shall notify all licensees and limited certificate-holders quarterly or more often if necessary of the names and addresses of those persons who are currently registered as pesticide-sensitive and of their particular sensitivities and of any special notification requirements established pursuant to paragraph (d).~~

~~(c) Before making a pesticide application to a lawn, plant bed, or exterior foliage on property contiguous with or adjacent to the property on which the primary residence of a person registered under paragraph (a) is located, a licensee or limited certificateholder must notify that person at least 24 hours before applying the pesticide. Notification may be made by telephone, by mail, in person, or by hand delivery. Notification must also include information on the type of pesticide to be used, except in an instance of pesticide application of a small amount on an infestation or disease that is discovered onsite at the time of treatment.~~

~~(d) The department may designate a particular person as especially pesticide-sensitive if the person, in addition to submitting the documentation and fees required by paragraph (a), submits clear and convincing proof that he has a hypersensitivity to pesticides to such an extent that the notification required by paragraph (c) would not be adequate to prevent his health from being endangered and that notification of pesticide application at a greater distance from his residence is necessary to protect his health. Any person registered under this paragraph must be provided notification of a pesticide application at a greater distance from the person's residence as fixed by the department based on the proof submitted by the registrant. However, the department may not require notification of pesticide application at a distance any greater than one-half mile from the boundaries of the property where a hypersensitive person resides, and it shall limit such extra-distance notifications to instances of use of the pesticide or pesticide class to which sensitivity is documented, or for which the department determines sensitivity is scientifically probable. Additionally, the department may limit notification requirements with respect to the application of a pesticide in excess of a stipulated quantity. Further, a distance requirement must be set at the minimum distance required to prevent the health of the registrant from being endangered. Such notification shall include the specific vicinity to which the pesticide is to be applied. The department's determination with respect to an application to designate a person under this paragraph as especially pesticide-sensitive is subject to the procedure set forth in s. 120.57, and pest control operators conducting business in the general area of the person's residence have standing to participate as parties to such proceeding.~~

~~(e) It is the responsibility of a registrant under this subsection to notify the department of the addresses of the properties or residences that fall within the applicable contiguous, adjacent, or special distance parameters for notification. The department shall supply this information to licensees and certificateholders.~~

~~(f) This section does not create any duties, liabilities, or obligations of licensees or certificateholders to registrants other than those expressly stated in this section.~~

Section 9. Section 482.2267, Florida Statutes, is created to read:

482.2267 Registry of persons requiring prior notification of the application of pesticides.—

(1) The department shall maintain a current registry of persons requiring prior notification of the application of pesticides. Upon request, the department shall register any person who pays an initial registration fee of $50 and submits to the department a certificate signed by a physician licensed pursuant to chapter 458, stating:

(a) That the physician has examined the person and determined that the placement of the person on the registry for prior notification of the application of a pesticide or class of pesticides is necessary to protect that person's health;

(b) Whether the physician is board-certified by the American Board of Medical Specialties in allergy, toxicology, or occupational medicine;

(c) The distance surrounding the person's primary residence for which the person requires prior notification of the application of a pesticide or class of pesticides in order to protect the person's health;

(d) The pesticide or class of pesticides for which the physician has determined that prior notification to the person is necessary to protect the person's health; and

(e) The license number of the physician.

(2) The distance specified pursuant to paragraph (1)(c) shall be limited to those properties adjacent and contiguous to the person's primary residence unless the physician is board certified in one of the specialties specified in paragraph (1)(b). In no event shall the distance exceed 1/2 mile radius of the boundaries of the person's primary residence and shall not exceed the minimum distance, as determined by the physician, required to protect the person's health.

(3) A person desiring to have his name continue to appear on the registry from year to year must submit an annual renewal fee of $10, and an annual update of the physician's certificate.

(4) The department shall notify all licensees and limited certificate holders quarterly of the following:

(a) The names and addresses of those persons who are currently registered;

(b) The pesticide or class of pesticides designated by the physician pursuant to paragraph (1)(d); and

(c) The distance notification designated by the physician pursuant to paragraph (1)(c).

(5) Before making a pesticide application to a lawn, plant bed, or exterior foliage within the area designated by the physician surrounding the property on which the primary residence of a registered person is located, a licensee or limited certificateholder must notify that person at least 24 hours before applying the pesticide. Notification may be made by telephone, by mail, in person, or by hand delivery. Notification must include the location to which the pesticide is to be applied and must also include information on the type of pesticide to be used, except in an instance of pesticide application of a small amount on an infestation or disease that is discovered onsite at the time of treatment. It is the respon-

sibility of a registrant under this section to notify the department of the addresses of the properties or residences that fall within the applicable contiguous, adjacent, or special-distance parameters for notification. The department shall supply this information to licensees and certificateholders.

(6) This section does not create any duties, liabilities, or obligations of licensees or certificateholders to registrants other than those expressly stated in this section.

(7) The application for registration and the physician's certificate required by this section must be in substantially the following form:

APPLICATION FOR PRIOR NOTIFICATION OF PESTICIDE APPLICATIONS

PART A (To be completed by applicant)
1. Applicant's Name: .....
2. Date of Birth: .....
3. Applicant's Residence Address (not Post Office Box):
.....
.....
.....
4. Applicant's Phone Number: .....
5. I am applying to the Department to be placed upon the registry requiring prior notification of pesticide applications pursuant to section 482.2267, Florida Statutes.

Applicant's Signature Date

PART B (To be completed by the physician)
I, the undersigned physician, certify to the following:
1. I have examined the person making application above and have determined that his or her placement on the registry for prior notification of the application of the pesticide(s) or class of pesticides set forth below is necessary to protect that person's health.
2. I [ ] am, [ ] am not, board certified and recognized by the American Board of Medical Specialties in one or more of the following medical specialties:
[ ] Allergy
[ ] Toxicology
[ ] Occupational medicine
3. My license number is: .....
4. The distance surrounding the person's primary residence for which the person requires prior notification of the application of the pesticide(s) or class of pesticides set forth below in order to protect the person's health is:
.....

(Note: The distance specified shall be limited to those properties adjacent and contiguous to the person's primary residence unless the physician is board certified in one of the specialities specified in paragraph 2. above. In any event, the distance may not exceed a 1/2-mile radius of the boundaries of the property where the patient resides and must not exceed the minimum distance required to protect the applicant's health.)

5. The pesticide(s) or class of pesticides for which I have determined that prior notification to the person of the application within the area indicated above is necessary to protect the person's health is (are):
.....

Signature of Certifying Physician Date

.....
(Print name of Certifying Physician)

(8) This act shall not be construed to create any additional requirements related to inclusion or continuance on the registry for those persons on the registry or who have applied to be on the registry as of the effective date of this act.

(9) To knowingly provide false information is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and to knowingly provide in such form or certificate information that the licensed physician knows, or should have known, to be false is grounds for disciplinary action pursuant to s. 458.331.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 25, after the semicolon (;) insert: amending s. 482.2265, F.S., and creating s. 482.2267, F.S.; authorizing the registry of persons requiring prior notification of the application of pesticides; providing requirements for a physician's certificate; providing a form; providing a penalty;

Senator Williams moved the following amendment which was adopted:

Amendment 3 (with Title Amendment)—On page 1, between lines 27 and 28, insert:

Section 1. Effective upon this act becoming a law, paragraph (a) of subsection (9) of section 316.302, Florida Statutes, 1994 Supplement, is amended to read:

316.302 Commercial motor vehicles; transportation of hazardous materials; safety regulations; enforcement.—

(9)(a) This section is not applicable to the transporting of liquefied petroleum gas. The rules and regulations applicable to the transporting of liquefied petroleum gas on the highways, roads, or streets of this state shall be only those adopted by the Department of *Agriculture and Consumer Services* ~~Insurance~~ under chapter 527. However, transporters of liquefied petroleum gas must comply with the requirements of 49 C.F.R. parts 393 and 396.9

Section 2. Effective upon this act becoming law, paragraph (b) of subsection (1) of section 553.851, Florida Statutes, is amended to read:

553.851 Protection of underground gas pipelines.—

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

(b) "Gas pipeline" means an underground facility and related facilities, including pipes, valves, regulators, vaults, and attachments, by which hydrocarbons in liquid or gaseous form are transmitted or furnished. This definition shall not include gas pipelines transporting liquefied petroleum gas when those pipelines are not regulated pursuant to s. 527.06(4), and the regulation of liquefied petroleum gas pipelines, including the provisions of this law, shall ~~continue to~~ be under the jurisdiction of the Department of *Agriculture and Consumer Services* ~~Insurance~~.

Section 3. Effective upon this act becoming a law, subsection (9) of section 556.102, Florida Statutes, 1994 Supplement, is amended to read:

556.102 Definitions.—As used in this act:

(9) "Underground facility" means any public or private personal property which is buried, placed below ground, or submerged on any member operator's right-of-way, easement, or permitted use which is being used or will be used in connection with the storage or conveyance of water; sewage; electronic, telephonic, or telegraphic communication; electric energy; oil; petroleum products; natural gas; optical signals; or other substances, and includes, but is not limited to, pipelines, pipes, sewers, conduits, cables, valves, and lines. For purposes of this act, a liquefied petroleum gas line regulated under chapter 527 is not an underground facility unless such line is subject to the requirements of Title 49, Code of Federal Regulations, adopted by the Department of *Agriculture and Consumer Services* ~~Insurance~~, provided there is no encroachment on any member operator's right-of-way, easement, or permitted use. Petroleum storage systems subject to regulation pursuant to chapter 376 are not considered underground facilities for the purposes of this act unless the storage system is located on a member operator's right-of-way or easement.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending ss. 316.302, 553.851, and 556.102, F.S.; conforming references to the transfer of responsibility for liquified petroleum gas from the Department of Insurance to the Department of Agriculture and Consumer Services;

Senator Bronson moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 6, strike line 13 and insert:

Section 8. Except as otherwise provided therein, this act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 1, strike line 25 and insert: pilot program; providing effective dates.

Pending further consideration of **CS for SB 940** as amended, on motion by Senator Bronson, by two-thirds vote **HB 2519** was withdrawn from the Committee on Agriculture.

On motions by Senator Bronson, the rules were waived and by two-thirds vote—

HB 2519—A bill to be entitled An act relating to agriculture; amending s. 482.2265, F.S., and creating s. 482.2267, F.S.; authorizing the registry of persons requiring prior notification of the application of pesticides; providing requirements for a physician's certificate; providing a form; providing a penalty; creating s. 570.074, F.S.; authorizing the Commissioner of Agriculture to create an Office of Water Coordination; amending ss. 316.302, 553.851, and 556.102, F.S.; conforming references to the transfer of responsibility for liquified petroleum gas from the Department of Insurance to the Department of Agriculture and Consumer Services; amending s. 581.031, F.S.; revising powers and duties of the Department of Agriculture and Consumer Services relating to the plant industry; specifying certain fees and penalties for nonpayment; amending s. 581.083, F.S.; establishing an application fee for special permits; amending s. 581.131, F.S., relating to certificates of registration; providing requirements for advertising; exempting certain commercial citrus fruit producers from registration or renewal fee; amending s. 581.212, F.S.; revising provisions relating to moneys deposited in the Plant Industry Trust Fund; amending s. 586.045, F.S.; requiring the department to provide written notice and renewal forms to beekeepers and allowing for extension; creating s. 586.112, F.S.; providing for stop-sale and stop-movement of honeybees, honeybee products, and beekeeping equipment; repealing s. 586.165, F.S., relating to a pilot apiary protection program; amending s. 616.252, F.S.; revising membership of the Florida State Fair Authority; amending s. 616.253, F.S.; revising quorum requirements; amending s. 616.263, F.S.; requiring the Florida State Fair Authority to submit an annual report and audit of authority to the Commissioner of Agriculture; providing effective dates.

—a companion measure, was substituted for **CS for SB 940** and by two-thirds vote read the second time by title. On motion by Senator Bronson, by two-thirds vote **HB 2519** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—4

SB 2546—A bill to be entitled An act relating to trucking; amending s. 316.003, F.S.; providing a definition; amending s. 316.302, F.S.; revising language with respect to the Code of Federal Regulations concerning commercial motor vehicles; increasing a civil penalty; providing penalties; amending s. 316.3025, F.S.; revising language with respect to penalties; amending s. 316.515, F.S.; revising language with respect to maximum width, height, and length limitations for certain vehicles; amending s. 316.516, F.S.; revising language with respect to penalties for violation of width, height, and length limitation; providing for penalties by rule; amending s. 316.545, F.S.; revising language with respect to weight tolerance and the enforcement of weight laws; providing penalties; providing for weight inspection; amending s. 316.550, F.S.; prohibiting the operation of oversize or overweight vehicles without special permits; providing criteria to be contained in permits; providing penalties; providing for the disposition of penalties; amending s. 316.655, F.S.; conforming to the act with respect to penalties; amending s. 316.70, F.S.; providing a definition; revising safety standards relating to nonpublic-sector buses; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendment which was moved by Senator Beard and adopted:

Amendment 1 (with Title Amendment)—On page 27, between lines 17 and 18, insert:

Section 10. Subsections (25) and (26) of section 320.01, Florida Statutes, are amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(25) "Apportionable vehicle" means any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles, which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and:

(a) Is a power unit having a gross vehicle weight in excess of *26,001* ~~26,000~~ pounds;

(b) Is a power unit having three or more axles, regardless of weight; or

(c) Is used in combination, when the weight of such combination exceeds *26,001* ~~26,000~~ pounds gross vehicle weight.

Vehicles, or combinations thereof, having a gross vehicle weight of *26,001* ~~26,000~~ pounds or less and two-axle vehicles may be proportionally registered.

(26) "Commercial motor vehicle" means any vehicle which is not owned or operated by a governmental entity, which uses special fuel or motor fuel on the public highways, and which has a gross vehicle weight in excess of *26,001* ~~26,000~~ pounds, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds *26,001* ~~26,000~~ pounds gross vehicle weight.

Section 11. Subsection (8) of section 322.01, Florida Statutes, is amended to read:

322.01 Definitions.—As used in this chapter:

(8) "Commercial motor vehicle" means any motor vehicle or motor vehicle combination used on the streets or highways, which:

(a) Has a gross vehicle weight rating of *26,001* ~~26,000~~ pounds or more;

(b) Has a declared weight of *26,001* ~~26,000~~ pounds or more;

(c) Has an actual weight of *26,001* ~~26,000~~ pounds or more;

(d) Is designed to transport more than 15 persons, including the driver; or

(e) Is transporting hazardous materials and is required to be placarded in accordance with Title 49 C.F.R. part 172, subpart F.

Section 12. Subsection (4) of section 322.12, Florida Statutes, 1994 Supplement, is amended to read:

322.12 Examination of applicants.—

(4) The examination for an applicant for a commercial driver's license shall include a test of the applicant's eyesight given by a driver's license examiner designated by the department or by a licensed ophthalmologist, optometrist, or physician and a test of the applicant's hearing given by a driver's license examiner or a licensed physician. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic; his knowledge of the traffic laws of this state pertaining to the class of motor vehicle which he is applying to be licensed to operate, including laws regulating driving under the influence of alcohol or controlled substances, driving with an unlawful blood alcohol level, and driving while intoxicated; his knowledge of the effects of alcohol and controlled substances and the dangers of driving a motor vehicle after having consumed alcohol or controlled substances; and his knowledge of any special skills, requirements, or precautions necessary for the safe operation of the class of vehicle which he is applying to be licensed to operate. In addition, the examination shall include an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle or combination of vehicles of the type covered by the license classification which the applicant is seeking, including an examination of the applicant's ability to perform an inspection of his vehicle.

(a) The portion of the examination which tests an applicant's safe driving ability shall be administered by the department or by an entity authorized by the department to administer such examination, pursuant to s. 322.56. Such examination shall be administered at a location approved by the department.

~~(b) Notwithstanding this section, the department may waive the driving portion of an applicant's examination, pursuant to s. 322.55.~~

(b)~~(c)~~ A person who seeks to retain a hazardous-materials endorsement must, upon renewal, pass the test for such endorsement as specified in s. 322.57(1)(d), if the person has not taken and passed the hazardous-materials test within 2 years preceding his application for a commercial driver's license in this state.

Section 13. Paragraphs (a), (b), and (c) of subsection (2) of section 322.54, Florida Statutes, are amended to read:

322.54 Classification.—

(2) The department shall issue, pursuant to the requirements of this chapter, drivers' licenses in accordance with the following classifications:

(a) Any person who drives a motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of *26,001* ~~26,000~~ pounds or more must possess a valid Class A driver's license, provided the gross vehicle weight rating, declared weight, or actual weight, whichever is greatest, of the vehicle being towed is more than 10,000 pounds. Any person who possesses a valid Class A driver's license may, subject to the appropriate restrictions and endorsements, drive any class of motor vehicle within this state.

(b) Any person, except a person who possesses a valid Class A driver's license, who drives a motor vehicle having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of *26,001* ~~26,000~~ pounds or more must possess a valid Class B driver's license. Any person, except a person who possesses a valid Class A driver's license, who drives such vehicle towing a vehicle having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of 10,000 pounds or less must possess a valid Class B driver's license. Any person who possesses a valid Class B driver's license may, subject to the appropriate restrictions and endorsements, drive any class of motor vehicle, other than the type of motor vehicle for which a Class A driver's license is required, within this state.

(c) Any person, except a person who possesses a valid Class A or a valid Class B driver's license, who drives a motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of *26,001* ~~26,000~~ pounds or more must possess a valid Class C driver's license. Any person who drives a motor vehicle combination having a gross vehicle weight rating, a declared weight, or an actual weight, whichever is greatest, of less than 26,000 pounds and who is required to obtain an endorsement pursuant to paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), paragraph (1)(d), or paragraph (1)(e) of s. 322.57, must possess a valid Class C driver's license that is clearly restricted to the operation of a motor vehicle or motor vehicle combination of less than 26,000 pounds. Any person who possesses a valid Class C driver's license may, subject to the appropriate restrictions and endorsements, drive any class of motor vehicle, other than the type of motor vehicle for which a Class A or a Class B driver's license is required, within this state.

Section 14. Section 322.55, Florida Statutes, is repealed.

(Renumber subsection section.)

And the title is amended as follows:

In title, on page 1, line 29, after the semicolon (;) insert: amending s. 320.01, F.S.; revising the definition in the terms "apportionable vehicle" and "commercial motor vehicle" to include changes in weight descriptions; amending s. 322.01, F.S.; revising the definition of a "commercial motor vehicle" to include change in weight descriptions; amending s. 322.12, F.S.; eliminating the authorization of the department to waive the driving portion of an applicant's examination for a license; amending s. 322.54, F.S.; revising the weight descriptions with respect to drivers license classification; repealing s. 322.55, F.S.; relating to the waiver of the driving portion of the driving skills examination;

On motion by Senator Hargrett, by two-thirds vote **SB 2546** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 2358—A bill to be entitled An act relating to intangible personal property tax; amending s. 199.023, F.S.; revising the definition of "intangible personal property" for purposes of the tax to exclude stock or shares of a savings institution held by certain mutual holding companies; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Rossin and failed:

Amendment 1—On page 1, line 21, strike *"institution"* and insert: *association subsidiary*

Senator Rossin moved the following amendment which was adopted:

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

Section 1. Subsection (8) is added to section 199.103, Florida Statutes, to read:

199.103 Basis of assessment; valuation.—All intangible personal property shall be subject to the annual tax at its just valuation as of January 1 of each year. Such property shall be valued in the following manner:

(8) Stocks or shares of a savings association, held by a parent mutual holding company, whose depositors are members of the mutual holding company, which converted from a mutual savings association to a mutual holding company pursuant to 12 U.S.C. s. 1567(a)(o), shall be valued as of January 1 each year on the same basis as ownership in the mutual savings association was valued for intangible tax purposes prior to the conversion. Stocks or shares of such a converted association which are held by individuals or entities other than the parent mutual holding company shall be valued pursuant to subsection (1) or subsection (4).

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

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 intangible personal property tax; amending s. 199.103, F.S.; providing for the valuation of stock and shares of a savings association held by certain mutual holding companies; providing an effective date.

On motion by Senator Rossin, by two-thirds vote **SB 2358** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 852—A bill to be entitled An act relating to public employees; amending ss. 231.40, 240.343, F.S.; limiting the amount of pay that certain employees of district school systems and community colleges may receive for unused sick leave upon termination of employment; amending s. 121.021, F.S.; redefining the term "average final compensation" for purposes of the Florida Retirement System to exclude certain payments for annual leave earned on or after July 1, 1995, from calculations of retirement benefits; amending s. 231.41, F.S.; conforming a cross-reference; providing an effective date.

—was read the second time by title.

The Committee on Governmental Reform and Oversight recommended the following amendments which were moved by Senator McKay and adopted:

Amendment 1—On page 4, strike all of lines 29-31 and reletter subsequent sub-subparagraph.

Amendment 2—On page 10, strike all of lines 23-25 and renumber subsequent subparagraph.

Amendment 3 (with Title Amendment)—On page 13, lines 24-31, through page 14, line 10, strike all of said lines and renumber subsequent sections

And the title is amended as follows:

In title, on page 1, strike all of lines 7-12 and insert: of employment;

Amendment 4 (with Title Amendment)—On page 14, between lines 29 and 30, insert:

Section 5. The provisions of this act shall not operate to adversely affect the vested rights of members of the Florida Retirement System as of July 1, 1995.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 12, after "benefits;" insert: providing for no adverse effect on vested rights;

On motion by Senator McKay, by two-thirds vote **SB 852** as amended was read the third time by title and failed to pass. The vote was:

Yeas—9 Nays—26

MOTION TO RECONSIDER

Senator McKay moved that the Senate reconsider the vote by which **SB 852** as amended failed to pass this day.

The Senate resumed consideration of—

CS for HB 1687—A bill to be entitled An act relating to the Florida Vacation Plan and Time-Sharing Act; amending s. 721.03, F.S.; revising language with respect to the scope of the act; amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; providing that sellers and purchasers of timeshare periods must agree in writing on a specific value for each contract benefit; creating s. 721.065, F.S.; providing for resale purchase agreements; amending s. 721.07, F.S.; revising language with respect to public offering statements; creating s. 721.071, F.S.; providing requirements with respect to trade secrets; amending s. 721.075, F.S.; clarifying that incidental benefits must be filed in conjunction with a timeshare plan; amending s. 721.08, F.S.; revising language with respect to escrow accounts, nondisturbance instruments, and alternate security agreements; amending s. 721.10, F.S.; defining the term "benefits made available under the plan" with respect to the right to cancel; amending s. 721.11, F.S.; excluding certain statements from the term "advertising material"; amending s. 721.13, F.S.; revising language with respect to management; amending s. 721.14, F.S.; revising language with respect to the discharge of a managing entity; amending s. 721.15, F.S.; revising language with respect to assessments for common expenses; prohibiting the commingling of certain funds; amending s. 721.20, F.S.; providing an exemption from licensing requirements for persons licensed under chapter 475, F.S., under certain circumstances; amending s. 721.26, F.S.; revising language with respect to regulation by the Division of Florida Land Sales, Condominiums, and Mobile Homes; creating s. 721.265, F.S.; providing for service of process; amending s. 721.27, F.S.; clarifying language with respect to the annual fee for each timeshare period in a timeshare plan; amending s. 721.51, F.S.; revising language with respect to legislative purpose; amending s. 721.52, F.S.; providing definitions; amending s. 721.53, F.S.; revising language with respect to subordination agreements and alternate security arrangements; amending s. 721.54, F.S.; relating to the term of multisite timeshare plans; amending s. 721.55, F.S.; providing for public offering statements with respect to multisite timeshare plans; creating s. 721.551, F.S.; providing for the delivery of multisite timeshare plan public offering statements; creating s. 721.552, F.S.; providing for additions, substitutions, or deletions of component site accommodations or facilities; creating s. 721.553, F.S.; providing for the portrayal of proposed component sites; amending s. 721.56, F.S.; revising language with respect to the management of multisite timeshare plans and reservation systems; creating s. 721.301, F.S.; creating the Florida Timesharing, Vacation Club, and Hospitality Program; specifying activities; allowing designation of funds from the Division of Florida Land Sales, Condominiums and Mobile Homes Trust Fund; requiring private match for such funds; requiring a report; authorizing rule-making; providing appropriations; directing the Division of Florida Land Sales, Condominiums, and Mobile Homes to conduct a study; providing for the application of certain portions of the act; providing an effective date.

—which had been considered and amended this day.

RECONSIDERATION OF AMENDMENT

On motion by Senator Dudley, the Senate reconsidered the vote by which **Amendment 4** was adopted.

On motion by Senator Dyer, further consideration of **CS for HB 1687** with pending **Amendment 4** was deferred.

Consideration of **CS for SB 2282, SB 1334** and **CS for SB 1336** was deferred.

SB 2336—A bill to be entitled An act relating to athlete agents; amending s. 468.451, F.S.; providing legislative findings and intent; amending s. 468.452, F.S.; providing definitions; amending s. 468.453, F.S.; prescribing licensure requirements for athlete agents; requiring an examination, fees, and a bond; creating s. 468.4534, F.S.; providing exceptions to licensing requirements; creating s. 468.4547, F.S.; providing for renewal of licenses; amending s. 468.454, F.S.; prescribing requirements for agent contracts; amending s. 468.456, F.S.; proscribing certain acts by athlete agents; providing penalties; creating s. 468.4561, F.S.; providing penalties for unlicensed activities by persons acting as agents; creating s. 468.4563, F.S.; providing for civil actions by colleges and universities; providing for punitive damages; creating s. 468.4565, F.S.; providing continuing-education requirements; creating s. 468.4567, F.S.; requiring agents to display licenses; creating s. 468.4569, F.S.; requiring agents to maintain records; providing for access to those records by the department; providing for continuation of current athlete-agent registrations; providing for continuation of judicial and administrative proceedings; repealing s. 240.5337, F.S., relating to entry into agent contracts by student athletes; repealing s. 240.5338, F.S., relating to damages for violations of NCAA regulations; repealing s. 468.455, F.S., relating to suspension or revocation of athlete agent registration; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 2336** to conform the bill to **CS for HB 1807**.

Pending further consideration of **SB 2336** as amended, on motion by Senator Jenne, by two-thirds vote **CS for HB 1807** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Jenne—

CS for HB 1807—A bill to be entitled An act relating to the regulation of athlete agents; amending s. 468.451, F.S.; revising language with respect to legislative intent; amending s. 468.452, F.S.; providing definitions; amending s. 468.453, F.S.; requiring the licensure of athlete agents; providing for qualifications; providing for examinations; providing for a bond; creating s. 468.4535, F.S.; providing exceptions; creating s. 468.4536, F.S.; providing for licensure renewal; amending s. 468.454, F.S.; revising language with respect to contracts; amending s. 468.456, F.S.; revising language with respect to prohibited acts; creating s. 468.4561, F.S.; providing for unlicensed activity; providing penalties for violations; creating s. 468.4562, F.S.; providing for civil actions by institutions; creating s. 468.4563, F.S.; providing for continuing education; creating s. 468.4564, F.S.; requiring the display of license; creating s. 468.4565, F.S.; providing for a business records requirement; amending s. 468.457, F.S.; revising language with respect to rulemaking; creating s. 468.4571, F.S.; providing for savings clauses; repealing s. 240.5337, F.S., relating to entry into agent contracts by student athletes; repealing s. 240.5338, F.S., relating to violation of NCAA provisions resulting in penalty or sanction to a university or college; repealing s. 468.455, F.S., relating to suspension or revocation of registration of athlete agents; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **SB 2336** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for HB 1807** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Senate resumed consideration of—

CS for SB 2506—A bill to be entitled An act relating to seaports; creating s. 311.105, F.S.; creating the Florida Seaport Dredged-Material Management Committee for the purpose of developing and annually updating the Florida Seaport Dredged-Material Management Plan; providing for membership of the committee; providing components and

requirements of the plan; authorizing issuance of certain permits relating to dredged-material management; providing exemption from or credit for environmental mitigation relating to dredged-material management; amending s. 403.021, F.S.; requiring maintenance of water depths in deepwater ports of the state to be in compliance with port master plans; adding Fernandina and Key West as deepwater ports to which certain maintenance provisions apply; amending s. 403.061, F.S., relating to powers and duties of the Department of Environmental Protection; requiring the department to establish a permit system for port-maintenance dredging as part of overall dredged-material management in specified seaports; amending ss. 163.3177, 380.24, F.S., relating to coastal management elements of comprehensive plans, to conform; providing an effective date.

—which had been considered this day. Pending **Amendment 3** by Senator Bankhead, as amended, was adopted.

On motion by Senator Bankhead, by two-thirds vote **CS for SB 2506** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Bankhead, by two-thirds vote **HB 1499** was withdrawn from the Committees on Health Care; and Ways and Means.

On motion by Senator Bankhead—

HB 1499—A bill to be entitled An act relating to the regulation of onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; amending the definition of "available publicly-owned or investor-owned sewerage system"; defining the term "potable water line"; redefining an exemption; amending standards for the placement of onsite sewage treatment and disposal systems; providing for system compliance with specified rules; providing standards for design criteria and for performance criteria; providing for local public health units to approve or disapprove systems and to refer disapprovals to the Department of Health and Rehabilitative Services for a further determination; providing deadlines for such reviews; providing for written notification to the applicant of the department's determination and for the applicant's opportunity to pursue a variance or seek review; providing a standard for water table determinations and soil suitability modifying the application submission process; requiring connection of certain onsite sewage treatment and disposal systems to available public-owned or investor-owned sewerage systems under certain circumstances; providing application; providing an exception; providing criteria for sewer service and sewer services charges relating to certain onsite sewage systems; amending s. 381.0066, F.S., to conform cross-references; amending s. 381.0068, F.S.; redesignating the technical review panel as the technical review and advisory panel; providing duties of the panel; providing for panel membership, terms, meetings, and reimbursement; requiring the department to present proposed rules to the panel for comment; requiring the department to keep minutes of panel meetings; repealing s. 381.00655, F.S., relating to connection of existing onsite sewage treatment and disposal systems to central sewerage systems; providing an effective date.

—a companion measure, was substituted for **SB 2434** and read the second time by title.

On motion by Senator Bankhead, further consideration of **HB 1499** was deferred.

MATTERS ON RECONSIDERATION

The motion by Senator Wexler that the Senate reconsider the vote by which—

SB 188—A bill to be entitled An act relating to eligibility for social and economic assistance; amending s. 409.185, F.S.; providing that payments under the program of aid to families with dependent children may not be increased in specified circumstances; requiring the Department of Health and Rehabilitative Services to apply for necessary federal waivers and to implement the foregoing restrictions when the waivers have been received; providing an effective date.

—passed as amended this day was taken up and the motion was adopted.

Senator Wexler moved the following amendments which were adopted by two-thirds vote:

Amendment 3—In title, on page 1, line 6, after the semicolon (;) insert: providing that certain victims of rape or incest are not subject to the withholding of benefits in certain situations;

Amendment 4—On page 2, line 23, after "such benefits" insert: *A victim of rape or incest is not subject to the withholding of benefits if she files a police report on the rape or incest within 7 days after the incident.*

On motion by Senator Brown-Waite, **SB 188** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—27 Nays—8

On motion by Senator Latvala, by unanimous consent, the Senate proceeded to—

CONSIDERATION OF BILLS ON THIRD READING

CS for CS for SB 2684—A bill to be entitled An act relating to educational facilities; amending s. 235.011, F.S., relating to definitions; clarifying the term "board"; deleting the term "office"; adding the term "public education capital outlay funded projects"; amending s. 235.014, F.S.; transferring functions of the Office of Educational Facilities to the Department of Education and revising and deleting certain functions; creating s. 235.017, F.S.; requiring boards to ensure facility compliance; amending s. 235.02, F.S.; revising provisions relating to use of buildings and grounds; amending s. 235.054, F.S.; deleting certain office approval and revising provisions relating to purchase appraisal; deleting repeal of section; amending s. 235.055, F.S.; revising conditions relating to the construction of facilities on leased property; amending s. 235.056, F.S., relating to lease and lease-purchase of educational facilities and sites; revising provisions relating to approval and compliance with building and safety codes; amending s. 235.06, F.S.; revising provisions relating to inspection of property for compliance with safety and sanitation standards; amending s. 235.14, F.S., relating to emergency drills; amending s. 235.15, F.S., relating to educational plant survey; revising requirements for the conduct of surveys; providing certification requirements prior to release of funds; amending s. 235.155, F.S., relating to exception to recommendations in survey; amending s. 235.19, F.S.; revising provisions relating to site planning and selection; revising responsibility relating to traffic control and safety devices; amending s. 235.193, F.S.; requiring certain coordination of planning with local governing bodies; amending s. 235.195, F.S., relating to cooperative development and use of facilities, to conform; amending s. 235.198, F.S., relating to cooperative development and use of satellite facilities, to conform; amending s. 235.199, F.S., relating to requirements for funding of vocational education facilities, to conform; amending s. 235.211, F.S.; providing procedures for contracting for construction of facilities; providing requirements for construction and program management entities; revising provisions relating to construction techniques and selection process requirements; authorizing the purchase of certain architectural services; amending s. 235.26, F.S., relating to the State Uniform Building Code for Public Educational Facilities Construction, to conform; deleting standards relating to an energy performance index; providing for contract approval and duties; deleting provisions relating to fallout shelters; revising provisions relating to emergency shelters; requiring a statewide emergency shelter plan; amending s. 235.31, F.S.; revising provisions relating to awarding of contracts; providing definition of "emergency"; amending s. 235.321, F.S.; revising requirements for change orders; amending s. 235.33, F.S.; revising provisions relating to data filed after acceptance of a project; amending s. 235.41, F.S., relating to capital outlay budget request, to conform; amending s. 235.42, F.S., relating to allocation of funds, to conform; amending s. 235.435, F.S., relating to allocation of funds for comprehensive educational plant needs; conforming provisions; providing for allocation from the Public Education Capital Outlay and Debt Service Trust Fund to district school boards; deleting provisions relating to the Increased Utilization Account; requiring district school boards to identify fund source; restricting use of funds; amending s. 236.25, F.S.; increasing authorized district school board capital outlay millage levy; authorizing use of funds for lease and lease-purchase of buses and equipment; amending s. 216.301, F.S.; revising provisions relating to reversion of unexpended balance; amending s.

240.209, F.S., relating to Board of Regents' powers and duties; increasing the Capital Improvement Trust Fund fee; providing for application of revenues to capital outlay purposes; amending s. 240.319, F.S., relating to powers and duties of community college district boards of trustees; authorizing the incurrence of debt; amending s. 240.35, F.S.; providing for an increase in the capital improvement fee and authorizing bonding; creating s. 255.0516, F.S.; providing requirements for bid protests by school boards; revising provisions relating to public notice of plans intended for reuse; authorizing the disposal of described real property used by Florida Agricultural and Mechanical University to house nursing students and other described property; providing for use of proceeds; amending ss. 201.24, 230.23, and 404.056, F.S., to conform; reenacting ss. 228.053(9)(e) and 236.081(1)(i) and (4)(c)3., F.S., relating to funds for the operation of schools, to incorporate the amendment to s. 236.25, F.S., in references thereto; repealing ss. 235.16, 235.018, 235.196, and 235.222, F.S., relating to long-range planning, delegation of review and approval authority, community educational facilities, and repayment of loans; saving ss. 235.001, 235.002, 235.01, 235.011, 235.014, 235.02, 235.04, 235.05, 235.055, 235.056, 235.06, 235.09, 235.14, 235.15, 235.155, 235.18, 235.19, 235.193, 235.195, 235.198, 235.199, 235.211, 235.212, 235.26, 235.30, 235.31, 235.32, 235.321, 235.33, 235.34, 235.40, 235.42, 235.435, 235.44, 236.25(2), and 237.162, F.S., from repeal; providing legislative intent; creating s. 235.0155, F.S.; providing for prototype designs of facilities; providing an appropriation; providing for phase III plan reviews, subject to appropriation; providing an effective date.

—was taken up, having been considered and amended on May 2 and 3.

Senators Holzendorf and Turner offered the following amendment which was moved by Senator Holzendorf and adopted by two-thirds vote:

Amendment 21—On page 59, line 9, through page 72, line 18, strike all of said lines and insert:

Section 24. Section 235.435, Florida Statutes, 1994 Supplement, is amended to read:

235.435 Funds for comprehensive educational plant needs.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(1)(a) Funds for remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities shall be given priority consideration by the Legislature for appropriations allocated to the boards, including the Board of Regents, from the total amount of the Public Education Capital Outlay and Debt Service Trust Fund appropriated. These funds shall be calculated pursuant to the following basic formula: the building value times the building age over the sum of the years' digits assuming a 50-year building life. For relocatable facilities, a 20-year life shall be used. "Building value" is calculated by multiplying each building's total assignable square feet times the appropriate net-to-gross conversion rate found in state board rules and that product times the current average new construction cost. "Building age" is calculated by multiplying the prior year's building age times 1 minus the prior year's sum received from this subsection divided by the prior year's building value. To the net result shall be added the number 1. Each board shall receive the percentage generated by the preceding formula of the total amount appropriated for the purposes of this section.

(b) Each board, including the Board of Regents, shall not use the funds received pursuant to this section to supplant funds in the current fiscal year approved operating budget, and all budgeted funds shall be expended at a rate not less than would have been expended had the funds under this section not been received.

(c) Each remodeling, renovation, maintenance, repair, or site improvement project will expand or upgrade current educational plants to prolong the useful life of the plant.

(d) Each board, including the Board of Regents, shall maintain fund accounting in a manner which will permit a detailed audit of the funds expended in this program.

(e) Remodeling projects shall be based on the recommendations of a survey pursuant to s. 235.15.

(f) At least one-tenth of a board's annual allocation provided under this section shall be spent to correct unsafe, unhealthy, or unsanitary conditions in its educational facilities, as required by s. 235.06, or a lesser amount sufficient to correct all deficiencies cited in its annual comprehensive safety inspection reports. This paragraph shall not be construed to limit the amount a board may expend to correct such deficiencies.

(g) When an existing educational plant is determined to be unsatisfactory pursuant to the survey conducted under s. 235.15, the board may, by resolution, designate the plant as a historic educational facility and may use funds generated for renovation and remodeling pursuant to this section to restore the facility for use by the board. The board shall agree to pay renovation and remodeling costs in excess of funds which such facility would have generated through the depreciation formula in paragraph (a) had the facility been determined to be satisfactory. The board shall further agree that the plant shall continue to house students. The board may designate a plant as a historic educational facility only if the Division of Historical Resources of the Department of State or the appropriate historic preservation board under chapter 266 certifies that:

1. The plant is listed or determined eligible for listing in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended, 16 U.S.C. s. 470;

2. The plant is designated historic within a certified local district pursuant to s. 48(g)(3)(B)(ii) of the Internal Revenue Code; or

3. The division or historic preservation board otherwise finds that the plant is historically significant.

(h) The Board of Regents may utilize funds appropriated pursuant to this section for replacement of minor facilities provided that such projects do not exceed $500,000 in cost or 5,000 gross square feet in size. Minor facilities may not be replaced from funds provided pursuant to this section unless the Board of Regents determines that the cost of repair or renovation is greater than or equal to the cost of replacement.

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "Special Facility Construction Account." The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. No district shall receive funding for more than one approved project in any 5-year period. The first year of the 5-year period shall be the first year a district receives an appropriation. The request must meet the following criteria to be considered by the committee:

1. The construction project must be recommended in the most recent survey or surveys by the district under the rules of the State Board of Education.

2. The construction project must appear on the district's approved project priority list under the rules of the State Board of Education.

3. The district must have selected and had approved a site for the construction project in compliance with s. 235.19 and the rules of the State Board of Education.

4. The district shall have ~~on file with the office approved educational specifications and~~ a school board adopted facility list developed not to exceed the normal net square feet occupancy requirements under the rules of the State Board of Education.

5. There shall be an agreement signed by the district *school* board stating that it will advertise for bids within 30 days of receipt of its encumbrance authorization from the *department* ~~office~~.

6. The district shall, at the time of the request and for a continuing period of 3 years, levy the maximum millage against their nonexempt assessed property value as allowed in s. 236.25(2). Effective July 1, 1991, any district with a new or active project, funded under the provisions of this subsection, shall be required to budget no more than the value of 1.5 mills per year to the project to satisfy the annual participation requirement in the Special Facility Construction Account.

7. If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility New Construction Account to be reallocated to other projects on the list. However, an additional 90 days may be granted by the commissioner.

8. The *department* ~~office~~ shall certify the inability of the district to fund the survey-recommended project over a continuous 3-year period using projected capital outlay revenue derived from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

9. The district shall have on file with the *department* ~~office~~ an adopted resolution acknowledging its 3-year commitment of all unencumbered and future revenue acquired from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

10. ~~The office shall certify that~~ Final phase III plans *must be certified by the board as complete and in compliance with the building and life safety codes,* ~~free of all mandatory requirements, were approved~~ prior to August 1.

(b) The Special Facility Construction Committee shall be composed of the following: two representatives of the Department of Education, a representative from the Governor's office, a representative selected annually by the *district* school boards, and a representative selected annually by the superintendents.

(c) The committee shall review the requests submitted from the districts, evaluate the ability of the project to relieve critical needs, and rank the requests in priority order. This statewide priority list for special facilities construction shall be submitted to the Legislature in the commissioner's annual capital outlay legislative budget request at least 45 days prior to the legislative session.

(3)(a) Each district school board shall receive an amount from the Public Education Capital Outlay and Debt Service Trust Fund to be calculated by computing the capital outlay full-time equivalent membership as determined by the *department* ~~office~~. Such membership must include, but is not limited to:

1. K-12 students, except hospital and homebound part-time students; and

2. Students who are certificate career education students, adult supplemental vocational students, adult basic students, adult secondary students, and adult disabled students and who are enrolled in adult vocational or adult general education centers. The capital outlay full-time equivalent membership shall be determined for kindergarten through the 12th grade and for vocational-technical centers by averaging the unweighted full-time equivalent student membership for the second and third surveys and comparing the results on a school-by-school basis with the Florida Inventory for School Houses. The capital outlay full-time equivalent membership by grade level organization shall be used in making the following calculations: The capital outlay full-time equivalent membership by grade level organization for the 1981-1982 fiscal year shall be computed as the base year. The capital outlay full-time equivalent membership by grade level organization for the 1984-1985 fiscal year shall be computed with the positive increase over the base year constituting growth. From the total amount appropriated by the Legislature pursuant to this subsection, 40 percent shall be allocated among the base capital outlay full-time equivalent membership and 60 percent among the growth capital outlay full-time equivalent membership. The allocation within each of these groups shall be prorated to the districts based upon each district's percentage of base and growth capital outlay full-time membership. The most recent 4-year capital outlay full-time equivalent membership data shall be used in each subsequent year's calculation for the allocation of funds pursuant to this subsection. If the growth capital outlay full-time equivalent membership for a district declines in any year used in their calculation after the initial allocation pursuant to this subsection, no allocation for growth capital outlay full-time equivalent membership shall be made for any subsequent year until the number of capital outlay full-time equivalent membership has exceeded the number for which an allocation has already been made. If a change, correction, or recomputation of data during any year results in a reduction or increase of the calculated amount previously allocated to a district, the allocation to that district shall be adjusted correspondingly. If such recomputation results in an increase or decrease of the calculated amount, such additional or reduced amounts shall be added to or reduced from the district's future appropriations. However, no change, correction, or recomputation of data shall be made subsequent to 2 years following the initial annual allocation.

(b) Funds accruing to a district school board from the provisions of this section shall be expended on needed projects as shown by survey or surveys under the rules of the State Board of Education.

(c) A *district* school board may lease relocatable educational facilities for up to 3 years using nonbonded PECO funds and for any time period using local capital outlay millage.

(d) Funds distributed to the district school boards shall only be allocated based on the provisions of paragraphs (1)(a) and (2)(a) and paragraph (a) of this subsection. No individual school district projects shall be funded off the top of funds allocated to district school boards.

(4)(a) The boards of trustees of the community colleges and the Board of Regents of the State University System shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 45 days prior to the legislative session. The State Board of Community Colleges shall submit a 3-year priority list for the entire State Community College System. The Board of Regents shall submit a 3-year priority list for the entire State University System. The lists shall reflect decisions by the boards concerning program priorities that implement the statewide plan for program growth and quality improvement in education. No remodeling or renovation project shall be included on the 3-year priority list unless the project has been recommended pursuant to s. 235.15 or is for the purpose of correcting health and safety deficiencies. No new construction project shall be included on the first year of the 3-year priority list unless the educational specifications have been approved by the Chancellor for university projects or by the *Division of Community Colleges* ~~Office of Educational Facilities~~ for community college projects. The funds requested for a new construction project in the first year of the 3-year priority list shall be in conformance with the scope of the project as defined in the educational specifications. Any new construction project requested in the first year of the 3-year priority list which is not funded by the Legislature shall be carried forward to be listed first in developing the updated 3-year priority list for the subsequent year's capital outlay budget. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

(b) The boards of trustees of the community colleges and the Board of Regents of the State University System may lease relocatable educational facilities for up to 3 years using nonbonded PECO funds.

(c) The boards of trustees of the community colleges and the Board of Regents shall receive funds for remodeling, renovation, maintenance and repairs, and site improvement for existing satisfactory facilities pursuant to subsection (1).

(5) District school boards shall identify each fund source and the use of each proportionate to the project cost, as identified in the bid document, to assure compliance with this section. The data shall be submitted to the department, which shall track this information as submitted by the boards. PECO funds shall not be expended as indicated in the following:

(a) District school boards shall provide landscaping by local funding sources or initiatives.

(b) PECO funds shall not be used for the construction of football fields, bleachers, site lighting for athletic facilities, tennis courts, stadiums, racquetball courts, or any other competition-type facilities not required for physical education curriculum. Regional or intradistrict football stadiums may be constructed with these funds provided a minimum of two high schools and two middle schools are assigned to the facility and the stadiums are survey recommended. Sophisticated auditoria shall be limited to magnet performing arts schools, with all other schools using basic lighting and sound systems as determined by rule. Local funds shall be used for enhancement of athletic and performing arts facilities.

(6)~~(5)~~(a) The Department of Education shall establish, beginning with the 1992-1993 fiscal year, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account to be known as the Increased Utilization Account in an amount each year not to exceed 5 percent of the total funds appropriated under the provisions of paragraph (3)(a). These funds shall be allocated by the commissioner to any public school district according to the following formula: Any eligible school that increases its FTE facility capacity by at least 20 percent as a result of using the modified school calendar shall receive up to a maximum of $100 per total FTE generated within the school.

(b) To be eligible, the district school board must submit a resolution prior to August 1 of each fiscal year, beginning August 1, 1992, of its

intent to participate in the Increased Utilization Account and listing each of the schools eligible during the prior fiscal year, with the first year being 1991-1992. The information listed for each school must include the maximum FTE capacity for the year as contained in the Florida inventory of school houses in the Office of Educational Facilities, and the increase attributable to the modified school calendar. To be eligible, each individual school FTE must exceed the maximum facility capacity during the fiscal year by at least 20 percent.

(c) Each school district qualifying for funding under this subsection may be paid up to $100 per total FTE per eligible school site for a maximum of 5 years for each eligible school provided that funds are available. If funds are insufficient during any fiscal year, the commissioner shall determine the pro rata amount.

(d) Funds received by a school district from the Increased Utilization Account shall be exempt from repayment of any project outstanding pursuant to the provisions of subsection (2).

(e) Funds accruing to a district school board from the provisions of this subsection shall be expended on needed projects as shown by survey or surveys under the rules of the state board.

(f) For the purpose of implementing the provisions of this subsection, "modified school calendar" means an extended school week or an extended school year. Overcrowding of a school or double sessions do not apply.

Senator Holzendorf moved the following amendments which were adopted by two-thirds vote:

Amendment 22—On page 29, line 2 and on page 55, line 25, strike "*(5)* ~~(4)~~" and insert: ~~(4)~~

Amendment 23—On page 30, strike all of lines 24-26 and insert: 235.435(3)(c), limit the recommended state funding amount not to exceed 5 percent off the top of the total funds recommended pursuant to s. 235.435(2) and (3).

Amendment 24—On page 72, line 27, strike "*(4)(f)* ~~(3)(b)~~" and insert: (3)(b)

On motion by Senator Latvala, **CS for CS for SB 2684** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for HB 1687—A bill to be entitled An act relating to the Florida Vacation Plan and Time-Sharing Act; amending s. 721.03, F.S.; revising language with respect to the scope of the act; amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; providing that sellers and purchasers of timeshare periods must agree in writing on a specific value for each contract benefit; creating s. 721.065, F.S.; providing for resale purchase agreements; amending s. 721.07, F.S.; revising language with respect to public offering statements; creating s. 721.071, F.S.; providing requirements with respect to trade secrets; amending s. 721.075, F.S.; clarifying that incidental benefits must be filed in conjunction with a timeshare plan; amending s. 721.08, F.S.; revising language with respect to escrow accounts, nondisturbance instruments, and alternate security agreements; amending s. 721.10, F.S.; defining the term "benefits ;printpartj made available under the plan" with respect to the right to cancel; amending s. 721.11, F.S.; excluding certain statements from the term "advertising material"; amending s. 721.13, F.S.; revising language with respect to management; amending s. 721.14, F.S.; revising language with respect to the discharge of a managing entity; amending s. 721.15, F.S.; revising language with respect to assessments for common expenses; prohibiting the commingling of certain funds; amending s. 721.20, F.S.; providing an exemption from licensing requirements for persons licensed under chapter 475, F.S., under certain circumstances; amending s. 721.26, F.S.; revising language with respect to regulation by the Division of Florida Land Sales, Condominiums, and Mobile Homes; creating s. 721.265, F.S.; providing for service of process; amending s. 721.27, F.S.; clarifying language with respect to the annual fee for each timeshare period in a timeshare plan; amending s. 721.51, F.S.; revising language with respect to legislative purpose; amending s. 721.52, F.S.; providing definitions; amending s. 721.53, F.S.; revising language with respect to subordination agreements and alternate security arrangements; amending s. 721.54, F.S.; relating to the term of multisite timeshare plans; amending s. 721.55, F.S.; providing for public offering statements with respect to multisite timeshare plans; creating s. 721.551, F.S.; providing for the delivery of multisite timeshare plan public offering statements; creating s. 721.552, F.S.; providing for additions, substitutions, or deletions of component site accommodations or facilities; creating s. 721.553, F.S.; providing for the portrayal of proposed component sites; amending s. 721.56, F.S.; revising language with respect to the management of multisite timeshare plans and reservation systems; creating s. 721.301, F.S.; creating the Florida Timesharing, Vacation Club, and Hospitality Program; specifying activities; allowing designation of funds from the Division of Florida Land Sales, Condominiums and Mobile Homes Trust Fund; requiring private match for such funds; requiring a report; authorizing rulemaking; providing appropriations; directing the Division of Florida Land Sales, Condominiums, and Mobile Homes to conduct a study; providing for the application of certain portions of the act; providing an effective date.

—with pending **Amendment 4** by Senators Dudley, Johnson and Gutman.

Senator Gutman moved the following amendment to **Amendment 4** which was adopted:

Amendment 4A (with Title Amendment)—On page 61, line 20, insert:

Section 63. In a residential subdivision in which the owners of lots or parcels must pay mandatory maintenance or amenity fees to the subdivision developer or to the owners of the common areas, recreational facilities, and other properties serving the lots or parcels, the developer or owner of such areas, facilities, or properties shall make public, within 60 days following the end of each fiscal year, a complete financial report of the actual, total receipts of mandatory maintenance or amenity fees received by it, and an itemized listing of the expenditures made by it from such fees, for that year. Such report shall be made public by mailing it to each lot or parcel owner in the the subdivision, by publishing it in a publication regularly distributed within the subdivision, or by posting it in prominent locations in the subdivision. This section does not apply to amounts paid to homeowner associations pursuant to chapters 617, 718, 719, 721, or 723, or to amounts paid to local governmental entities, including special districts.

Section 64. Subsection (1) of section 617.0808, Florida Statutes, is amended, subsections (2), (3), (4), (5), (6), and (7) are redesignated as subsections (3), (4), (5), (6), (7), and (8) of that section and a new subsection (2) is added to that section, to read:

617.0808 Removal of directors.—A director may be removed from office pursuant to procedures provided in the articles of incorporation or the bylaws, which shall provide the following, and if they do not do so, shall be deemed to include the following:

(1) *Except as provided in subsection (2),* any member of the board of directors *may* ~~shall~~ be removed from office with or without cause by the vote or agreement in writing by a majority of all votes of the membership.

(2) Any member of the board of directors of a charitable organization as defined in s. 496.404, may be removed from office without cause only following the recommendation of a majority of the board of directors followed by the vote or agreement in writing by a majority of all votes of the membership.

And the title is amended as follows:

In title, on page 68, line 8, after the semicolon (;) insert: requiring certain financial reports of actual, total receipts of mandatory maintenance or amenity fees by certain developers and owners; amending s. 617.0808, F.S.; providing for removal without cause for certain board members;

Amendment 4 as amended was adopted.

On motion by Senator Dyer, by two-thirds vote **CS for HB 1687** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

RECONSIDERATION

On motion by Senator Holzendorf, the Senate reconsidered the vote by which—

SB 2148—A bill to be entitled An act relating to housing for the elderly; amending s. 420.5087, F.S.; clarifying provisions relating to use of funds under the State Apartment Incentive Loan Program; increasing the maximum amount of certain loans; reducing the amount of matching funds required; extending the maximum term of such loans; providing an effective date.

—passed as amended this day.

On motion by Senator Holzendorf, by two-thirds vote **HB 2039** was withdrawn from the Committees on Community Affairs; and Ways and Means.

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

HB 2039—A bill to be entitled An act relating to housing for the elderly; amending s. 420.5087, F.S.; clarifying provisions relating to use of funds under the State Apartment Incentive Loan Program; increasing the maximum amount of certain loans; reducing the amount of matching funds required; extending the maximum term of such loans; providing an effective date.

—a companion measure, was substituted for **SB 2148** and read the second time by title.

Senator Grant moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 3, between lines 3 and 4, insert:

Section 2. Subsection (1) of section 196.1975, Florida Statutes, is amended to read:

196.1975 Exemption for property used by nonprofit homes for the aged.—Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(1) The applicant must be a corporation not for profit that has been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt charitable organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act. *A corporation will not be disqualified under this subsection if, for purposes of allocating tax credits under s. 42(h)(5) of the Internal Revenue Code of 1986 by the Florida Housing Finance Agency as defined by s. 420.0004(4), the property is leased to a Florida limited partnership, the sole general partner of which is the nonprofit corporation, and the home for the aged was in existence or under construction on or before April 1, 1995*

And the title is amended as follows:

In title, on page 1, line 8, after the semicolon (;) insert: amending s. 196.1975, F.S.; providing an exemption from ad valorem taxation for certain property that is used for a nonprofit home for the aged and is leased to a Florida limited partnership under specified conditions;

Senator Dyer moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 3, strike line 4 and insert:

Section 2. Effective January 1, 1996, subsections (5) and (6) are added to section 420.5099, Florida Statutes, to read:

420.5099 Allocation of the low-income housing tax credit.—

(5) For purposes of implementing this program in Florida, neither the tax credits, nor the value of the equity generated by tax credits allocated to or invested in low-income housing tax credit developments, shall be considered as income to the property, and the rental income from rent restricted units in a low-income tax credit development shall be the actual rents charged.

(6) The agency is authorized to expend fees received in conjunction with the allocation of low-income housing tax credits only for the purpose of administration of the program, including private legal services which relate to interpretation of s. 42 of the Internal Revenue Code of 1986, as amended.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to affordable housing; amending s. 420.5099, F.S.; providing neither tax credits nor the value of equity generated by tax credits allocated to low-income housing projects shall be considered income to the property; providing guidelines for administration of low-income housing tax credits by the Florida Housing Finance Agency;

On motion by Senator Holzendorf, by two-thirds vote **HB 2039** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motion by Senator Harden, by two-thirds vote **HB 2721** was withdrawn from the Committee on Governmental Reform and Oversight.

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

HB 2721—A bill to be entitled An act relating to the regulation of professions and occupations; amending s. 20.165, F.S.; conforming the change in name of a board; amending s. 28.222, F.S., relating to the recording of instruments; removing the requirement that instruments relating to land surveying include a sketch; providing that the failure to attach a sketch to any instrument presented for recording during the operative period of such requirement shall not affect the validity of the instrument or its recording; amending s. 255.551, F.S.; revising the definition of "abatement"; amending s. 255.565, F.S.; clarifying the responsibilities of the Asbestos Oversight Program Team; amending ss. 326.002, 326.003, 326.004, and 326.006, F.S., relating to the "Yacht and Ship Brokers' Act"; transferring the regulation of yacht and ship brokers from the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to the Division of Professions of the Department of Business and Professional Regulation; conforming terminology; amending s. 402.48, relating to health care services pools; transferring the regulation of health care services pools from the Department of Business and Professional Regulation to the Agency for Health Care Administration; conforming terminology; amending s. 455.203, F.S.; providing that a licensee acknowledges compliance with all requirements for renewal upon submitting the appropriate renewal fees to the Department of Business and Professional Regulation or the Agency for Health Care Administration, as applicable; amending s. 455.219, F.S.; authorizing regulatory boards, or the department if there is no board, to charge a fee for authorized inspections; amending s. 455.227, F.S.; exempting licensees acting as mediators in professional mediation programs from being disciplined for failing to report violators; amending s. 468.542, F.S.; providing definitions for classes of water and wastewater operators; defining "operator trainee"; amending s. 468.543, F.S.; providing for the registration of water and wastewater operator trainees; amending s. 468.547, F.S.; providing a registration fee; amending s. 468.549, F.S.; providing for continuing education requirements for water and wastewater operators; amending s. 468.551, F.S.; requiring registration of operator trainees; amending s. 468.627, F.S.; revising an exemption from examination fees applicable to building code administrators and inspectors for employees of local government agencies having building code inspection, regulation, and enforcement responsibilities; amending s. 469.001, F.S.; revising definitions applicable to asbestos abatement; amending s. 469.002, F.S.; revising an exemption relating to asbestos-related activities by governmental employees; amending s. 469.004, F.S.; revising provisions relating to requirements for work involving building structures or systems; revising conditions under which resilient floor covering or its adhesive may be moved, removed, disposed of, or inspected by a person other than a licensed asbestos contractor or asbestos consultant; authorizing the Department of Business and Professional Regulation to inspect certain asbestos-removal sites; providing rulemaking authority; providing conditions under which asbestos-containing pipe or conduit may be repaired, removed, or disposed of by a person other than a licensed asbestos contractor or asbestos consultant; amending s. 469.006, F.S.; eliminating reference to consultant or contractor seals, to conform; amending s. 469.012, F.S.; requiring onsite roofing supervisors to complete a department-approved asbestos roofing course prior to engaging in the removal of asbestos-containing roofing material; amending s. 469.014, F.S.; providing for the department to approve certain training courses and training-course providers who offer training for persons exempt from

licensure; repealing s. 469.015, F.S., relating to seals; repealing s. 54 of chapter 94-119, Laws of Florida; abrogating the repeal of s. 469.004(4), F.S., relating to certain activities for which licensure as an asbestos contractor or asbestos consultant is not required; amending s. 470.0085, F.S., relating to the embalmer apprentice program; providing applicability with respect to certain students; amending s. 470.009, F.S.; reorganizing provisions relating to licensure as a funeral director by examination, to clarify applicability of the internship requirement; amending s. 470.024, F.S.; providing licensing limitations with respect to colocated facilities; requiring the relicensure of funeral establishments whose ownership has changed; amending s. 470.029, F.S.; providing a filing date for monthly reports on final dispositions; amending s. 470.0301, F.S.; providing requirements for registration of centralized embalming facilities; providing for application, late, and inspection fees; creating s. 470.0315, F.S.; providing for the storage, preservation, and transportation of human remains; creating s. 470.0355, F.S.; providing for the identification of human remains; amending s. 473.306, F.S.; providing for appointment of an Educational Advisory Committee for purposes of maintaining proper educational qualifications for licensure of certified public accountants; amending s. 473.312, F.S.; providing for appointment of a Continuing Professional Education Advisory Committee for purposes of maintaining proper continuing education requirements for renewal of licensure of certified public accountants; amending s. 474.203, F.S.; revising exemptions from veterinary practice regulations relating to the holders of veterinary faculty certificates and to certain persons assisting a licensed veterinarian; providing an exemption for registered interns and residents; providing an exemption for out-of-state licensees whose presence is requested by an in-state licensee and prohibiting such a licensee from applying for a premises permit; amending s. 474.214, F.S.; increasing the administrative fine the Board of Veterinary Medicine may impose as a disciplinary measure; reenacting ss. 474.207(2) and 474.217(2), F.S., relating to licensure qualifications and licensure by endorsement, to incorporate the amendment to s. 474.214, F.S., in references thereto; amending s. 474.215, F.S.; requiring limited service veterinary medical practice permittees to register each location; providing a registration fee for such purpose; reenacting ss. 474.213(1)(k) and 474.214(1)(w), F.S., relating to prohibitions and grounds for disciplinary action, to incorporate the amendment to s. 474.215, F.S., in references thereto; amending s. 475.15, F.S.; eliminating a provision that requires the automatic cancellation of the registration of a real estate broker partnership upon the lapse in licensure or registration of any of its partners; amending s. 475.25, F.S.; revising a ground for disciplinary action; amending s. 475.451, F.S.; revising provisions relating to the permitting of instructors for proprietary real estate schools or state institutions; providing permit renewal requirements; amending s. 475.452, F.S.; providing restrictions applicable to advance fees for brokers auctioning real property; creating s. 475.6145, F.S.; providing for a seal for the Florida Real Estate Appraisal Board to authenticate its proceedings, records, and acts; combining barbering and cosmetology within a single practice act; amending s. 477.011, F.S.; renaming the "Florida Cosmetology Act" as the "Florida Barbering and Cosmetology Act"; amending s. 477.012, F.S., relating to purpose, to conform; providing legislative intent; amending s. 477.013, F.S.; revising and providing definitions; amending s. 477.0135, F.S., relating to exemptions, to conform; amending s. 477.015, F.S.; creating the Board of Barbering and Cosmetology and providing for its members and duties; amending s. 477.017, F.S.; providing for legal, investigative, and inspection services by the Department of Business and Professional Regulation; amending s. 477.019, F.S.; revising qualifications for licensure as a barber or cosmetologist; providing for biennial renewal; providing for a restricted barbering license; providing continuing education requirements; amending s. 477.0212, F.S., relating to inactive status; eliminating a reference to reactivation and renewal fees; amending s. 477.022, F.S., relating to examinations, to conform; providing requirements relating to reexaminations; eliminating an obsolete provision relating to testing facilities; amending and renumbering s. 477.0201, F.S.; revising specialty registration requirements; providing for biennial renewal; amending s. 477.025, F.S.; revising licensure provisions for barbershops and cosmetology and specialty salons; requiring display of establishment and practitioner licenses and registrations; providing for the licensure of mobile barbershops, mobile cosmetology salons, and mobile specialty salons; amending and renumbering s. 477.0263, F.S., relating to services authorized to be performed in licensed barbershops and salons, to conform; amending s. 477.026, F.S.; revising and providing fees; eliminating a provision relating to submission of a proposed budget; amending and renumbering s. 477.023, F.S., relating to licensure of schools, to conform; amending and renumbering s. 477.0132, F.S., relating to hair braiding registration; providing for biennial renewal; amending and renumbering s. 477.0265, F.S., relating to prohibited acts, to conform; amending s. 477.029, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 477.031, F.S., relating to civil proceedings; amending and renumbering s. 476.254, F.S., relating to a saving clause, and repealing the remainder of chapter 476, F.S., relating to barbering, to conform; repealing ss. 477.014, 477.016, 477.018, 477.0213, and 477.028, F.S., relating to qualifications for practice, rulemaking, investigative services, cosmetology graduates of the Florida School for the Deaf and the Blind, and disciplinary proceedings, to conform; amending ss. 20.165, 455.2228, and 480.034, F.S.; correcting cross references; providing for a transitional Board of Barbering and Cosmetology; providing for continuation of current rules, contracts, investigations, and prosecutions; amending ss. 480.033 and 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.032, F.S.; providing legislative intent with respect to regulation of the practices of massage therapy and reflexology by a single board; amending s. 480.033, F.S.; providing definitions; creating s. 480.0481, F.S.; providing for qualification, licensure, and provisional licensure of reflexologists; providing fees; providing for adoption of rules governing the licensure and operation of reflexology establishments; creating s. 480.0482, F.S.; establishing examination requirements; providing for licensure by examination or without examination for an interim period; amending s. 480.047, F.S.; prohibiting certain acts relating to reflexology; providing penalties; providing an appropriation; amending s. 480.044, F.S.; providing for a nonrefundable fee for all applications; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors; amending s. 489.107, F.S.; adding a solar contractor to the Construction Industry Licensing Board; amending s. 489.113, F.S.; revising provisions that authorize persons who are not certified or registered to perform construction work under the supervision of a person who is certified or registered; providing that expansion of the scope of practice of any type of contractor does not limit the scope of practice of any existing type of contractor unless the Legislature expressly provides such limitation; repealing s. 489.1135, F.S., relating to the designation and certification of underground utility and excavation contractors for businesses that were qualified by the Department of Transportation by a specified date; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of temporary certification or registration of a business organization; amending s. 489.127, F.S.; revising and adding penalties applicable to violations of construction contracting provisions, including public service, restitution, and the surcharge when the victim is handicapped or elderly; amending s. 489.131, F.S., relating to applicability; correcting a cross reference; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; amending s. 489.503, F.S.; clarifying an exemption relating to the sale or installation of certain finished products, materials, or articles of merchandise; amending s. 489.507, F.S.; revising membership of the Electrical Contractors' Licensing Board; amending s. 489.509, F.S.; transferring a portion of fees paid at the time of application or renewal to the Department of Education to fund certain projects or continuing education programs relating to the building construction industry and providing requirements with respect thereto; providing for appointments to the Building Construction Industry Advisory Council; amending s 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.531, F.S.; revising and adding penalties applicable to violations of electrical and alarm system contracting provisions, including public service, restitution, and the surcharge when the victim is handicapped or elderly; reenacting s. 489.533(1)(a) and (2), F.S., relating to disciplinary proceedings, to incorporate the amendment to s. 489.531, F.S., in a reference thereto; amending ss. 489.539 and 553.19, F.S.; providing for adoption of current electrical standards by rule; amending s. 553.63, F.S., relating to trench excavations in excess of a specified depth; deleting a provision requiring contract bids to include certain items; repealing s. 553.64, F.S., relating to certain requirements for contract bids; creating s. 501.214, F.S.; providing requirements relating to home-inspection reports; providing Legislative intent; providing definitions; providing exemptions; requiring, prior to inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relation-

ships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report on the results of the inspection; providing prohibited acts, for which there are civil penalties; amending s. 713.03, F.S.; including professional geologists within provisions regulating liens for professional services; amending s. 489.503, F.S., relating to exemptions from part II of chapter 489, F.S., relating to electrical and alarm system contracting; revising an exemption that applies to school boards, the Board of Regents, and community colleges, to reduce the applicable cost threshold; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; providing exemptions relating to personal emergency response systems; providing exemptions relating to the monitoring of alarm systems by law enforcement employees or officers or fire department employees or officials, by employees of state or federally chartered financial institutions, or by employees of a business endeavor; amending s. 489.505, F.S.; revising the definitions of "alarm system" and "alarm system contractor" and providing definitions for "personal emergency response system" and "monitoring"; amending s. 489.509, F.S.; changing the due date for the biennial renewal fee for certificateholders and registrants; creating s. 489.5165, F.S.; providing for the regulation of monitoring; requiring certification and providing qualifications and procedures therefor; providing grounds for disciplinary action; providing penalties; providing fees; providing applicability to local occupational licenses and permits and to certified electrical and alarm system contractors; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; amending s. 489.525, F.S.; changing the date for the Department of Business and Professional Regulation to inform local boards and building officials of the names of all certificateholders and the status of the certificates; amending s. 489.537, F.S., relating to certain alarm system registration; eliminating reference to monitoring, to conform to other provisions of the act; authorizing the department to sell a regional service center located at a specified location; providing for proceeds from the sale to be deposited into the Professional Regulation Trust Fund; amending s. 489.503, F.S.; revising exemptions from regulation under part II of chapter 489, relating to electrical and alarm system contracting, that apply to school boards, the Board of Regents, and community colleges and to public utilities; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending ss. 489.539 and 553.19, F.S.; providing for updating of electrical standards; amending s. 455.217, F.S.; providing for licensing or certification examination to be competitively bid under certain circumstances; providing effective dates.

—a companion measure, was substituted for **CS for SB 2706** and by two-thirds vote read the second time by title.

Senator Harden moved the following amendment which was adopted:

Amendment 1—On page 85, lines 1 and 2; on page 90, lines 30 and 31, on page 122, lines 1 and 2; on page 137, line 25; and on page 145, lines 10 and 11, strike all of said lines and renumber subsequent sections.

Senator Dyer moved the following amendments which were adopted:

Amendment 2—On page 15, strike line 26 and insert:

Section 2. Effective upon becoming a law, subsection (4) of section 28.222, Florida

Amendment 3 (with Title Amendment)—On page 54, line 26, through page 55, line 25, strike all of said lines and insert:

Section 44. Paragraphs (i), (j), (k), and (l) of subsection (1) of section 475.01, Florida Statutes, 1994 Supplement, are amended, and subsection (4) is added to that section, to read:

475.01 Definitions.—

(1) As used in this part:

(i) "Fiduciary" means a broker in a relationship of trust and confidence between that broker as agent and the seller or buyer as principal. The duties of the broker as a fiduciary are loyalty, confidentiality, obedience, full disclosure, ~~and~~ accounting, and the duty to use skill, care, and diligence.

(j) "Disclosed dual agent" means a broker who works as an agent for both the buyer and seller. The broker must obtain the informed consent in writing of all parties to the transaction to be a disclosed dual agent. *The role of a disclosed dual agent must be fully described and disclosed in writing to the buyer and seller.* The disclosed dual agent has all the duties of a fiduciary except full disclosure between the buyer and seller.

(k) "Transaction broker" means a broker who facilitates a brokerage transaction between a buyer and a seller. The transaction broker does not affirmatively represent either the buyer or seller as an agent, and no fiduciary duties exist except for the duty of accounting and the duty to use skill, care, and diligence. However, the transaction broker shall treat the buyer and seller with honesty and fairness and shall disclose all known facts materially affecting the value of the property in residential transactions to both the buyer and seller. *A transaction broker may keep the identity of a buyer or seller confidential if requested to do so by the buyer or seller.* The ~~broker's~~ role *of* ~~as~~ a transaction broker must be fully *described and* disclosed in writing to the buyer and seller.

(l) "Single agent" means a broker who represents, as a fiduciary, either the buyer or seller but not both in the same transaction. *The role of a single agent must be fully described and disclosed in writing to the buyer or seller.*

(4) "First substantive contact" means the first face-to-face contact between a licensee and a buyer, a seller, the agent of a buyer or seller, or a transaction broker working with a buyer or seller or, in the case of written communications, prior to the execution of any other property-specific legally required written disclosures. Nothing in this chapter is intended to require a licensee to provide any written notice to property owners whose properties are being shown for the first time by the licensee.

Section 45. Section 475.015, Florida Statutes, is created to read:

475.015 Disclosed dual agent requirements.—

(1) A real estate broker may act as a disclosed dual agent only with the written consent of all parties. Consent is presumed if the party signs an agreement that contains the following:

(a) A description of the situation or circumstances during representation of a client in which the real estate broker will serve as a disclosed dual agent.

(b) A statement that, in serving as a disclosed dual agent, the real estate broker represents two or more clients whose interests are adverse and that the agency duties are limited.

(c) A statement that the disclosed dual agent may disclose any information to one party that the agent gains from the other party if that information is relevant to the transaction, except:

1. To the buyer that the seller will accept a price less than the asking or listed price, unless otherwise instructed by the seller;

2. To the seller that the buyer will pay a price greater than the price submitted in a written offer to the seller, unless otherwise instructed by the buyer;

3. The motivation of any party, if adverse to the party's interest, for selling, buying, or leasing a property, unless otherwise instructed by the respective party; or

4. That a seller or buyer will agree to financing terms other than those offered.

(d) A statement that the client may choose to consent or not consent to the disclosed dual agency.

(e) A statement that the consent of the client has been given voluntarily and that the agreement has been read and understood.

(2) A cause of action may not be brought on behalf of any person against a dislosed dual agent for making disclosures permitted or required by this chapter, and the disclosed dual agent does not terminate any real estate broker agency relationship by making disclosures permitted or required by this chapter.

(3) In a disclosed dual agent situation each client and the real estate broker and its associated licensees are considered to possess only actual knowledge and information. There is no imputation of knowledge or information by operation of law among or between the clients, the real estate broker, or its associated licensees.

(4) A disclosed dual agent has no duty to conduct an independent inspection of or discover latent defects in the property. Nothing in this section limits the obligation of a buyer to inspect the physical condition of the property.

(5) A disclosed dual agent has no duty to disclose any fact or suspicion concerning the property, including, but not limited to, any fact or suspicion that the property was, or was at any time suspected to have been, the site of a homicide or other felony or a suicide, which if known by a party might cause that party to suffer adverse psychological effects. Such fact or suspicion is not a material fact that must be disclosed in a real estate transaction. No cause of action shall arise against an owner of real estate or a real estate licensee for the failure to disclose such fact or suspicion to the transferee.

(6) Nothing in this section alters or eliminates the responsibility of a broker, as set forth in this part, for the conduct and actions of a salesperson operating under the broker's license.

Section 46. Section 475.016, Florida Statutes, is created to read:

475.016 Transaction broker requirements.—

(1) A transaction broker shall have the following obligations and responsibilities:

(a) To perform the terms of any written or oral agreement made with any party to the transaction.

(b) To exercise reasonable skill, care, and diligence as a transaction broker, including, but not limited to:

1. Presenting all offers and counteroffers in a timely manner regardless of whether the property is subject to a contract for sale or lease or letter of intent unless otherwise provided in the agreement entered with the party.

2. Advising the parties regarding the transaction and suggesting that such parties obtain expert advice as to material matters about which the transaction broker knows but the specifics of which are beyond the expertise of such broker.

3. Accounting in a timely manner for all money and property received.

4. Keeping the parties informed regarding the transaction.

5. Assisting the parties in complying with the terms and conditions of any contract.

6. Informing the parties that as seller and buyer they shall not be vicariously liable for any acts of the transaction broker.

(2) The following information shall not be disclosed by a transaction broker without the informed consent of the party or parties disclosing information to the broker:

(a) That a buyer is willing to pay more than the purchase price or lease rate offered for the property.

(b) That a seller is willing to accept less than the asking price or lease rate for the property.

(c) What the motivating factors are for any party buying, selling, or leasing the property.

(d) That a seller or buyer will agree to financing terms other than those offered.

(e) Any material information about the other party unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing.

(3) A transaction broker has no duty to conduct an independent inspection of or discover latent defects in the property. Nothing in this section limits the obligation of the buyer to inspect the physical condition of the property.

(4) A transaction broker has no duty to conduct an independent investigation of the buyer's financial condition.

(5) A transaction broker may do the following without breaching any obligation or responsibility:

(a) Show alternative properties not owned by the seller or landlord to a prospective buyer or tenant.

(b) List competing properties for sale or lease.

(c) Show properties in which the buyer or tenant is interested to other prospective buyers or tenants.

(d) Serve as a single agent, subagent, or dual agent for the same or for different parties in other real estate transactions.

(6) There shall be no imputation of knowledge or information between any party and the transaction broker or among persons within an entity engaged as a transaction broker.

(7) Any fact or suspicion concerning the property, including, but not limited to, any fact or suspicion that the property was, or was suspected to have been, the site of a homicide or other felony or a suicide, which if known by a party might cause that party to suffer adverse psychological effects is not a material fact that must be disclosed in a real estate transaction. No cause of action shall arise against an owner of real estate or a real estate licensee for the failure to disclose such fact or suspicion to the transferee.

(8) A transaction broker may cooperate with other brokers; however, this cooperation shall not create an agency or subagency relationship.

(9) Nothing shall prohibit a transaction broker from acting as a single agent whether on behalf of a buyer or seller or acting as a disclosed dual agent in separate transactions as long as the requirements of this chapter governing disclosure are met.

(10) Nothing in this section alters or eliminates the responsibility of a broker, as set forth in this part, for the conduct and actions of a salesperson operating under the broker's license.

Section 47. Section 475.017, Florida Statutes, is created to read:

475.017 Single agent requirements.—

(1) A real estate broker who represents a seller:

(a) Shall perform the terms of the brokerage agreement entered with the seller.

(b) Shall promote the interests of the seller by exercising agency duties, including:

1. Seeking a sale at the price and terms stated in the brokerage agreement or at a price and terms acceptable to the seller, except that the licensee is not obligated to seek additional offers to purchase the property while the property is subject to a contract of sale unless the brokerage agreement so provides.

2. Presenting, in a timely manner, all offers to and from the seller, even when the property is subject to a contract of sale, unless the brokerage agreement provides otherwise.

3. Advising the seller to obtain expert advice on material matters that are beyond the expertise of the licensee.

4. Accounting, in a timely manner, for all money and property received.

(c) Has an obligation to preserve confidential information provided by the seller during the course of the relationship that would have a negative impact on the seller's real estate transaction unless:

1. The seller to whom the information pertains grants consent to disclose the information;

2. Disclosure by the broker of the information is required by law;

3. The information is made public or becomes public from a source other than the licensee; or

4. Disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a judicial proceeding before the commission, before a professional committee, before any court or courts of this state, or in any administrative proceeding.

(d) Shall be permitted to promote alternative properties not owned by the seller to prospective buyers as well as list competing properties for sale without breaching any duty to the client.

(e) Shall also have the duty to a buyer to treat all prospective buyers honestly and may not knowingly give false information and shall disclose in a timely manner to a prospective buyer all known material facts pertaining to the condition of a residential property. A real estate broker is not liable to a buyer for providing false information to the buyer if the false information was provided to the real estate broker by the seller-client and the real estate broker did not know that the information was false.

(f) Has no duty to conduct an independent inspection of or discover latent defects in the property. Nothing in this section limits the obligation of a buyer to inspect the physical condition of the property. A cause of action may not arise on behalf of any person against a real estate broker for revealing information in compliance with this chapter.

(2) A real estate broker who represents a buyer:

(a) Shall perform the terms of the brokerage agreement entered with the buyer.

(b) Shall promote the interests of the buyer by exercising agency duties including:

1. Seeking a property at a price and terms specified by the buyer, except that the licensee is not obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase that property unless it is provided by the brokerage agreement.

2. Presenting, in a timely manner, all offers to and from the buyer.

3. Disclosing to the buyer known facts pertaining to the condition of residential property.

4. Advising the buyer to obtain expert advice on material matters that are beyond the expertise of the licensee.

5. Accounting, in a timely manner, for all money and property received.

(c) Has no duty to conduct an independent inspection of or discover latent defects in the property. Nothing in this section limits the obligation of a buyer to inspect the physical condition of the property.

(d) Has an obligation to preserve confidential information provided by the buyer during the course of the relationship that would have a negative impact on the buyer's real estate transaction unless:

1. The buyer to whom the information pertains grants consent to disclose the information;

2. Disclosure by the broker of the information is required by law;

3. The information is made public or becomes public from a source other than the licensee; or

4. Disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a judicial proceeding before the commission, before a professional committee, in any court or courts of this state, or in any administrative proceeding.

(e) Shall be permitted to promote other properties in which the buyer is interested to other buyers who might also be clients of the real estate agent without breaching any duty or obligation.

(f) Is not liable to a seller for providing false information to the seller if the false information was provided to the real estate broker by the real estate broker's buyer-client and the real estate broker did not know that the information was false. A cause of action may not arise on behalf of any person against a real estate broker for revealing information in compliance with this chapter.

(3) A real estate broker who represents either a buyer or a seller has no duty to disclose any fact or suspicion concerning the property, including, but not limited to, any fact or suspicion that the property was, or was at any time suspected to have been, the site of a homicide or other felony or a suicide, which if known by a party might cause that party to suffer adverse psychological effects. Such fact or suspicion is not a material fact that must be disclosed in a real estate transaction. No cause of action shall arise against an owner of real estate or a real estate licensee for the failure to disclose such fact or suspicion to the transferee.

(4) In a single agent relationship, the client or clients and the real estate broker and its associated licensees are considered to possess only actual knowledge and information. There is no imputation of knowledge or information by operation of law among or between the clients, the real estate broker, or its associated licensees.

(5) Nothing in this section alters or eliminates the responsibility of a broker for the conduct and actions of a salesperson operating under the broker's license.

Section 48. Section 475.15, Florida Statutes, 1994 Supplement, is amended to read:

475.15 Registration and licensing of general partners, members, officers, and directors of a firm.—Each partnership or corporation which acts as a broker shall register with the commission and shall renew the licenses or registrations of its members, officers, and directors for each license period. ~~The registration of a partnership is canceled automatically during any period of time that the license or registration of any one or more of its partners is not in force.~~ However, if the partnership is a limited partnership, only the general partners must be licensed brokers or brokerage corporations registered pursuant to this part. If the license or registration of at least one active broker member is not in force, the registration of a corporation or partnership is canceled automatically during that period of time.

Section 49. Paragraphs (a) and (q) of subsection (1) of section 475.25, Florida Statutes, 1994 Supplement, are amended, paragraph (t) is added to that subsection, and subsection (4) is added to that section, to read:

475.25 Discipline.—

(1) The commission may deny an application for licensure, registration, or permit, or renewal thereof; may place a licensee, registrant, or permittee on probation; may suspend a license, registration, or permit for a period not exceeding 10 years; may revoke a license, registration, or permit; may impose an administrative fine not to exceed $1,000 for each count or separate offense; and may issue a reprimand, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant:

(a) Has violated any provision of s. 455.227(1) or of s. 475.42. *However, licensees shall be exempt from the provisions of s. 455.227(1)(i).*

(q)1. Has failed in a single agency to give written *disclosure in a sale, exchange, purchase, or lease of real property or any interest in real property to the party for whom the licensee is not an agent revealing that the broker is an agent of another party. The disclosure shall be given at first substantive contact.*

2. Has failed in a single agency to perform any duty specified in s. 475.017 ~~notice to all parties to a sale, exchange, purchase, or lease of real property or any interest in real property, revealing the party or parties for whom the licensee is an agent. Disclosure to the party for whom the licensee is an agent must be made at or before the time an agreement for representation is entered into. Disclosure to the party for whom the licensee is not an agent must be made at the time of the first substantive contact~~.

3.~~2.~~ Has failed in a dual agency to obtain the informed written consent of all parties to a sale, exchange, purchase, or lease of real property or any interest in real property that the licensee intends to operate as a disclosed dual agent. Unless all parties to the transaction grant their written informed consent prior to or at the time of formalization of the dual agency by the licensee, the licensee shall be deemed to be an undisclosed dual agent. The licensee must inform all parties that the licensee is acting as agent for all parties and of the effect of dual agency, including, but not limited to, the fact that, by consenting to the dual agency relationship, the parties are giving up their rights to the undivided loyalty of the licensee~~, as required by the rules of the commission~~. When single agency exists, the licensee may change to a disclosed dual agent by making full written disclosure to and obtaining the informed written consent of all the parties. *Written consent of the parties may be obtained at the time of entry of the listing agreement or agreement for representation whether the agent is acting as a buyer agent, dual agent, or transaction broker.* A disclosed dual agent may not disclose among other items:

a. To the buyer that the seller will accept a price less than the asking or listed price, unless otherwise instructed ~~in writing~~ by the seller;

b. To the seller that the buyer will pay a price greater than the price submitted in a written offer to the seller, unless otherwise instructed ~~in writing~~ by the buyer;

c. The motivation of any party, *if adverse to the party's interest,* for selling, buying, or leasing a property, unless otherwise instructed ~~in writing~~ by the respective party; or

d. That a seller or buyer will agree to financing terms other than those offered.

4. Has failed in a dual agency to perform any duty specified in s. 475.015.

5.~~3.~~ Has failed in a transaction brokerage capacity to give written notice to all parties to a sale, exchange, purchase, or lease of real property or an interest in real property prior to or at the time of the licensee becoming a transaction broker or first substantive contact, whichever occurs first, of the licensee's role as a transaction broker. Unless the buyer and seller are given written notice prior to the licensee's acting in a transaction brokerage capacity, the licensee is deemed to be an agent of either the buyer or seller, or both. The licensee shall treat the buyer and seller honestly and fairly and shall disclose all known facts materially affecting the value of the property in residential transactions to both the buyer and seller.

6. Has failed while acting as a transaction broker to perform any duty specified in s. 475.016.

For the purposes of this paragraph, the payment or promise of payment of compensation to a licensee does not determine whether an agency or transactional brokerage relationship has been created between any licensee and a seller, landlord, buyer, or tenant. The commission shall implement this paragraph by rule. ~~For purposes of this paragraph, the commission shall also define by rule forms for agency disclosure. The forms provided for in this rule shall be written in plain language and shall provide to the buyer or seller or both, as appropriate, an explanation of the agency relationships and shall offer the buyer or seller or both the explicit right to choose or refuse among these agency relationships.~~

(t) Has violated any standard for the development or communication of a real estate appraisal or other provision of the Uniform Standards of Professional Appraisal Practice, as defined in s. 475.611, as approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, as defined in s. 475.611. This paragraph does not apply to a real estate broker or salesperson who, in the ordinary course of business, performs a comparative market analysis or makes an evaluation of real estate. However, in no event may this opinion of value be referred to or construed as an appraisal.

(4) For any finding under this section of a failure to disclose by a person who has not previously been found to have violated this section, the commission may only impose an administrative fine in an amount not to exceed $100 for each count or separate offense or may issue a reprimand for failure to disclose if each of the following conditions is met:

(a) There is no showing of intentional failure to disclose; and

(b) The failure to disclose has not been a contributing factor that caused harm to any consumer.

Section 50. Section 475.256, Florida Statutes, is created to read:

475.256 Abrogation of common law agency.—It is the intent of the Legislature that the duties and responsibilities of brokers as agents or transaction brokers as set forth in this chapter shall abrogate and supersede the duties and responsibilities of agents and transaction brokers under the common law. This abrogation of agency law shall apply only to persons licensed pursuant to part I of this chapter while performing the duties of a real estate broker or transaction broker on behalf of any buyer, seller, or other party to a real estate transaction. This abrogation shall not be construed to limit or extinguish any civil cause of action based on a breach of the duties and responsibilities of agents and transaction brokers set forth in this chapter, nor shall this abrogation limit or extinguish any civil remedy in law or equity that is based on a breach of the duties and responsibilities of agents and transaction brokers set forth in this chapter.

Section 51. Section 475.257, Florida Statutes, is created to read:

475.257 Facsimile signatures or writing accepted.—When any act performed pursuant to the terms of this chapter must be performed in writing or acknowledged with a signature, the provision of an instrument or writing by electronic means or facsimile, including a signature transmitted by electronic means or facsimile, shall be deemed binding and sufficient.

Section 52. Section 475.258, Florida Statutes, is created to read:

475.258 Disclosure to agent, broker, or transaction broker authorized.—In any disclosure of agency or transaction brokerage performed pursuant to the terms of this chapter, disclosure by an agent, broker, or transaction broker to the agent, broker, or transaction broker representing or working with another party shall be sufficient and shall satisfy the disclosure requirements.

Section 53. Section 475.259, Florida Statutes, is created to read:

475.259 Ministerial acts not a violation.—A real estate broker engaged by any buyer or seller in a real estate transaction or engaged by any buyer or seller as a transaction broker may provide assistance to any party to the transaction by performing ministerial acts such as preparing and conveying offers, preparing, completing, and conveying contracts for the sale, lease, exchange, or other conveyance of real property or any interest in real property, and providing information and assistance concerning professional services not related to real estate broker services. Performing ministerial acts may not be construed as violating the real estate broker agreement or transaction broker agreement with a buyer or seller and performing ministerial acts may not be construed as forming a transaction brokerage or agency agreement.

Section 54. Section 475.261, Florida Statutes, is created to read:

475.261 Duties of broker.—Nothing in this part shall be construed to relieve any licensee from the duty to act with reasonable skill, care, and diligence while performing the duties of a real estate broker, salesperson, or transaction broker on behalf of any buyer, seller, or other party to a real estate transaction.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 5, line 27, through page 6, line 2, strike all of said lines and insert: in references thereto; amending s. 475.01, F.S.; redefining the terms "fiduciary," "disclosed dual agent," "transaction broker," and "single agent" and defining the term "first substantive contact" with respect to real estate brokers and salespersons; creating s. 475.015, F.S.; providing requirements with respect to disclosed dual agents; prohibiting certain causes of action; creating s. 475.016, F.S.; providing for transaction broker requirements; creating s. 475.017, F.S.; providing for single agent requirements; amending s. 475.15, F.S.; eliminating a provision that requires the automatic cancellation of the registration of a real estate broker partnership upon the lapse in licensure or registration of any of its partners; amending s. 475.25, F.S.; revising a ground for disciplinary action; revising disciplinary provisions with respect to single agency, dual agency, and transaction brokerage; providing that violations of certain standards of the Appraisal Foundation are grounds for the Florida Real Estate Commission to deny, revoke, or suspend the license of, or to fine, real estate brokers or salespersons; providing a penalty for failure to disclose; creating s. 475.256, F.S.; providing for the abrogation of the common law of agency with respect to the chapter; creating s. 475.257, F.S.; authorizing the use of facsimile signatures or writing; creating s. 475.258, F.S.; providing that certain disclosure to an agent, broker, or transaction broker is deemed to satisfy disclosure requirements of the chapter; creating s. 475.259, F.S.; providing that certain ministerial acts performed by a real estate broker are not to be construed as forming a transaction brokerage or agency agreement; creating s. 475.261, F.S.; providing for duties of a broker; amending s.

Senators Turner and Forman offered the following amendment which was moved by Senator Turner and adopted:

Amendment 4—On page 60, between lines 15 and 16, insert:

Section . Section 473.3065, Florida Statutes, is created to read:

473.3065 Certified public accountant education assistance program.—

(1) The certified public accountant education assistance program for Florida residents is hereby established in the Division of Certified Public Accounting. The purpose of the program is to provide scholarships to minority persons as defined in 288.703(3) who are students enrolled in their fifth year of an accounting education program at institutions approved by the Board of Accountancy by rule. A certified public accountant education assistance advisory committee shall assist the board in administering the program.

(2) All moneys used to provide scholarships shall be funded by a portion of existing license fees, as set by the board, not to exceed $10 per license. Such moneys shall be deposited into the Professional Regulation Trust Fund. The department shall maintain a separate account in the Professional Regulation Trust Fund for all such moneys collected. The department is authorized to spend up to $100,000 per year from the Professional Regulation Trust Fund. The department shall not allocate overhead charges to this separate account. Moneys for scholarships shall be disbursed upon recommendation of the advisory committee and approval by the board. The board shall set forth by rule criteria for awarding scholarships. Funds may be invested by the Treasurer under the same limitations as apply to investment of other state funds, and the interest earned thereon shall be credited to the separate education assistance program account.

(3) The board shall adopt rules as necessary for administration of this program. The board shall also adopt rules relating to the following:

(a) Eligibility criteria for receipt of a scholarship which, at a minimum, shall include the following factors:

1. Financial need.

2. Ethnic, gender or racial minority status pursuant to s. 288.703(3).

3. Scholastic ability and performance.

(b) Scholarship application procedures.

(c) Amounts in which scholarships may be provided, the total amount that may be provided, the time frame for payments or partial payments, and criteria for how scholarship funds may be expended.

(d) The total amount of scholarships that can be made each year.

(e) The minimum fund balance that must be maintained.

(4) Determinations made by the board regarding recipients of scholarship moneys shall not be considered an agency action for purpose of chapter 120.

(5) It shall be unlawful for any person or his agent to file with the Board any notice, statement, or other document which is false or contains any material misstatement of fact. Any person who violates the provisions of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) There is hereby created the certified public accountant education assistance advisory committee to assist the Board in administering the certified public accountant education assistance program. The committee shall be diverse and representative of gender, ethnic, and racial status.

(a) The committee shall consist of five licensed Florida certified public accountants selected by the Board. One member shall be a Board member who serves as chair of the committee. One member shall be a representative of the National Association of Black Accountants, one member shall be a representative of the Cuban American CPA Association, and two members shall be selected at large.

(b) The Board of Accountancy shall determine the terms for initial appointments and appointments thereafter.

(c) Any vacancy on the committee shall be filled in the manner provided for the selection of the initial member. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of that term.

(d) Three consecutive absences or absences constituting 50 percent or more of the committee's meetings within any 12-month period shall cause the committee membership of the member in question to become void, and the position shall be considered vacant.

(e) The members of the committee shall serve without compensation. Any necessary and actual expenses incurred by a member while engaged in the business of the committee shall be borne by such member or the organization or agency such member represents. However, a Board member appointed by the Board shall be compensated in accordance with the provision of ss. 455.207(4) and 112.061.

Section 2. This act shall take effect October 1, 1995.

VOTE RECORDED

Senator Harden was recorded as voting "nay" on **Amendment 4**.

Senator Latvala moved the following amendment which failed:

Amendment 5—On page 122, line 25, through page 123, line 18, strike all of said lines and insert:

Section 114. Subsection (15) of section 489.503, Florida Statutes, 1994 Supplement, is amended, and subsections (16), (17), (18), (19), and (20) are added to that section to read:

489.503 Exemptions.—This part does not apply to:

On motion by Senator Harden, further consideration of **HB 2721** as amended was deferred.

On motion by Senator Sullivan, by two-thirds vote **CS for HB 1149** was withdrawn from the Committee on Governmental Reform and Oversight.

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

CS for HB 1149—A bill to be entitled An act relating to public records; amending s. 119.01, F.S.; providing a legislative finding with respect to providing access to public records by remote electronic means; amending s. 119.085, F.S.; authorizing, rather than requiring, a custodian of public records of the executive or judicial branch or a political subdivision to charge a fee for access to the records by remote electronic means granted under a contractual agreement with a user; amending s. 282.307, F.S.; requiring that a department's Strategic Plan for Information Resources Management contain certain information relating to public access through remote electronic means; creating the public records mediation program within the Office of the Attorney General; providing duties of the office relating to public records dispute mediation, legislation, and training; requiring a report; amending s. 119.01, F.S.; revising provisions relating to state policy on public records; providing legislative intent with respect to electronic recordkeeping and access to such records; amending s. 119.011, F.S.; revising the definition of "public records"; amending s. 119.083, F.S.; defining "proprietary software"; providing requirements applicable to agencies that use proprietary software and that maintain public records in electronic systems; providing for fees; prohibiting agencies from entering into certain contracts for creation or maintenance of a public records database; amending s. 257 36, F.S.; providing that the Division of Library and Information Services shall institute a training program relating to access to public records; providing an effective date.

—a companion measure, was substituted for **SB 1334** and by two-thirds vote read the second time by title. On motion by Senator Sullivan, by two-thirds vote **CS for HB 1149** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Sullivan, by two-thirds vote **CS for HB 1163** was withdrawn from the Committee on Governmental Reform and Oversight.

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

CS for HB 1163—A bill to be entitled An act relating to public records; creating the public records mediation program within the Office of the Attorney General; providing duties of the office relating to public records dispute mediation, legislation, and training; requiring a report; amending s. 119.01, F.S.; revising provisions relating to state policy on public records; providing legislative intent with respect to electronic recordkeeping and access to such records; amending s. 119.011, F.S.; revising the definition of "public records"; amending s. 119.083, F.S.; defining "proprietary software"; providing requirements applicable to agencies that use proprietary software and that maintain public records in electronic systems; providing for fees; prohibiting agencies from entering into certain contracts for creation or maintenance of a public records database; amending s. 257.36, F.S.; providing that the Division of Library and Information Services shall institute a training program relating to access to public records; providing an effective date.

—a companion measure, was substituted for **CS for SB 1336** and by two-thirds vote read the second time by title.

On motion by Senator Sullivan, further consideration of **CS for HB 1163** was deferred.

SB 876—A bill to be entitled An act relating to education; authorizing individual district school boards by resolution to allow invocation or benediction at specified secondary-school-related events; providing legislative intent; providing an effective date.

—was read the second time by title.

POINT OF ORDER

Senator Silver raised a point of order that pursuant to Rule 4.8 the bill should be referred to the Committee on Community Affairs.

The President referred the point to the Committee on Rules and Calendar for recommendation.

SB 632—A bill to be entitled An act relating to motor vehicle inspections; amending s. 325.203, F.S.; exempting new motor vehicles from emission inspection requirements for a certain period of time; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 632** to conform the bill to **CS for HB 45**.

Pending further consideration of **SB 632** as amended, on motion by Senator Turner, by two-thirds vote **CS for HB 45** was withdrawn from the Committees on Transportation; and Ways and Means.

On motion by Senator Turner—

CS for HB 45—A bill to be entitled An act relating to motor vehicle inspections; amending s. 325.203, F.S.; exempting new motor vehicles from emission inspection requirements for a certain period of time; requiring the Department of Environmental Protection to conduct a study to determine the cost and environmental benefit of emissions credit generation; providing an effective date.

—a companion measure, was substituted for **SB 632** and read the second time by title. On motion by Senator Turner, by two-thirds vote **CS for HB 45** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

Consideration of **SB 1828** was deferred.

CS for SB 102—A bill to be entitled An act relating to victims of crimes; amending s. 960.001, F.S.; providing for obtaining information for notifying the victim or appropriate next of kin of a victim of a specified crime prior to the release of the defendant; requiring the chief administrator, or designee, of a county jail, municipal jail, juvenile detention facility, or involuntary commitment facility to notify certain victims or appropriate next of kin of certain victims of the release on bail of the defendant; providing for notification of the victim or appropriate next of kin of the victim if the defendant or offender is released from custody in a jurisdiction other than the jurisdiction in which the warrant was issued; requiring the chief administrator, or designee, of a county jail, municipal jail, juvenile detention facility, or involuntary detention facility to notify certain victims or appropriate next of kin of certain victims of the release of the offender from incarceration; providing immunity from liability based on a good-faith reasonable attempt to comply with timely victim notification; defining the term "chief administrator"; providing an effective date.

—was read the second time by title.

Senator Rossin moved the following amendment which was adopted:

Amendment 1—On page 12, line 2, strike *"State Attorney,"*

On motion by Senator Rossin, by two-thirds vote **CS for SB 102** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

Consideration of **SB 1622** was deferred.

On motion by Senator Meadows, by two-thirds vote **HB 347** was withdrawn from the Committees on Community Affairs; Judiciary; and Ways and Means.

On motion by Senator Meadows—

HB 347—A bill to be entitled An act relating to neighborhood preservation and enhancement; creating ss. 163.524 and 163.526, F.S.; authorizing local governments to participate in the Neighborhood Preservation and Enhancement Program; providing for designation or creation of an enforcement agency; providing for creation of Neighborhood Preservation and Enhancement Districts; providing for creation of Neighborhood Councils; providing eligibility to receive grants from the Safe Neighborhoods Program; providing for adoption of Neighborhood Enhancement Plans; providing powers and duties of Neighborhood Councils and enforcement agencies designated by local government, including powers with respect to plan violations; providing an effective date.

—a companion measure, was substituted for **CS for SB 1400** and read the second time by title. On motion by Senator Meadows, by two-thirds vote **HB 347** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Jones, by two-thirds vote **CS for HB 1843** was withdrawn from the Committees on Health Care; and Ways and Means.

On motion by Senator Jones, the rules were waived and—

CS for HB 1843—A bill to be entitled An act relating to human immunodeficiency virus; amending s. 381.004, F.S.; permitting telephonic posttest counseling under certain circumstances; amending s. 483.181, F.S.; permitting certain individuals to order HIV tests from clinical laboratories; amending s. 499.005, F.S.; revising a prohibition relating to sale of HIV self-testing kits; providing an effective date.

—a companion measure, was substituted for **SB 1828** and read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for HB 1843** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 494—A bill to be entitled An act relating to vehicles; amending s. 320.01, F.S.; defining the term "electric vehicle"; specifying the license tax for such vehicles; exempting sales of such vehicles from sales and use taxes for a specified period; prohibiting insurers from imposing surcharges on insurance premiums for such vehicles unless the Department of Insurance finds the surcharges justified; amending s. 320.08, F.S.; prescribing license taxes for manufacturer's prototype, production, or test vehicles; amending s. 325.203, F.S.; exempting electric vehicles from annual inspection requirements; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **CS for SB 494** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motion by Senator Johnson, by two-thirds vote **HB 1583** was withdrawn from the Committee on Education.

On motions by Senator Johnson, the rules were waived and by two-thirds vote—

HB 1583—A bill to be entitled An act relating to education; amending ss. 228.041, 230.23, and 231.141, F.S.; changing the term "teacher aide" to "education paraprofessional"; creating s. 231.143, F.S.; authorizing school districts to adopt a program for the career development of education paraprofessionals; specifying career development levels; providing restrictions; providing for rules; amending ss. 231.15, 231.3605, 236.685, 240.604, and 121.091, F.S.; revising terminology to conform; providing an effective date.

—a companion measure, was substituted for **SB 1514** and by two-thirds vote read the second time by title. On motion by Senator Johnson, by two-thirds vote **HB 1583** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Myers, by two-thirds vote **CS for HB 251** was withdrawn from the Committee on Natural Resources.

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

CS for HB 251—A bill to be entitled An act relating to emergency coastal armoring; creating s. 161.085, F.S.; providing for emergency installation of rigid coastal structures for certain purposes; authorizing the Department of Environmental Protection to issue permits for such structures; providing procedures; providing an exception; authorizing the department to adopt rules for permitting such structures; providing a definition; providing an effective date.

—a companion measure, was substituted for **SB 1622** and by two-thirds vote read the second time by title. On motion by Senator Myers, by two-thirds vote **CS for HB 251** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Harden, by two-thirds vote **HB 2313** was withdrawn from the Committees on Banking and Insurance; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Harden—

HB 2313—A bill to be entitled An act relating to the accounting and auditing duties of the Comptroller and the Department of Banking and Finance; amending s. 17.03, F.S.; providing additional duties and responsibilities of the Comptroller in auditing claims against the state; amending s. 17.04, F.S.; specifying use by the Department of Banking and Finance of certain generally accepted auditing procedures; amending s. 17.076, F.S.; providing a definition; requiring the department to implement local option direct deposit of certain funds; authorizing the department to charge a fee; providing for collection and deposit of such fees; amending s. 17.08, F.S.; clarifying the filing destination of accounts, vouchers, and evidence; amending s. 17.19, F.S.; revising requirements for examination of public official surety bonds; amending s. 17.20, F.S.; authorizing a collection agent of the department to add a fee for services to the amount collected; amending s. 17.26, F.S.; revising the procedure for reporting and remitting funds represented by canceled state warrants as unclaimed property; providing an appropriation; revising annual audit plans of inspector general; providing for an agreement between the Comptroller and the Department of the Lottery relating to payment of invoices; amending s. 20.055, F.S.; providing for use of certain audits by the Comptroller; amending ss. 27.38 and 27.60, F.S.; requiring the Justice Administration Commission to prescribe the format for certain reports; amending ss. 27.181, 28.01, 28.02, 30.01, 30.02, 137.01, 137.02, and 137.04, F.S.; providing duties of the Department of State; amending s. 35.22, F.S.; revising a procedure for handling certain filing fees; amending ss. 40.29, 40.30, 40.31, 40.33, 40.34, and 40.35, F.S.; transferring certain duties of the Comptroller to the State Courts Administrator; amending s. 57.091, F.S.; specifying the Department of Corrections as the active agency in certain fee, cost, and expense provisions; amending s. 61.182, F.S.; specifying the Department of Revenue as the agency to administer the Child Support Depository Trust Fund; amending s. 110.113, F.S.; authorizing semimonthly salary payments by the department under certain conditions; amending s. 112.061, F.S.; providing for direct payment of travel expenses in non-emergency situations which result in cost savings; providing for documentation on such savings to be submitted; amending s. 117.01, F.S.; deleting a requirement that certain bonds be approved by the Department of Banking and Finance; amending s. 215.35, F.S.; requiring the Comptroller to maintain certain records of warrants; amending s. 215.422, F.S.; providing the Comptroller with certain additional authority with respect to warrants, vouchers, and invoices; eliminating applicability of the section to payments made to state agencies, the judiciary, and the Legislature; clarifying certain reporting requirements of the Department of Banking and Finance; amending s. 216.102, F.S.; imposing requirements on certain governmental entities regarding the form of financial information submitted to the Comptroller; amending ss. 219.02, 219.04, 219.05, and 559.21, F.S.; deleting certain duties of the Department of Banking and Finance relating to handling of money, cash book, depositories, and regulation of sales; providing duties of the State Treasurer; amending s. 559.24, F.S.; designating the tax collector to prescribe certain books and records to be kept by certain permittees; providing an appropriation; providing effective dates.

—a companion measure, was substituted for **CS for SB 840** and read the second time by title. On motion by Senator Harden, by two-thirds vote **HB 2313** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 2382—A bill to be entitled An act relating to education and training; creating the Certified Teacher-Aide Welfare Transition Program to select and prepare recipients of public assistance to become certified in early-intervention child development and to become employed in certain elementary schools; recommending local, state, and federal funding sources; designating agency responsibility; providing authority for the agencies' recommendations; providing criteria for participation by historically black colleges, community colleges, and district school boards; requiring priorities for program planning and funding; transferring the federal JOBS program to the Department of Labor and Employment Security; providing for participation by an independent institution; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 1—On page 5, strike all of lines 10-31, and insert:

(6)(a) A community college or school district technical center is eligible to participate if it provides a technical certificate program in Child Development Early Intervention as approved by the Jobs and Education Partnership and it is participating in the Performance Based Incentive Funding program authorized in s. 239.249, Florida Statutes. Priority programs provide an option and incentives to articulate with an associate in science degree program or a baccalaureate degree program.

(b) A participating educational agency may earn funds appropriated for performance-based incentive funding for successful outcomes of enrollment and placement of recipients of public assistance who are in the program. In addition, an educational agency is eligible for an incentive award determined by the Jobs and Education Partnership for each recipient of public assistance who successfully completes a program leading to the award of a General Education Development credential.

Amendment 2 (with Title Amendment)—On page 7, strike all of lines 9 through 16 and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, lines 15 and 16, strike "transferring the federal JOBS program to the Department of Labor and Employment Security;"

On motion by Senator Kirkpatrick, the rules were waived to allow the following amendment to be considered:

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 3—On page 4, lines 26-30, strike everything after the period on line 26 and insert: Services may be provided in accordance with family choice by community colleges and school district technical centers, through family-service centers and full-service schools, or under contract with providers through central agencies.

On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 2382** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **CS for SB 1330** was deferred.

SB 2384—A bill to be entitled An act relating to warranty associations; amending s. 634.011, F.S.; providing a definition; amending s. 634.041, F.S.; decreasing a required percentage of unearned premium reserve to be deposited by certain companies; amending ss. 634.121, 634.312, and 634.414, F.S.; prohibiting filing or approving certain sales brochures; amending s. 634.1213, F.S.; deleting a provision authorizing approval of service warranty sales brochures; amending ss. 634.171, 634.318, and 634.420, F.S.; providing for proration of certain fees collected under certain circumstances; amending ss. 634.211, 634.323, and 634.426, F.S.; providing a definition; amending s. 634.281, F.S.; specifying unfair methods of competition and unfair or deceptive acts or practices; amending s. 634.317, F.S.; deleting a provision specifying licensure and appointment of certain persons as sales representatives under certain circumstances; amending s. 634.406, F.S.; deleting a requirement that certain premiums be placed in a premium reserve account under certain circumstances; repealing s. 634.137(2)(r), F.S., relating to additional information required by the department; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Williams and adopted:

Amendment 1 (with Title Amendment)—On page 1, strike everything after the enacting clause and insert:

Section 1. Subsection (3) of section 634.031, Florida Statutes, is amended to read:

634.031 License required.—

(3) No person shall transact, administer, or market service agreements ~~for a licensed service agreement company~~ unless it holds a subsisting license issued by the department authorizing it to transact the same kind or kinds of service agreement business in this state.

Section 2. Subsection (5) of section 634.081, Florida Statutes, is amended to read:

634.081 Suspension or revocation of license; grounds.—

(5) The department shall suspend or revoke the license of a company if it finds that the ratio of gross written premiums written to net assets exceeds 10 to 1 unless the company has in excess of $750,000 in net assets and is utilizing contractual liability insurance which cedes 100 percent of the service agreement company's claims liabilities to the contractual liability insurer or is utilizing contractual liability insurance which reimburses the service agreement company for 100 percent of its paid claims. *However, if a service agreement company has been licensed by the department in excess of 10 years, is in compliance with all applicable provisions of this part, and has net assets at all times in excess of $3,000,000 that comply with the provisions of part II of chapter 625, such company may not exceed a ratio of gross written premiums written to net assets of 15 to 1.*

Section 3. Subsection (1) of section 634.121, Florida Statutes, is amended to read:

634.121 Filing of forms, required procedures, provisions.—

(1) A service agreement form *or*~~,~~ related form~~, or service agreement company sales brochure~~ may not be issued or used in this state unless it has been filed with and approved by the department. *Upon application for a license, the department shall require the applicant to submit for approval each brochure, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution. The department shall disapprove any document which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material facts.*

(a) After an application has been approved, a licensee is not required to submit brochures or advertisement to the department for approval; however, a licensee may not have published, and a person may not publish, any brochure or advertisement which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material fact.

(b) For purposes of this section, brochures and advertising includes, but is not limited to, any report, circular, public announcement, certificate, or other printed matter or advertising material which is designed or used to solicit or induce any persons to enter into any motor vehicle service agreement.

Section 4. Subsection (1) of section 634.312, Florida Statutes, is amended to read:

634.312 Filing, approval of forms.—

(1) No warranty form or related form shall be issued or used in this state unless it has been filed with and approved by the department. *Also upon application for a license, the department shall require the applicant to submit for approval each brochure, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution. Approval of the application constitutes approval of such documents, unless the applicant has consented otherwise in writing. The department shall disapprove any document which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material facts.*

(a) After an application has been approved, a licensee is not required to submit brochures or advertisement to the department for approval; however, a licensee may not have published, and a person may not publish, any brochure or advertisement which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material fact.

(b) For purposes of this section, brochures and advertising includes, but is not limited to, any report, circular, public announcement, certificate, or other printed matter or advertising material which is designed or used to solicit or induce any persons to enter into any home warranty agreement.

Section 5. Section 634.317, Florida Statutes, is amended to read:

634.317 License and appointment required.—No person may solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative. ~~If a real estate office sells or issues home warranties, only one real estate broker for each office licensed under chapter 475 is required to be licensed and appointed as a sales representative under this part. The broker acting as sales representative is responsible for the warranties sold or issued through the office.~~

Section 6. Subsection (1) of section 634.406, Florida Statutes, is amended to read:

634.406 Financial requirements.—

(1) An association licensed under this part shall maintain a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force, wherever written. Such assets shall be held as prescribed under ss. 625.301-625 340. *For* ~~In the case of multiyear~~ contracts *in excess of 2 years* which are offered by associations having net assets of less than $500,000 and for which premiums are collected in advance for coverage in a subsequent year, 100 percent of the premiums for such subsequent years shall be placed in the funded, unearned premium reserve account.

Section 7. Subsection (1) of section 634.414, Florida Statutes, is amended to read:

634.414 Filing; approval of forms.—

(1) No service warranty form or related form shall be issued or used in this state unless it has been filed with and approved by the department. *Upon application for a license, the department shall require the*

applicant to submit for approval each brochure, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution. The department shall disapprove any document which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material facts.

(a) After an application has been approved, a licensee is not required to submit brochures or advertisement to the department for approval; however, a licensee may not have published, and a person may not publish, any brochure or advertisement which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material fact.

(b) For purposes of this section, brochures and advertising includes, but is not limited to, any report, circular, public announcement, certificate, or other printed matter or advertising material which is designed or used to solicit or induce any persons to enter into any service warranty agreement.

Section 8. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to warranty associations; amending s. 634.031, F.S.; clarifying a prohibition against transacting, administering, or marketing certain service agreements; amending s. 634.081, F.S.; limiting the ratio of gross written premiums written to net assets of certain service agreement companies under certain circumstances; amending s. 634.121, F.S.; providing procedures for filing and approval of service agreement forms; amending s. 634.312, F.S.; providing procedures for filing and approval of warranty forms; amending s. 634.317, F.S.; deleting a provision providing for selling or issuing home warranties through a real estate office; amending s. 634.406, F.S.; clarifying financial requirements for certain warranty contracts; amending s. 634.414, F.S.; providing procedures for filing and approval of service warranty forms; providing an effective date.

On motion by Senator Williams, by two-thirds vote **SB 2384** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB's 2030 and 2144—A bill to be entitled An act relating to public adjusters; amending s. 626.854, F.S.; deleting a provision that public adjusters act for another person; creating an exemption; prohibiting negotiation of claims for bodily injury, death, or noneconomic damages; prohibiting the giving of legal advice; defining the term "insured"; creating s. 626.8698, F.S.; providing disciplinary guidelines; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Crist:

Amendment 1—On page 3, line 1, after "another person" insert: who is not a public adjuster

On motion by Senator Crist, further consideration of **CS for SB's 2030 and 2144** with pending **Amendment 1** was deferred.

The Senate resumed consideration of—

CS for HB 1163—A bill to be entitled An act relating to public records; creating the public records mediation program within the Office of the Attorney General; providing duties of the office relating to public records dispute mediation, legislation, and training; requiring a report; amending s. 119.01, F.S.; revising provisions relating to state policy on public records; providing legislative intent with respect to electronic recordkeeping and access to such records; amending s. 119.011, F.S.; revising the definition of "public records"; amending s. 119.083, F.S.; defining "proprietary software"; providing requirements applicable to agencies that use proprietary software and that maintain public records in electronic systems; providing for fees; prohibiting agencies from entering into certain contracts for creation or maintenance of a public records database; amending s. 257.36, F.S.; providing that the Division of Library and Information Services shall institute a training program relating to access to public records; providing an effective date.

—which had been considered this day.

Senator Harris moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 6, between lines 23 and 24, insert:

Section 6. Section 257.37, Florida Statutes, is hereby repealed.

Section 7. Section 229.781, Florida Statutes, is amended to read:

229 781 Records; preservation; destruction.—

(1) ~~After complying with the provisions of s. 257.37,~~ The Department of Education is authorized to photograph, microphotograph, or reproduce on film or prints, documents, records, data, and information of a permanent character *in accordance with s. 119.01* ~~which in its discretion it may select~~, and the Department of Education is authorized to destroy any of the said documents after they have been photographed and after audit of the department has been completed for the period embracing the dates of said instruments. Photographs or microphotographs in the form of film or prints made in compliance with the provisions of this section shall have the same force and effect as the originals thereof would have, and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

(2) ~~After complying with the provisions of s. 257.37,~~ The Department of Education is authorized, in *accordance with s. 119.01* ~~its discretion~~, to destroy general correspondence which is over 3 years old; records of bills, accounts, vouchers and requisitions which are over 5 years old and copies of which have been filed with the Comptroller; and other records, papers and documents over 3 years old which do not serve as part of an agreement or understanding nor have value as permanent records.

Section 8. Subsections (2) and (3) of section 230.331, Florida Statutes, are amended to read:

230.331 Reproduction and destruction of district school records.—

(2) ~~After complying with the provisions of s. 257.37,~~ The superintendent is authorized to photograph, microphotograph, or reproduce on film or prints, documents, records, data, and information of a permanent character *in accordance with s. 119.01* ~~which in his discretion he may select~~, and the superintendent is authorized to destroy any of the said documents after they have been photographed and after audit of his office has been completed for the period embracing the dates of said instruments. Photographs or microphotographs in the form of film or prints made in compliance with the provisions of this section shall have the same force and effect as the originals thereof would have, and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

(3) ~~After complying with the provisions of s. 257.37,~~ The superintendent is authorized, in *accordance with s. 119.01* ~~his discretion~~, to destroy general correspondence which is over 3 years old and other records, papers and documents over 3 years old which do not serve as part of an agreement or understanding nor have value as permanent records.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 24, after the semicolon (;) insert: repealing s. 257.37, F.S., which provides legislative intent relating to microfilming and destruction of public records pursuant to local act; amending ss. 229.781 and 230.331, F.S., to conform;

On motion by Senator Sullivan, by two-thirds vote **CS for HB 1163** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 2934—A bill to be entitled An act relating to ecosystem management; creating the Hillsborough River Basin Ecosystem Management Act; establishing a team to devise an ecosystem-management program and plan in cooperation with state, regional, and local agencies; requiring

a report on regulatory alternatives and incentives; providing for an environmental education program and staff training; authorizing the establishment of voluntary pollution-prevention pilot projects; encouraging affected local governments to adopt comprehensive plan amendments consistent with the ecosystem-management plan; directing the Southwest Florida Water Management District to develop minimum flows and levels in the Hillsborough River Basin; providing for monitoring and reports; providing an appropriation; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 2934** to conform the bill to **CS for HB 2111**.

Pending further consideration of **SB 2934** as amended, on motion by Senator Dantzler, by two-thirds vote **CS for HB 2111** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Dantzler, the rules were waived and—

CS for HB 2111—A bill to be entitled An act relating to ecosystem management; providing legislative intent; directing the Florida Game and Fresh Water Fish Commission to be the lead agency in conducting a demonstration project related to encouraging private property owners to preserve their land in habitat suitable for panthers; providing for a report; directing the Department of Environmental Protection to be the lead agency in conducting a demonstration project in ecosystem management in the Hillsborough River and Bay Ecosystem; authorizing the secretary of the department to enter into agreements with landowners, developers, industry, or a governmental entity; providing for an interim report; providing for a South Walton County Demonstration Project; providing for an interim report; providing an effective date.

—a companion measure, was substituted for **SB 2934** and read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for HB 2111** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **SB 290** was deferred.

On motion by Senator Latvala, by two-thirds vote **CS for HB 1507** was withdrawn from the Committee on Natural Resources.

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

CS for HB 1507—A bill to be entitled An act relating to mangrove preservation; creating ss. 403.9321-403.9332, F.S., and amending and renumbering s. 403.938, F.S.; creating the "Mangrove Trimming and Preservation Act"; providing legislative findings; providing legislative intent; providing for delegation of mangrove protection to local governments; providing definitions; providing exemptions from permitting requirements; providing for general permits; requiring a permit for alteration of mangroves; providing for standards and procedures for issuance of permits; providing for professional mangrove trimmers; providing applicability of the act; providing for rules and enforcement; providing for mitigation and policies; providing applicable penalties; providing for variances; repealing ss. 403.93, 403.931, 403.9311, 403.932, 403.933, 403.935, and 403.936, F.S., relating to permit procedures for alteration of mangroves, and restoration of unlawfully altered mangroves; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1866** and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for HB 1507** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—4

Consideration of **SB 318** was deferred.

THE PRESIDENT PRESIDING

CS for HB 687—A bill to be entitled An act relating to corrections; creating the "Stop Turning Out Prisoners Act"; amending s. 944.275, F.S., relating to gain-time; revising guidelines with respect to eligibility for gain-time; providing a maximum limitation of 10 days upon the amount of incentive gain-time granted with respect to specified sentences; conforming language relating to incentive gain-time granted by the Department of Corrections; creating s. 944.281, F.S.; granting rulemaking authority to the department relating to ineligibility for gain-time due to disciplinary action; amending s. 775.082, F.S.; providing that persons convicted of any capital felony are ineligible for parole; providing an effective date.

—was read the second time by title. On motion by Senator Crist, by two-thirds vote **CS for HB 687** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

MATTERS ON RECONSIDERATION

The motion by Senator McKay that the Senate reconsider the vote by which—

SB 852—A bill to be entitled An act relating to public employees; amending ss. 231.40, 240.343, F.S.; limiting the amount of pay that certain employees of district school systems and community colleges may receive for unused sick leave upon termination of employment; amending s. 121.021, F.S.; redefining the term "average final compensation" for purposes of the Florida Retirement System to exclude certain payments for annual leave earned on or after July 1, 1995, from calculations of retirement benefits; amending s. 231.41, F.S.; conforming a cross-reference; providing an effective date.

—as amended failed to pass this day was taken up and the motion was adopted. The vote was:

Yeas—23 Nays—13

On motion by Senator McKay, **SB 852** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26 Nays—11

SB 318—A bill to be entitled An act relating to ad valorem taxation; amending s. 193.441, F.S.; providing legislative findings and declaration; amending s. 193.461, F.S.; providing for classification and assessment of high-water recharge lands; providing procedures and requirements; providing for appeals to the value adjustment board; specifying the factors applicable to such classification; providing that counties that choose to have a high-water recharge protection program must adopt an assessment formula by ordinance; authorizing municipalities within such counties to adopt such ordinances; amending ss. 193.052, 194.011, 194.032, 194.037, 195.073, and 195.096, F.S., relating to filing of returns, procedures of the value adjustment boards, and classification of real property, to conform; providing intent regarding application; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Dyer:

Amendment 1 (with Title Amendment)—On page 1, line 25, strike everything after the enacting clause and insert:

Section 1. Section 193.441, Florida Statutes, is amended to read:

193.441 Legislative intent*; findings and declaration.*—

(1) For the purposes of assessment roll preparation and recordkeeping, it is the legislative intent that any assessment for tax purposes which is less than the just value of the property shall be considered a classified use assessment and reported accordingly.

(2) The Legislature finds that Florida's groundwater is among the state's most precious and basic natural resources. The Legislature further finds that it is in the interest of the state to protect its groundwater

from pollution, overutilization, and other degradation because groundwater is the primary source of potable water for 90 percent of Floridians. The Legislature declares that it is in the public interest to allow county governments the flexibility to implement voluntary programs tax assessment that protect the state's high-water recharge areas.

Section 2. Section 193.625, Florida Statutes, is created to read:

193.625 High-water recharge lands; classification and assessment.—

(1) Notwithstanding the provisions of s. 193.461, the property appraiser shall, on an annual basis, classify for assessment purposes all lands within a county choosing to have a high-water recharge protection tax assessment program as either agricultural, nonagricultural or high-water recharge. Such classification shall apply only to taxes levied by the counties and municipalities adopting an ordinance pursuant to subsection (5).

(2) Any landowner whose land is within a county choosing to have a high-water recharge protection tax assessment program and whose land is denied high-water recharge classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of high-water recharge classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his right to appeal to the value adjustment board and of the filing deadline. The board may also review all lands classified by the property appraiser upon its own motion. The property appraiser shall have available at his office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(3)(a) No lands shall be classified as high-water recharge lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such lands, may require the taxpayer or his representative to furnish the property appraiser such information as may reasonably be required to establish that the lands were actually used for a bona fide high-water recharge purpose. Failure to make timely application by March 1 constitutes a waiver for 1 year of the privilege herein granted for high-water recharge assessment. The owner of land that was classified high-water recharge in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted.

(b) Subject to the restrictions set out in this section, only lands that are used primarily for bona fide high-water recharge purposes may be classified as high-water recharge. The term "bona fide high-water recharge purposes" means good-faith high-water recharge use of the land. In determining whether the use of the land for high-water recharge purposes is bona fide, the following factors apply:

1. The land use must have been continuous.

2. The land use must be vacant residential, vacant commercial, vacant industrial, vacant institutional, nonagricultural, or single-family residential. The maintenance of one single-family residential dwelling on part of the land does not in itself preclude a high-water recharge classification.

3. The land must be located within a prime groundwater recharge area established in accordance with s. 373.0395 or in an area considered by the appropriate water management district to supply significant groundwater recharge. Significant groundwater recharge shall be assessed by the appropriate water management district on the basis of hydrologic characteristics of the soils and underlying geologic formations.

4. The land must not be receiving any other special classification.

5. There must not be in the vicinity of the land any activity that has the potential to contaminate the ground water, including, but not limited to, the presence of:

a. Toxic or hazardous substances;

b. Free-flowing saline artesian wells;

c. Drainage wells;

d. Underground storage tanks; or

e. Any potential pollution source existing on a property that drains to the property seeking the high-water recharge classification.

6. The owner of the property has entered into a contract with the county as provided in subsection (5).

7. The parcel of land must be at least 10 acres.

Notwithstanding the provisions of this paragraph, the property appraiser shall use the best available information on the high-water recharge characteristics of lands when making a final determination to grant or deny an application for high-water recharge assessment for such lands.

(4) It is the intent of the Legislature that the provisions of this section shall in no way be implied or used as the basis for future zoning restrictions.

(5)(a) In years in which proper application for high-water recharge assessment has been made and granted pursuant to this section, for purposes of taxes levied by the county, the assessment of the land shall be based on the formula adopted by the county provided for in paragraph (b).

(b) Counties that choose to have a high-water recharge protection tax assessment program must adopt by ordinance a formula for determining the assessment of properties classified as high-water recharge property and a method of contracting with property owners who wish to be involved in the program.

(c) The contract must include a provision that the land assessed as high-water recharge land will be used primarily for bona fide high-water recharge purposes for a period of at least 10 years, as determined by the county, from January 1 of the year in which the assessment is made. Violation of the contract results in the property owner being subject to the payment of the difference between the total amount of taxes actually paid on the property and the amount of taxes which would have been paid in each previous year the contract was in effect if the high-water recharge assessment had not been used.

(d) A municipality located in any county that adopts an ordinance pursuant to paragraph (a) may adopt an ordinance providing for the assessment of land located in the incorporated areas in accordance with the county's ordinance.

(e) Property owners whose land lies within an area determined to be a high-water recharge area shall not be required to have their land assessed according to the high-water recharge classification.

(f) In years in which proper application for high-water recharge assessment has not been made, the land shall be assessed under the provisions of s. 193.011.

Section 3. Subsection (2) of section 193.052, Florida Statutes, is amended to read:

193.052 Preparation and serving of returns.—

(2) No return shall be required for real property the ownership of which is reflected in instruments recorded in the public records of the county in which the property is located, unless otherwise required in this title. In order for land to be considered for agricultural classification under s. 193.461 *or high-water recharge classification under s. 193.625*, an application for such classification must be filed on or before March 1 of each year with the property appraiser of the county in which *the* ~~such~~ land is located. *The* ~~Such~~ application shall state that such lands on January 1 of that year were used primarily for bona fide commercial agricultural *or high-water recharge* purposes.

Section 4. Paragraph (d) of subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board shall describe the property by parcel number and shall be filed as follows:

(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural *or high-water recharge* classification application, or a deferral, the petition shall be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, *s. 193.625,* or s. 196.193 or notice by the tax collector under s. 197.253.

Section 5. Paragraph (b) of subsection (1) of section 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.—

(1)

(b) Notwithstanding the provisions of paragraph (a), the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue, but not earlier than July 1, to hear appeals pertaining to the denial by the property appraiser of exemptions, agricultural *and high-water recharge* classifications, and deferrals under subparagraphs 2., 3., and 4. of paragraph (a). In such event, however, the board may not certify any assessments under s. 193.122 until the Department of Revenue has approved *the* ~~such~~ assessments in accordance with s. 193.1142 and all hearings have been held with respect to the particular parcel under appeal.

Section 6. Subsection (2) of section 194.037, Florida Statutes, is amended to read:

194.037 Disclosure of tax impact.—

(2) There shall be a line entry in each of the columns described above, for each of the following property classes:

(a) Improved residential property, which shall be identified as "Residential."

(b) Improved commercial property, which shall be identified as "Commercial."

(c) Improved industrial property, utility property, leasehold interests, subsurface rights, and other property not properly attributable to other classes listed herein, which shall be identified as "Industrial and Misc."

(d) Agricultural property, which shall be identified as "Agricultural."

(e) High-water recharge property, which shall be identified as "High-Water Recharge."

(f)~~(e)~~ Tangible personal property, which shall be identified as "Business Machinery and Equipment."

(g)~~(f)~~ Vacant land and nonagricultural acreage, which shall be identified as "Vacant Lots and Acreage."

Section 7. Subsection (1) of section 195.073, Florida Statutes, 1994 Supplement, is amended to read:

195.073 Classification of property.—All items required by law to be on the assessment rolls shall receive a classification based upon the use of the property. The department shall promulgate uniform definitions for all classifications. The department may designate other subclassifications of property. No assessment roll may be approved by the department which does not show proper classifications.

(1) Real property shall be classified according to the assessment basis of the land into the following classes:

(a) Residential, subclassified into categories, one category for homestead property and one for nonhomestead property:

1. Single family.

2. Mobile homes.

3. Multifamily.

4. Condominiums.

5. Cooperatives.

6. Retirement homes.

(b) Commercial and industrial.

(c) Agricultural.

(d) Nonagricultural acreage.

(e) High-water recharge.

(f)~~(e)~~ Exempt, wholly or partially.

(g)~~(f)~~ Centrally assessed.

(h)~~(g)~~ Leasehold interests.

(i)~~(h)~~ Time-share property.

(j)~~(i)~~ Other.

Section 8. Paragraph (a) of subsection (3) and subsection (6) of section 195.096, Florida Statutes, are amended to read:

195.096 Review of assessment rolls.—

(3)(a) Upon completion of review pursuant to paragraph (2)(f), the Division of Ad Valorem Tax shall publish the results of reviews conducted pursuant to this section. The results shall include all statistical and analytical measures computed pursuant to this section for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following real property classes whenever such classes constituted 5 percent or more of the total assessed value of real property in a county on the previous tax roll:

1. Residential property that consists of one primary living unit, including, but not limited to, single-family residences, condominiums, cooperatives, and mobile homes.

2. Residential property that consists of two or more primary living units.

3. Agricultural, *high-water recharge,* and other use-valued property.

4. Vacant lots.

5. Nonagricultural acreage and other undeveloped parcels.

6. Improved commercial and industrial property.

7. Taxable institutional or governmental, utility, locally assessed railroad, oil, gas and mineral land, subsurface rights, and other real property.

When one of the above classes constituted less than 5 percent of the total assessed value of all real property in a county on the previous assessment roll, the division may combine it with one or more other classes of real property for purposes of assessment ratio studies or use the weighted average of the other classes for purposes of calculating the level of assessment for all real property in a county. The division shall also publish such results for any subclassifications of the above classes or assessment rolls it may have chosen to study.

(6) Reviews conducted pursuant to this section shall include an evaluation of whether nonhomestead exempt values determined by the appraiser pursuant to applicable provisions of chapter 196 are correct and whether agricultural *and high-water recharge* classifications were granted in accordance with law.

Section 9. The amendments to sections 193.625 and 194.037, Florida Statutes, by this act, insofar as they impose duties on property appraisers and on clerks of the court, apply only to the unincorporated area within those counties that adopt an ordinance under section 193.625(5), Florida Statutes. A municipality located in any county that adopts such an ordinance may include all eligible property for high-water recharge classification by ordinance adopted by the municipality's governing body.

Section 10. The amendments to section 193.441, section 193.625, section 193.052, section 194.011, section 194.032, section 194.037, section 195.073, or section 195.096, Florida Statutes, by this act do not preclude the state or any local government from implementing other programs or measures to protect the high-water recharge areas within the counties of the state.

Section 11. This act shall take effect January 1, 1996.

And the title is amended as follows:

In title, on page 1, strike all of lines 2-21 and insert: An act relating to ad valorem taxation; to be called the Swanson-McEwan Bluebelt Act of 1995; amending s. 193.441, F.S.; providing legislative findings and declaration; creating s. 193.625, F.S.; providing for classification and assessment of high-water recharge lands in counties choosing to have a high-water recharge protection tax assessment program; providing that such classification shall apply only to taxes levied by counties and municipalities adopting such a program; providing procedures and requirements; providing for appeals to the value adjustment board; specifying the factors applicable to such classification; providing that counties that choose to have a high-water recharge protection program must adopt an assessment formula by ordinance; providing that land assessed under this program must be used for high-water recharge purposes for at least 10 years;

authorizing municipalities within such counties to adopt such ordinances; amending ss. 193.052, 194.011, 194.032, 194.037, 195.073, and 195.096, F.S., relating to filing of returns, procedures of the value adjustment boards, and classification of real property, to conform; providing intent regarding application; providing an effective date.

On motion by Senator Dyer, the rules were waived to allow the following amendment to be considered:

Senator Dyer moved the following substitute amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 1, line 25, strike everything after the enacting clause and insert:

Section 1. Section 193.441, Florida Statutes, is amended to read:

193.441 Legislative intent*; findings and declaration.*—

(1) For the purposes of assessment roll preparation and recordkeeping, it is the legislative intent that any assessment for tax purposes which is less than the just value of the property shall be considered a classified use assessment and reported accordingly.

(2) The Legislature finds that Florida's groundwater is among the state's most precious and basic natural resources. The Legislature further finds that it is in the interest of the state to protect its groundwater from pollution, overutilization, and other degradation because groundwater is the primary source of potable water for 90 percent of Floridians. The Legislature declares that it is in the public interest to allow county governments the flexibility to implement voluntary programs tax assessment that protect the state's high-water recharge areas.

Section 2. Section 193.625, Florida Statutes, is created to read:

193.625 High-water recharge lands; classification and assessment.—

(1) Notwithstanding the provisions of s. 193.461, the property appraiser shall, on an annual basis, classify for assessment purposes all lands within a county choosing to have a high-water recharge protection tax assessment program as either agricultural, nonagricultural or high-water recharge. Such classification shall apply only to taxes levied by the counties and municipalities adopting an ordinance pursuant to subsection (5).

(2) Any landowner whose land is within a county choosing to have a high-water recharge protection tax assessment program and whose land is denied high-water recharge classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of high-water recharge classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his right to appeal to the value adjustment board and of the filing deadline. The board may also review all lands classified by the property appraiser upon its own motion. The property appraiser shall have available at his office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(3)(a) No lands shall be classified as high-water recharge lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such lands, may require the taxpayer or his representative to furnish the property appraiser such information as may reasonably be required to establish that the lands were actually used for a bona fide high-water recharge purpose. Failure to make timely application by March 1 constitutes a waiver for 1 year of the privilege herein granted for high-water recharge assessment. The owner of land that was classified high-water recharge in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted.

(b) Subject to the restrictions set out in this section, only lands that are used primarily for bona fide high-water recharge purposes may be classified as high-water recharge. The term "bona fide high-water recharge purposes" means good-faith high-water recharge use of the land. In determining whether the use of the land for high-water recharge purposes is bona fide, the following factors apply:

1. The land use must have been continuous.

2. The land use must be vacant residential, vacant commercial, vacant industrial, vacant institutional, nonagricultural, or single-family residential. The maintenance of one single-family residential dwelling on part of the land does not in itself preclude a high-water recharge classification.

3. The land must be located within a prime groundwater recharge area established in accordance with s. 373.0395 or in an area considered by the appropriate water management district to supply significant groundwater recharge. Significant groundwater recharge shall be assessed by the appropriate water management district on the basis of hydrologic characteristics of the soils and underlying geologic formations.

4. The land must not be receiving any other special classification.

5. There must not be in the vicinity of the land any activity that has the potential to contaminate the ground water, including, but not limited to, the presence of:

a. Toxic or hazardous substances;

b. Free-flowing saline artesian wells;

c. Drainage wells;

d. Underground storage tanks; or

e. Any potential pollution source existing on a property that drains to the property seeking the high-water recharge classification.

6. The owner of the property has entered into a contract with the county as provided in subsection (5).

7. The parcel of land must be at least 10 acres.

Notwithstanding the provisions of this paragraph, the property appraiser shall use the best available information on the high-water recharge characteristics of lands when making a final determination to grant or deny an application for high-water recharge assessment for such lands.

(4) It is the intent of the Legislature that the provisions of this section shall in no way be implied or used as the basis for future zoning restrictions.

(5)(a) In years in which proper application for high-water recharge assessment has been made and granted pursuant to this section, for purposes of taxes levied by the county, the assessment of the land shall be based on the formula adopted by the county provided for in paragraph (b).

(b) Counties that choose to have a high-water recharge protection tax assessment program must adopt by ordinance a formula for determining the assessment of properties classified as high-water recharge property and a method of contracting with property owners who wish to be involved in the program.

(c) The contract must include a provision that the land assessed as high-water recharge land will be used primarily for bona fide high-water recharge purposes for a period of at least 10 years, as determined by the county, from January 1 of the year in which the assessment is made. Violation of the contract results in the property owner being subject to the payment of the difference between the total amount of taxes actually paid on the property and the amount of taxes which would have been paid in each previous year the contract was in effect if the high-water recharge assessment had not been used.

(d) A municipality located in any county that adopts an ordinance pursuant to paragraph (a) may adopt an ordinance providing for the assessment of land located in the incorporated areas in accordance with the county's ordinance.

(e) Property owners whose land lies within an area determined to be a high-water recharge area shall not be required to have their land assessed according to the high-water recharge classification.

(f) In years in which proper application for high-water recharge assessment has not been made, the land shall be assessed under the provisions of s. 193.011.

Section 3. Subsection (2) of section 193.052, Florida Statutes, is amended to read:

193.052 Preparation and serving of returns.—

(2) No return shall be required for real property the ownership of which is reflected in instruments recorded in the public records of the county in which the property is located, unless otherwise required in this title. In order for land to be considered for agricultural classification under s. 193.461 *or high-water recharge classification under s. 193.625*, an application for such classification must be filed on or before March 1 of each year with the property appraiser of the county in which *the* ~~such~~ land is located. *The* ~~Such~~ application shall state that such lands on January 1 of that year were used primarily for bona fide commercial agricultural *or high-water recharge* purposes.

Section 4. Paragraph (d) of subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board shall describe the property by parcel number and shall be filed as follows:

(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural *or high-water recharge* classification application, or a deferral, the petition shall be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, *s. 193.625,* or s. 196.193 or notice by the tax collector under s. 197.253.

Section 5. Paragraph (b) of subsection (1) of section 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.—

(1)

(b) Notwithstanding the provisions of paragraph (a), the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue, but not earlier than July 1, to hear appeals pertaining to the denial by the property appraiser of exemptions, agricultural *and high-water recharge* classifications, and deferrals under subparagraphs 2., 3., and 4. of paragraph (a). In such event, however, the board may not certify any assessments under s. 193.122 until the Department of Revenue has approved *the* ~~such~~ assessments in accordance with s. 193.1142 and all hearings have been held with respect to the particular parcel under appeal.

Section 6. Subsection (2) of section 194.037, Florida Statutes, is amended to read:

194.037 Disclosure of tax impact.—

(2) There shall be a line entry in each of the columns described above, for each of the following property classes:

(a) Improved residential property, which shall be identified as "Residential."

(b) Improved commercial property, which shall be identified as "Commercial."

(c) Improved industrial property, utility property, leasehold interests, subsurface rights, and other property not properly attributable to other classes listed herein, which shall be identified as "Industrial and Misc."

(d) Agricultural property, which shall be identified as "Agricultural."

(e) High-water recharge property, which shall be identified as "High-Water Recharge."

(f)~~(e)~~ Tangible personal property, which shall be identified as "Business Machinery and Equipment."

(g)~~(f)~~ Vacant land and nonagricultural acreage, which shall be identified as "Vacant Lots and Acreage."

Section 7. Subsection (1) of section 195.073, Florida Statutes, 1994 Supplement, is amended to read:

195.073 Classification of property.—All items required by law to be on the assessment rolls shall receive a classification based upon the use of the property. The department shall promulgate uniform definitions for all classifications. The department may designate other subclassifications of property. No assessment roll may be approved by the department which does not show proper classifications.

(1) Real property shall be classified according to the assessment basis of the land into the following classes:

(a) Residential, subclassified into categories, one category for homestead property and one for nonhomestead property:

1. Single family.

2. Mobile homes.

3. Multifamily.

4. Condominiums.

5. Cooperatives.

6. Retirement homes.

(b) Commercial and industrial.

(c) Agricultural.

(d) Nonagricultural acreage.

(e) High-water recharge.

(f)~~(e)~~ Exempt, wholly or partially.

(g)~~(f)~~ Centrally assessed.

(h)~~(g)~~ Leasehold interests.

(i)~~(h)~~ Time-share property.

(j)~~(i)~~ Other.

Section 8. Paragraph (a) of subsection (3) and subsection (6) of section 195.096, Florida Statutes, are amended to read:

195.096 Review of assessment rolls.—

(3)(a) Upon completion of review pursuant to paragraph (2)(f), the Division of Ad Valorem Tax shall publish the results of reviews conducted pursuant to this section. The results shall include all statistical and analytical measures computed pursuant to this section for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following real property classes whenever such classes constituted 5 percent or more of the total assessed value of real property in a county on the previous tax roll:

1. Residential property that consists of one primary living unit, including, but not limited to, single-family residences, condominiums, cooperatives, and mobile homes.

2. Residential property that consists of two or more primary living units.

3. Agricultural, *high-water recharge,* and other use-valued property.

4. Vacant lots.

5. Nonagricultural acreage and other undeveloped parcels.

6. Improved commercial and industrial property.

7. Taxable institutional or governmental, utility, locally assessed railroad, oil, gas and mineral land, subsurface rights, and other real property.

When one of the above classes constituted less than 5 percent of the total assessed value of all real property in a county on the previous assessment roll, the division may combine it with one or more other classes of real property for purposes of assessment ratio studies or use the weighted average of the other classes for purposes of calculating the level of assessment for all real property in a county. The division shall also publish such results for any subclassifications of the above classes or assessment rolls it may have chosen to study.

(6) Reviews conducted pursuant to this section shall include an evaluation of whether nonhomestead exempt values determined by the appraiser pursuant to applicable provisions of chapter 196 are correct and whether agricultural *and high-water recharge* classifications were granted in accordance with law.

Section 9. The amendments to sections 193.625 and 194.037, Florida Statutes, by this act, insofar as they impose duties on property appraisers and on clerks of the court, apply only to the unincorporated area within those counties that adopt an ordinance under section 193.625(5), Florida

Statutes. A municipality located in any county that adopts such an ordinance may include all eligible property for high-water recharge classification by ordinance adopted by the municipality's governing body.

Section 10. The amendments to section 193.441, section 193.625, section 193.052, section 194.011, section 194.032, section 194.037, section 195.073, or section 195.096, Florida Statutes, by this act do not preclude the state or any local government from implementing other programs or measures to protect the high-water recharge areas within the counties of the state.

Section 11. This act may be cited as the "Henry Swanson-Bruce McEwan Bluebelt Act of 1995."

Section 12. This act shall take effect January 1, 1996.

And the title is amended as follows:

In title, on page 1, line 2, strike everything before the enacting clause and insert: An act relating to ad valorem taxation; amending s. 193.441, F.S.; providing legislative findings and declaration; creating s. 193.625, F.S.; providing for classification and assessment of high-water recharge lands in counties choosing to have a high-water recharge protection tax assessment program; providing that such classification shall apply only to taxes levied by counties and municipalities adopting such a program; providing procedures and requirements; providing for appeals to the value adjustment board; specifying the factors applicable to such classification; providing that counties that choose to have a high-water recharge protection program must adopt an assessment formula by ordinance; providing that land assessed under this program must be used for high-water recharge purposes for at least 10 years; authorizing municipalities within such counties to adopt such ordinances; amending ss. 193.052, 194.011, 194.032, 194.037, 195.073, and 195.096, F.S., relating to filing of returns, procedures of the value adjustment boards, and classification of real property, to conform; providing intent regarding application; providing a short title; providing an effective date.

On motion by Senator Dyer, by two-thirds vote **SB 318** 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—1

SENATOR DUDLEY PRESIDING

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

CS for HB 1757—A bill to be entitled An act relating to funding of retained professional sports franchise facilities; amending ss. 212.20 and 288.1162, F.S.; providing for certification of such facilities by the Department of Commerce; providing procedures and requirements for certification; prohibiting certain previously certified applicants from additional certification; providing for a monthly distribution of a portion of sales tax revenues to such certified facilities for a specified period; providing for use of such revenues; amending s. 125.0104, F.S., relating to the tourist development tax; expanding use of an additional 1-percent tax to allow for the construction and operation of a professional sports franchise facility and a convention center; providing an effective date.

—a companion measure, was substituted for **SB 1526** and by two-thirds vote read the second time by title.

On motion by Senator Grant, further consideration of **CS for HB 1757** was deferred.

SB 888—A bill to be entitled An act relating to collective bargaining; amending s. 447.309, F.S.; revising language with respect to funding the provisions of a collective bargaining agreement by the Florida Legislature; creating s. 447.4095, F.S.; providing for negotiating the impact of a financial urgency; providing an effective date.

—was read the second time by title.

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Gutman and adopted:

Amendment 1—On page 2, line 15, after "447.403." insert: An unfair labor practice charge shall not be filed during the 14 days during which negotiations are occurring pursuant to this section.

On motion by Senator Gutman, by two-thirds vote **SB 888** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32 Nays—1

On motion by Senator Wexler, by two-thirds vote **CS for HB 1319** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Wexler—

CS for HB 1319—A bill to be entitled An act relating to capital felonies; amending s. 27.7001, F.S.; providing legislative intent to restrict scope of collateral representation provided in capital cases; amending s. 119.07, F.S., relating to public records; providing legislative intent with respect to discovery in collateral postconviction proceedings; amending s. 921.141, F.S.; providing an aggravating circumstance for capital felony sentencing when the felon was on probation at the time of the crime; providing an aggravating circumstance for capital felony sentencing when the capital felon has committed or attempted to commit aggravated child abuse, or when the victim of the capital felony is under 12 years old; providing an aggravating circumstance for capital felony sentencing when the victim of the capital felony is vulnerable due to advanced age or disability or because the defendant stands in a position of familial or custodial authority; amending ss. 921.141 and 921.142, F.S.; providing for judicial use of nonbinding advisory recommendations returned by the jury in a capital case and in a capital drug trafficking case; removing references to advisory sentence; authorizing the court to make findings requiring the death sentence within 30 days of sentencing; providing 2-year time period in which disposition must be rendered on automatic review of certain capital felony cases and deleting requirement of certification of the record by the sentencing court; providing for severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 1846** and read the second time by title. On motion by Senator Wexler, by two-thirds vote **CS for HB 1319** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motion by Senator Horne, by two-thirds vote **CS for HB 1759** was withdrawn from the Committees on Health and Rehabilitative Services; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Horne—

CS for HB 1759—A bill to be entitled An act relating to public assistance benefit recovery; providing for privatization of public assistance benefit recovery activities of the Department of Health and Rehabilitative Services; directing the department to issue requests for proposals, receive bids, and negotiate contracts for services; providing for funding; providing responsibility of the Economic Services Program Office of the department; providing for certain consideration of employees displaced by the act; establishing a task force to provide reemployment assistance; providing an effective date.

—a companion measure, was substituted for **SB 2726** and read the second time by title. On motion by Senator Horne, by two-thirds vote **CS for HB 1759** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Senate resumed consideration of—

CS for HB 1757—A bill to be entitled An act relating to funding of retained professional sports franchise facilities; amending ss. 212.20 and 288.1162, F.S.; providing for certification of such facilities by the Department of Commerce; providing procedures and requirements for certification; prohibiting certain previously certified applicants from additional certification; providing for a monthly distribution of a portion of sales tax revenues to such certified facilities for a specified period; providing for use of such revenues; amending s. 125.0104, F.S., relating to the tourist development tax; expanding use of an additional 1-percent tax to allow for the construction and operation of a professional sports franchise facility and a convention center; providing an effective date.

—which had been considered this day.

On motion by Senator Grant, by two-thirds vote **CS for HB 1757** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—1

The Senate resumed consideration of—

HB 1499—A bill to be entitled An act relating to the regulation of onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; amending the definition of "available publicly-owned or investor-owned sewerage system"; defining the term "potable water line"; redefining an exemption; amending standards for the placement of onsite sewage treatment and disposal systems; providing for system compliance with specified rules; providing standards for design criteria and for performance criteria; providing for local public health units to approve or disapprove systems and to refer disapprovals to the Department of Health and Rehabilitative Services for a further determination; providing deadlines for such reviews; providing for written notification to the applicant of the department's determination and for the applicant's opportunity to pursue a variance or seek review; providing a standard for water table determinations and soil suitability modifying the application submission process; requiring connection of certain onsite sewage treatment and disposal systems to available public-owned or investor-owned sewerage systems under certain circumstances; providing application; providing an exception; providing criteria for sewer service and sewer services charges relating to certain onsite sewage systems; amending s. 381.0066, F.S., to conform cross-references; amending s. 381.0068, F.S.; redesignating the technical review panel as the technical review and advisory panel; providing duties of the panel; providing for panel membership, terms, meetings, and reimbursement; requiring the department to present proposed rules to the panel for comment; requiring the department to keep minutes of panel meetings; repealing s. 381.00655, F.S., relating to connection of existing onsite sewage treatment and disposal systems to central sewerage systems; providing an effective date.

—which had been considered this day.

Senator Bankhead moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Subsections (2) and (4) of section 381.0065, Florida Statutes, 1994 Supplement, are amended, and new subsections (6) and (7) are added to that section to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

(a) "Available publicly owned or investor-owned sewerage system" means a publicly owned or investor-owned sewerage system that is capable of being connected to the plumbing of an establishment or residence so long as:

1. The sewerage system is not under a Department of Environmental Protection moratorium;

2. The sewerage system has adequate permitted capacity to accept the sewage to be generated by the establishment or residence;

3. For a *residential subdivision lot, a* single-family residence, or ~~for~~ an establishment *any of which* ~~that~~ has an estimated sewage flow of 1,000 gallons per day or less, a sewer line exists in a public easement or right-of-way that abuts the *residential subdivision lot or the* property of the establishment or residence and gravity flow can be naturally or artificially maintained from the *residential subdivision lot, establishment, or residence* ~~establishment's or residence's drain~~ to the sewer line;

4. For estimated sewage flows exceeding 1,000 gallons per day, with the exception of *a residential subdivision lot or* a single-family residence, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the property of the establishment and is within 50 feet of the property line of the establishment as accessed via existing rights-of-way or easements; and

5. For areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within one-fourth mile of the development as measured and accessed via existing easements or rights-of-way, and, for repair or modification of these areas, a sewerage system exists within 500 feet of an establishment's or residence's sewer stub-out as accessed via existing rights-of-way or easements.

(b) "Blackwater" means that part of domestic sewage carried off by toilets, urinals, and kitchen drains.

(c) "Domestic sewage" means human body waste and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from appurtenances at a residence or establishment.

(d) "Graywater" means that part of domestic sewage that is not blackwater, including waste from the bath, lavatory, laundry, and sink, except kitchen sink waste.

(e) "Florida Keys" means those islands of the state located within the boundaries of Monroe County.

(f) "Injection well" means an open vertical hole at least 90 feet in depth, cased and grouted to at least 60 feet in depth which is used to dispose of effluent from an onsite sewage treatment and disposal system.

(g) "Innovative system" means an onsite sewage treatment and disposal system that, in whole or in part, employs materials, devices, or techniques that are novel or unique and that have not been successfully field-tested under sound scientific and engineering principles under climatic and soil conditions found in this state.

(h) "Lot" means a parcel or tract of land described by reference to recorded plats or by metes and bounds, or the least fractional part of subdivided lands having limited fixed boundaries or an assigned number, letter, or any other legal description by which it can be identified.

(i) "Onsite sewage treatment and disposal system" means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(j) "Potable water line" means any water line that is connected to a potable water supply source, but the term does not include an irrigation line with one of the following types of backflow devices:

1. Atmospheric or pressure vacuum breaker or double check valve, or decector check assembly if no chemicals are injected into the irrigation system; or

2. Reduced pressure backflow preventer if chemicals such as fertilizer, pesticides, or herbicides, are injected into the irrigation system.

(k)~~(j)~~ "Septage" means a mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an onsite sewage treatment and disposal system.

(l)~~(k)~~ "Subdivision" means, for residential use, any tract or plot of land divided into two or more lots or parcels of which at least one is 1 acre or less in size for sale, lease, or rent. A subdivision for commercial or industrial use is any tract or plot of land divided into two or more lots or parcels of which at least one is 5 acres or less in size and which is for sale, lease, or rent.

(m)~~(l)~~ "Surface water" means a recognizable body of water, including swamp or marsh areas, bayheads, cypress ponds and sloughs, and natural or constructed ponds contained within a recognizable boundary. This does not include retention or detention areas designed to contain standing or flowing water for less than 72 hours after a rainfall.

(n)~~(m)~~ "Toxic or hazardous chemical" means a substance that poses a serious danger to human health or the environment.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the Department of Health and Rehabilitative Services. The department may issue permits to carry out this section. A construction permit

is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit is valid for 1 year from the date of issuance and must be renewed annually. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal system, provided the projected daily domestic sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted hereunder can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily domestic sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding the provisions of paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health and Rehabilitative Services, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed upon densities are reached. The department may consider assurances filed with the Department of Business and Professional Regulation under chapter 498 in determining the adequacy of the financial assurance required by this paragraph. In a subdivision regulated by this paragraph, the average daily domestic sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any area where a publicly owned or investor-owned sewerage system is available *as that term is defined in s. 381.0065(2) for any residential subdivision* ~~contiguous to the proposed subdivision or within one-fourth mile of the subdivision with accessibility by existing public right-of-way~~.

(e) Onsite sewage treatment and disposal systems must not be placed closer than:

1. Seventy-five feet from a private potable well.

2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.

3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.

4. Seventy-five feet from surface waters, as defined in this section.

5. Fifty feet from any nonpotable well.

6. Ten feet from any storm sewer pipe to the maximum extent possible, but in no instance shall the setback be less than five feet.

7. Fifteen feet from the design high-water line of retention areas, detention areas or swales designed to contain standing or flowing water for less than 72 hours after a rainfall, or the design high-water level of normally dry drainage ditches or normally dry individual-lot stormwater-retention areas.

(f) All provisions of this section and rules adopted hereunder relating to soil condition, water table elevation, distance, and other setback requirements *must* ~~shall~~ be equally applied to all lots, *with the following exceptions:*

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after July 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. ~~However,~~ If rules in effect at the time of *the* ~~onsite sewage treatment and disposal system construction~~ permit application *is filed* ~~relating to surface water setbacks and drainfield sizes~~ cannot be met, *residential lots* platted and recorded ~~lots or residential subdivision lots that have been~~ *or* approved ~~by the appropriate permitting agencies~~ on or after January 1, 1972, shall, *to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval.* ~~be subject to surface water setbacks and drainfield sizes in effect at the time of approval.~~ In determining the *maximum extent of compliance with current rules that is possible* ~~applicability of specific rules with respect to surface water setbacks and drainfield sizes~~, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.

2. ~~However,~~ Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for domestic onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a.~~1.~~ Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b.~~2.~~ One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(g)1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The board consists of the following:

a. The Assistant Health Officer for Environmental Health of the Department of Health and Rehabilitative Services or his designee.

b. A representative from the county public health units.

c. A representative from the home building industry.

d. A representative from the septic tank industry.

e. A representative from the Department of Environmental Protection.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration but may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(h) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department shall not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(i) An onsite sewage treatment and disposal system for a single family residence that is designed by a professional engineer registered in the State of Florida and certified by such engineer to comply with performance criteria adopted by the department must be approved by the department.

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that the systems do not adversely affect the public health or significantly degrade the groundwater or surface water. The performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface water receiving body and the structural and maintenance viability of the system for the treatment of domestic and commercial wastewater. Performance criteria shall address the performance of a system and not system design.

2. The technical review and advisory panel shall assist the department in the development of system performance criteria. Workshops on the development of the rule shall commence not later than September 1, 1995. The department shall publish rules delineating the performance criteria applicable to engineer designed systems no later than October 1, 1996.

3. A person electing to utilize an engineer designed system shall upon completion of such design submit the system design certified by a registered professional engineer to the local public health unit. The local public health unit may utilize an outside consultant to review the engineer designed system with acutal cost of such review to be borne by the applicant. Within 15 working days of the filing of an application for an engineer designed system, the local public health unit shall either issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the state health office for a determination as to whether the system should be approved, disapproved, or approved with modification. The state health office engineer's determination shall prevail over the action of the local public health unit. The applicant shall be notified in writing of the department's determination and its rights to pursue a variance or seek review under the provisions of chapter 120.

4. The department may, as specified by rule, require that an annual report on the status of compliance of the system with the performance criteria be provided by the design engineer or other professional engineer registered in the state to the local public health unit beginning 12 months after the system has been placed into operation. The report shall include system sampling results if sampling of the system is appropriate.

5. If an engineer designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered if necessary to bring the system into compliance with the provisions of this section.

(j)~~(i)~~ With respect to an innovative system, the department may evaluate research and developmental studies, performance and reliability data, protocols for applicability, a disinterested third-party certifier report, or a Florida Registered Professional Engineer report to determine the suitability of the system for use in this state. If the department is not satisfied to a reasonable certainty that the data provide evidence of the effectiveness and reliability of the innovative system or its use, the department may deny a permit or request further studies by a third-party certifier accredited by the American National Standards Institute. The department may permit a limited number of installations of innovative systems for restricted use for a specified performance and evaluation period, not to exceed 5 years, provided the permitholder maintains all monitoring equipment and makes and files all records and reports the department requires to evaluate the effect of the innovative system on public health, groundwater, and surface waters. The department may require a fee from the supplier of the innovative system to cover the department's costs to conduct ongoing field evaluations of a representative number of such innovative systems. In addition, the department shall require a performance bond for a minimum of 5 years to cover the cost of replacing malfunctioning innovative systems. When the department is satisfied that the innovative system functions properly and does not pose a health hazard or cause degradation of groundwater or surface waters, it shall approve the innovative system for general use.

(k)~~(j)~~ For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and which considers water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The department shall require effluent from onsite sewage treatment and disposal systems to meet advanced waste treatment concentrations, as defined in s. 403.086.

(l)~~(k)~~ *No product which contains toxic or hazardous chemicals, organic chemical solvents, or petroleum products as an active ingredient, or which, undiluted, contains more than trace amounts of such substances for any purpose, may be advertised, sold, or used in this state for use in onsite sewage treatment and disposal systems. For purposes of this paragraph, "trace amounts" means the maximum contaminant limits for drinking water.* ~~Toxic or hazardous chemicals that interfere with or prevent the successful operation of onsite sewage treatment and~~

~~disposal systems, organic chemical solvents, or petroleum products must not be advertised, sold, or used in the state for the purpose of degreasing or declogging onsite sewage treatment and disposal systems.~~

(m) Evaluations for determining the seasonal high water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by the department personnel, professional engineers registered in the State of Florida, or such other persons with expertise, as defined by rule, in making these evaluations. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(n)~~(l)~~ The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of a district Environmental Health Office of the Department of Health and Rehabilitative Services.

2. A representative from the septic tank industry.

3. A representative from the home building industry.

4. A representative from an environmental interest group.

5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.

6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.

7. A representative from the real estate profession.

8. A representative from the restaurant industry.

9. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration but may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(o) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination of property ownership by the department.

(6) The owner of an onsite sewage treatment and disposal system that needs repair or modification to function in a sanitary manner or to comply with the requirements of ss. 381.0065-381.0067 or rules adopted pursuant to such sections shall connect to an available public-owned or investor-owned sewerage system within 90 days after written notification from the department. In cases of hardship, upon request of the owner, the department may approve an extension of not more than an additional 90 days after such notification for such required sewerage connection. The department may approve only one extension. This subsection does not authorize an owner to create or maintain a sanitary nuisance. The variance provisions of this section do not apply to this subsection.

(7)(a) Sewer service shall be considered as rendered for billing purposes to an owner of an onsite sewage treatment and disposal system on property situated within 100 feet of a public-owned or investor-owned sewerage system where the owner does not connect to said system, unless the property is served by an onsite sewage treatment and disposal system prior to the effective date of this subsection or a permit for an onsite sewage treatment and disposal system has been issued prior to the effective date of this subsection.

(b) Sewer service charges imposed on an owner of an onsite sewage treatment and disposal system on property situated within 100 feet of and unconnected to a newly installed public-owned or investor-owned sewerage system, shall not exceed the existing minimum charge imposed by the public-owned or investor-owned sewerage system on customers connected to and receiving sewer service. Charges less than the minimum charge may be considered appropriate for residents residing in the affected location for less than 6 months in a 12-month period. Minimum charge means the charge imposed on existing sewer customers who have no sewer system usage in a given period of time.

(c) If minimum sewer charges, as described in paragraph (b), are not paid by the affected owner of an onsite sewage treatment and disposal system within 30 days of becoming due and payable, it shall be the duty of any district, private corporation, board, body, or person supplying water to or selling water for use on such premises to cease supplying water to or selling water for the use on such premises within 5 days after the receipt of notice of such delinquency from the public-owned or investor-owned sewer service provider.

(d) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

Section 2. Section 381.0066, Florida Statutes, is amended to read:

381.0066 Onsite sewage treatment and disposal systems; fees.—

(1) The department may collect fees for services provided with respect to onsite sewage treatment and disposal systems. The total fees assessed under this section must be sufficient to meet the cost of administering this section and *s.* ~~ss.~~ 381.0065 ~~and 381.00655~~.

(2) The minimum fees in the following fee schedule apply until changed by rule by the department within the following limits:

(a) Application review, permit issuance, or system inspection, including repair of a subsurface, mound, filled, or other alternative system or permitting of an abandoned system: a fee of not less than $25, or more than $125.

(b) Site evaluation, site reevaluation, evaluation of a system previously in use, or a per annum septage disposal site evaluation: a fee of not less than $40, or more than $115.

(c) Annual operating permit for aerobic treatment units, including quarterly evaluation, annual sampling, and laboratory analysis of effluent from aerobic treatment units: a fee of not less than $150, or more than $300.

(d) Annual operating permit for systems located in areas zoned for industrial manufacturing or equivalent uses or where the system is expected to receive wastewater which is not domestic in nature: a fee of not less than $150, or more than $300.

(e) Innovative technology: a fee not to exceed $25,000.

(f) Septage disposal service, septage stabilization facility, portable or temporary toilet service, tank manufacturer inspection: a fee of not less than $25, or more than $200, per year.

(g) Application for variance: a fee of not less than $150, or more than $300.

(h) Annual operating permit for waterless, incinerating, or organic waste composting toilets: a fee of not less than $50, or more than $150.

(i) Aerobic treatment unit maintenance entity permit: a fee of not less than $25, or more than $150, per year.

(j) Reinspection fee per visit for site inspection after system construction approval or for noncompliant system installation per site visit: a fee of not less than $25, or more than $100.

(k) Research: An additional $5 fee shall be added to each new system construction permit issued during fiscal years 1993-1996 to be used for septic tank research.

The funds collected pursuant to this subsection must be deposited in a trust fund administered by the department, to be used for the purposes stated in this section and *s.* ~~ss.~~ 381.0065 ~~and 381.00655~~.

Section 3. Section 381.0068, Florida Statutes, is amended to read:

381.0068 Technical *review and* advisory panel.—

(1) The Department of Health and Rehabilitative Services shall, *by July 1, 1995,* establish a technical *review and* advisory panel to assist the department with rule adoption *and advise the department on the approval of innovative and experimental onsite sewage treatment and disposal systems products and technology.*

(2) The purpose of the panel is to enhance the department's decision-making by drawing on the expertise of representatives from several groups that have an interest in onsite sewage treatment and disposal systems. At a minimum, the technical *review and* advisory panel shall consist of a soil scientist, a professional engineer registered in this state *who is recommended by the Florida Engineering Society and* who has work experience in onsite sewage treatment and disposal systems, ~~a hydrologist,~~ *two representatives* ~~a representative~~ from the home-building industry *recommended by the Florida Home Builders Association, including one who is a developer in this state who develops lots using onsite sewage treatment and disposal systems, a representative from the county public health units who has experience permitting and inspecting the installation of onsite sewage treatment and disposal systems in this state, a representative from the real estate industry who is recommended by the Florida Association of Realtors, a consumer representative with a science background* and *two representatives* ~~a representative~~ of the septic tank industry *recommended by the Florida Septic Tank Association including one who is a manufacturer of onsite sewage treatment and disposal systems, and a representative from the environmental health profession who is recommended by the Florida Environmental Health Association and who is not employed by a county public health unit. Members are to be appointed for a term of 2 years.* The panel may also, as needed, *be expanded to* include *ad hoc, nonvoting* representatives *who have* ~~with~~ topic-specific expertise. *All rules proposed by the department which relate to onsite sewage treatment and disposal systems must be presented to the panel for review and comment prior to adoption. The panel shall select a chairman who shall serve for a period of one year and who shall direct, coordinate, and execute the duties of the panel. The panel shall also solicit input from the department's variance review and advisory committee before submitting any comments to the department concerning proposed rules. The panel's comments must include any dissenting points of view concerning proposed rules. The panel shall hold meetings as it determines necessary to conduct its business except that the chairman, a quorum of the voting members of the panel, or the department may call meetings. The department shall keep minutes of all meetings of the panel.* Panel members shall serve without remuneration but may be reimbursed for per diem and travel expenses as provided in s. 112.061.

Section 4. Section 381.00655, Florida Statutes, is repealed.

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

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 the regulation of onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; amending the definition of "available publicly-owned or investor-owned sewerage system"; defining the term "potable water line"; redefining an exemption; amending standards for the placement of onsite sewage treatment and disposal systems; providing for system compliance with specified rules; providing standards for design criteria and for performance criteria; providing for local public health units to approve or disapprove systems and to refer disapprovals to the Department of Health and Rehabilitative Services for a further determination; providing deadlines for such reviews; providing for written notification to the applicant of the department's determination and for the applicant's opportunity to pursue a variance or seek review; providing a standard for water table determinations and soil suitability modifying the application submission process; requiring connection of certain onsite sewage treatment and disposal systems to available public-owned or investor-owned sewerage systems under certain circumstances; providing application; providing an exception; providing criteria for sewer service and sewer services charges relating to certain onsite sewage systems; amending s. 381.0066, F.S., to conform cross-references; amending s. 381.0068, F.S.; redesignating the technical review panel as the technical review and advisory panel; providing duties of the panel; providing for panel membership, terms, meetings, and reimbursement; requiring the department to present proposed rules to the panel for comment; requiring the department to keep minutes of panel meetings; repealing s. 381.00655, F.S., relating to connection of existing onsite sewage treatment and disposal systems to central sewerage systems; providing an effective date.

Further consideration of **HB 1499** with pending **Amendment 1** was deferred.

Consideration of **CS for SB 444** was deferred.

The Senate resumed consideration of—

CS for SB's 2030 and 2144—A bill to be entitled An act relating to public adjusters; amending s. 626.854, F.S.; deleting a provision that public adjusters act for another person; creating an exemption; prohibiting negotiation of claims for bodily injury, death, or noneconomic damages; prohibiting the giving of legal advice; defining the term "insured"; creating s. 626.8698, F.S.; providing disciplinary guidelines; providing an effective date.

—which had been considered this day. Pending **Amendment 1** by the Committee on Judiciary was adopted.

Senator Grant moved the following amendment which was adopted:

Amendment 2—On page 2, strike lines 10 and 11 and insert:

(3) A public adjuster may not give legal advice. A public adjuster may

On motion by Senator Crist, by two-thirds vote **CS for SB's 2030 and 2144** 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—1

The Senate resumed consideration of—

HB 2721—A bill to be entitled An act relating to the regulation of professions and occupations; amending s. 20.165, F.S.; conforming the change in name of a board; amending s. 28.222, F.S., relating to the recording of instruments; removing the requirement that instruments relating to land surveying include a sketch; providing that the failure to attach a sketch to any instrument presented for recording during the operative period of such requirement shall not affect the validity of the instrument or its recording; amending s. 255.551, F.S.; revising the definition of "abatement"; amending s. 255.565, F.S.; clarifying the responsibilities of the Asbestos Oversight Program Team; amending ss. 326.002, 326.003, 326.004, and 326.006, F.S., relating to the "Yacht and Ship Brokers' Act"; transferring the regulation of yacht and ship brokers from the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to the Division of Professions of the Department of Business and Professional Regulation; conforming terminology; amending s. 402.48, relating to health care services pools; transferring the regulation of health care services pools from the Department of Business and Professional Regulation to the Agency for Health Care Administration; conforming terminology; amending s. 455.203, F.S.; providing that a licensee acknowledges compliance with all requirements for renewal upon submitting the appropriate renewal fees to the Department of Business and Professional Regulation or the Agency for Health Care Administration, as applicable; amending s. 455.219, F.S.; authorizing regulatory boards, or the department if there is no board, to charge a fee for authorized inspections; amending s. 455.227, F.S.; exempting licensees acting as mediators in professional mediation programs from being disciplined for failing to report violators; amending s. 468.542, F.S.; providing definitions for classes of water and wastewater operators; defining "operator trainee"; amending s. 468.543, F.S.; providing for the registration of water and wastewater operator trainees; amending s. 468.547, F.S.; providing a registration fee; amending s. 468.549, F.S.; providing for continuing education requirements for water and wastewater operators; amending s. 468.551, F.S.; requiring registration of operator trainees; amending s. 468.627, F.S.; revising an exemption from examination fees applicable to building code administrators and inspectors for employees of local government agencies having building code inspection, regulation, and enforcement responsibilities; amending s 469.001, F.S.; revising definitions applicable to asbestos abatement; amending s. 469.002, F.S.; revising an exemption relating to asbestos-related activities by governmental employees; amending s. 469.004, F.S.; revising provisions relating to requirements for work involving building structures or systems; revising conditions under which resilient floor covering or its adhesive may be moved, removed, disposed of, or inspected by a person other than a licensed asbestos contractor or asbestos consultant; authorizing the Department of Business and Professional Regulation

to inspect certain asbestos-removal sites; providing rulemaking authority; providing conditions under which asbestos-containing pipe or conduit may be repaired, removed, or disposed of by a person other than a licensed asbestos contractor or asbestos consultant; amending s. 469.006, F.S.; eliminating reference to consultant or contractor seals, to conform; amending s. 469.012, F.S.; requiring onsite roofing supervisors to complete a department-approved asbestos roofing course prior to engaging in the removal of asbestos-containing roofing material; amending s. 469.014, F.S.; providing for the department to approve certain training courses and training-course providers who offer training for persons exempt from licensure; repealing s. 469.015, F.S., relating to seals; repealing s. 54 of chapter 94-119, Laws of Florida; abrogating the repeal of s. 469.004(4), F.S., relating to certain activities for which licensure as an asbestos contractor or asbestos consultant is not required; amending s. 470.0085, F.S., relating to the embalmer apprentice program; providing applicability with respect to certain students; amending s. 470.009, F.S.; reorganizing provisions relating to licensure as a funeral director by examination, to clarify applicability of the internship requirement; amending s. 470.024, F.S.; providing licensing limitations with respect to colocated facilities; requiring the relicensure of funeral establishments whose ownership has changed; amending s. 470.029, F.S.; providing a filing date for monthly reports on final dispositions; amending s. 470.0301, F.S.; providing requirements for registration of centralized embalming facilities; providing for application, late, and inspection fees; creating s. 470.0315, F.S.; providing for the storage, preservation, and transportation of human remains; creating s. 470.0355, F.S.; providing for the identification of human remains; amending s. 473.306, F.S.; providing for appointment of an Educational Advisory Committee for purposes of maintaining proper educational qualifications for licensure of certified public accountants; amending s. 473.312, F.S.; providing for appointment of a Continuing Professional Education Advisory Committee for purposes of maintaining proper continuing education requirements for renewal of licensure of certified public accountants; amending s. 474.203, F.S.; revising exemptions from veterinary practice regulations relating to the holders of veterinary faculty certificates and to certain persons assisting a licensed veterinarian; providing an exemption for registered interns and residents; providing an exemption for out-of-state licensees whose presence is requested by an in-state licensee and prohibiting such a licensee from applying for a premises permit; amending s. 474.214, F.S.; increasing the administrative fine the Board of Veterinary Medicine may impose as a disciplinary measure; reenacting ss. 474.207(2) and 474.217(2), F.S., relating to licensure qualifications and licensure by endorsement, to incorporate the amendment to s. 474.214, F.S., in references thereto; amending s. 474.215, F.S.; requiring limited service veterinary medical practice permittees to register each location; providing a registration fee for such purpose; reenacting ss. 474.213(1)(k) and 474.214(1)(w), F.S., relating to prohibitions and grounds for disciplinary action, to incorporate the amendment to s. 474.215, F.S., in references thereto; amending s. 475.15, F.S.; eliminating a provision that requires the automatic cancellation of the registration of a real estate broker partnership upon the lapse in licensure or registration of any of its partners; amending s. 475.25, F.S.; revising a ground for disciplinary action; amending s. 475.451, F.S.; revising provisions relating to the permitting of instructors for proprietary real estate schools or state institutions; providing permit renewal requirements; amending s. 475.452, F.S.; providing restrictions applicable to advance fees for brokers auctioning real property; creating s. 475.6145, F.S.; providing for a seal for the Florida Real Estate Appraisal Board to authenticate its proceedings, records, and acts; combining barbering and cosmetology within a single practice act; amending s. 477.011, F.S.; renaming the "Florida Cosmetology Act" as the "Florida Barbering and Cosmetology Act"; amending s. 477.012, F.S., relating to purpose, to conform; providing legislative intent; amending s. 477.013, F.S.; revising and providing definitions; amending s. 477.0135, F.S., relating to exemptions, to conform; amending s. 477.015, F.S.; creating the Board of Barbering and Cosmetology and providing for its members and duties; amending s. 477.017, F.S.; providing for legal, investigative, and inspection services by the Department of Business and Professional Regulation; amending s. 477.019, F.S.; revising qualifications for licensure as a barber or cosmetologist; providing for biennial renewal; providing for a restricted barbering license; providing continuing education requirements; amending s. 477.0212, F.S., relating to inactive status; eliminating a reference to reactivation and renewal fees; amending s. 477.022, F.S., relating to examinations, to conform; providing requirements relating to reexaminations; eliminating an obsolete provision relating to testing facilities; amending and renumbering s. 477.0201, F.S.; revising specialty registration requirements; providing for biennial renewal; amending s. 477.025, F.S.; revising licensure provisions for barbershops and cosmetology and specialty salons; requiring display of establishment and practitioner licenses and registrations; providing for the licensure of mobile barbershops, mobile cosmetology salons, and mobile specialty salons; amending and renumbering s. 477.0263, F.S., relating to services authorized to be performed in licensed barbershops and salons, to conform; amending s. 477.026, F.S.; revising and providing fees; eliminating a provision relating to submission of a proposed budget; amending and renumbering s. 477.023, F.S., relating to licensure of schools, to conform; amending and renumbering s. 477.0132, F.S., relating to hair braiding registration; providing for biennial renewal; amending and renumbering s. 477.0265, F.S., relating to prohibited acts, to conform; amending s. 477.029, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 477.031, F.S., relating to civil proceedings; amending and renumbering s. 476.254, F.S., relating to a saving clause, and repealing the remainder of chapter 476, F.S., relating to barbering, to conform; repealing ss. 477.014, 477.016, 477.018, 477.0213, and 477.028, F.S., relating to qualifications for practice, rulemaking, investigative services, cosmetology graduates of the Florida School for the Deaf and the Blind, and disciplinary proceedings, to conform; amending ss. 20.165, 455.2228, and 480.034, F.S.; correcting cross references; providing for a transitional Board of Barbering and Cosmetology; providing for continuation of current rules, contracts, investigations, and prosecutions; amending ss. 480.033 and 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.032, F.S.; providing legislative intent with respect to regulation of the practices of massage therapy and reflexology by a single board; amending s. 480.033, F.S.; providing definitions; creating s. 480.0481, F.S.; providing for qualification, licensure, and provisional licensure of reflexologists; providing fees; providing for adoption of rules governing the licensure and operation of reflexology establishments; creating s. 480.0482, F.S.; establishing examination requirements; providing for licensure by examination or without examination for an interim period; amending s. 480.047, F.S.; prohibiting certain acts relating to reflexology; providing penalties; providing an appropriation; amending s. 480.044, F.S., providing for a nonrefundable fee for all applications; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors, amending s. 489.107, F.S.; adding a solar contractor to the Construction Industry Licensing Board; amending s. 489.113, F.S.; revising provisions that authorize persons who are not certified or registered to perform construction work under the supervision of a person who is certified or registered; providing that expansion of the scope of practice of any type of contractor does not limit the scope of practice of any existing type of contractor unless the Legislature expressly provides such limitation; repealing s. 489.1135, F.S., relating to the designation and certification of underground utility and excavation contractors for businesses that were qualified by the Department of Transportation by a specified date; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of temporary certification or registration of a business organization; amending s. 489.127, F.S.; revising and adding penalties applicable to violations of construction contracting provisions, including public service, restitution, and the surcharge when the victim is handicapped or elderly; amending s. 489.131, F.S., relating to applicability; correcting a cross reference; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; amending s. 489.503, F.S.; clarifying an exemption relating to the sale or installation of certain finished products, materials, or articles of merchandise; amending s. 489.507, F.S.; revising membership of the Electrical Contractors' Licensing Board; amending s. 489.509, F.S.; transferring a portion of fees paid at the time of application or renewal to the Department of Education to fund certain projects or continuing education programs relating to the building construction industry and providing requirements with respect thereto; providing for appointments to the Building Construction Industry Advisory Council; amending s. 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.531, F.S.; revising and adding penalties applicable to violations of electrical and alarm system contracting provisions, including public service, restitution, and the surcharge when the victim is handicapped or elderly; reenacting s. 489.533(1)(a) and (2), F.S., relating to disciplinary

proceedings, to incorporate the amendment to s. 489.531, F.S., in a reference thereto; amending ss. 489.539 and 553.19, F.S.; providing for adoption of current electrical standards by rule; amending s. 553.63, F.S., relating to trench excavations in excess of a specified depth; deleting a provision requiring contract bids to include certain items; repealing s. 553.64, F.S., relating to certain requirements for contract bids; creating s. 501.214, F.S.; providing requirements relating to home-inspection reports; providing Legislative intent; providing definitions; providing exemptions; requiring, prior to inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report on the results of the inspection; providing prohibited acts, for which there are civil penalties; amending s. 713.03, F.S.; including professional geologists within provisions regulating liens for professional services; amending s. 489.503, F.S., relating to exemptions from part II of chapter 489, F.S., relating to electrical and alarm system contracting; revising an exemption that applies to school boards, the Board of Regents, and community colleges, to reduce the applicable cost threshold; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; providing exemptions relating to personal emergency response systems; providing exemptions relating to the monitoring of alarm systems by law enforcement employees or officers or fire department employees or officials, by employees of state or federally chartered financial institutions, or by employees of a business endeavor; amending s. 489.505, F.S.; revising the definitions of "alarm system" and "alarm system contractor" and providing definitions for "personal emergency response system" and "monitoring"; amending s. 489.509, F.S.; changing the due date for the biennial renewal fee for certificateholders and registrants; creating s. 489.5165, F.S.; providing for the regulation of monitoring; requiring certification and providing qualifications and procedures therefor; providing grounds for disciplinary action; providing penalties; providing fees; providing applicability to local occupational licenses and permits and to certified electrical and alarm system contractors; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; amending s. 489.525, F.S.; changing the date for the Department of Business and Professional Regulation to inform local boards and building officials of the names of all certificateholders and the status of the certificates; amending s. 489.537, F.S., relating to certain alarm system registration; eliminating reference to monitoring, to conform to other provisions of the act; authorizing the department to sell a regional service center located at a specified location; providing for proceeds from the sale to be deposited into the Professional Regulation Trust Fund; amending s. 489.503, F.S.; revising exemptions from regulation under part II of chapter 489, relating to electrical and alarm system contracting, that apply to school boards, the Board of Regents, and community colleges and to public utilities; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending ss. 489.539 and 553.19, F.S.; providing for updating of electrical standards; amending s. 455.217, F.S.; providing for licensing or certification examination to be competitively bid under certain circumstances; providing effective dates.

—which had been considered and amended this day.

Senator Bankhead moved the following amendments which were adopted:

Amendment 6—On page 146, line 1, insert:

Section 132. Paragraph (f) of subsection (1) of section 478.45, Florida Statutes, is amended to read:

478.45 Requirements for licensure.—

(1) An applicant applying for licensure as an electrologist shall file a written application, accompanied by the application for licensure fee prescribed in s. 478.55, on a form provided by the board, showing to the satisfaction of the board that the applicant:

(f)1. Has successfully completed the academic requirements of an electrolysis training program, not to exceed 120 hours, and the practical application thereof as approved by the board; or

2. Was engaged in the practice of electrology prior to October 1, 1991, and filed an application for licensure within 90 days *after* ~~of~~ the date established by the board or by *February 1, 1995* ~~October 1, 1993~~, whichever comes last.

(Renumber subsequent section.)

Amendment 7—In title, on page 14, line 14, insert: amending s. 478.45, F.S.; extending the period during which certain applicants may qualify for licensure as an electrologist;

Senator Jones moved the following amendments which were adopted:

Amendment 8—On page 14, line 18, insert:

Section 1. The Board of Massage and all of its statutory powers, duties, and functions and all of its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are transferred by a type one transfer as defined in section 20.06(1), Florida Statutes, 1994 Supplement, from the Division of Professions of the Department of Business and Professional Regulation to the Division of Health Quality Assurance of the Agency for Health Care Administration.

(Renumber subsequent sections.)

Amendment 9—In title, on page 1, line 3, after the semicolon (;) insert: transferring the Board of Massage Therapy to the Agency for Health Care Administration;

Senator Harden moved the following amendment which was adopted:

Amendment 10—On page 146, line 1, insert:

Section . Subsection (17) is added to section 489.103, Florida Statutes, 1994 Supplement, to read:

489.103 Exemptions.—This part does not apply to:

(17) The sale, delivery, assembly, or tie-down of prefabricated portable sheds. These sheds must not be more than 250 square feet in interior size and may not be intended for use as a residence or as living quarters. This exemption shall not be construed to interfere with local building codes, local licensure requirements, or other local ordinance provisions.

(Renumber subsequent section.)

Senator Sullivan moved the following amendment which was adopted:

Amendment 11—On page 91, between lines 19 and 20, insert:

Section 86. Subsection (15) of section 489.103, Florida Statutes, 1994 Supplement, is amended to read:

489.103 Exemptions.—This part does not apply to:

(15) The installation and maintenance of water conditioning units for domestic, commercial, or industrial purposes by operators of water conditioning services. No municipality or county may adopt an ordinance, rule, or regulation which requires such an operator to become licensed, certified, or registered as a plumber *to perform any activity associated with installation of a water conditioning unit* or which otherwise prevents the installation and maintenance of such water conditioning units by an operator.

(Renumber subsequent sections.)

Senator Dyer moved the following amendment which was adopted:

Amendment 12—On page 37, line 1, after "contractor" insert: *or asbestos consultant*

Senators Dudley and Dyer offered the following amendment which was moved by Senator Dyer and adopted:

Amendment 13 (with Title Amendment)—On page 14, line 17, insert:

Section 1. Paragraph (a) of subsection (1) of section 255.05, Florida Statutes, 1994 Supplement, is amended to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(1)(a) Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. The bond must state the name and principal business address of both the principal and the surety and must contain a description of the project sufficient to identify it. Such bond shall be conditioned that the contractor perform the contract in the time and manner prescribed in the contract and promptly make payments to all persons defined in s. 713.01 whose claims derive directly or indirectly from the prosecution of the work provided for in the contract. Any claimant may apply to the governmental entity having charge of the work for copies of the contract and bond and shall thereupon be furnished with a certified copy of the contract and bond. The claimant shall have a right of action against the contractor and surety for the amount due him, *including unpaid finance charges due under the claimant's contract.* Such action shall not involve the public authority in any expense. When such work is done for the state and the contract is for $100,000 or less, no payment and performance bond shall be required. At the discretion of the official or board awarding such contract when such work is done for any county, city, political subdivision, or public authority, any person entering into such a contract which is for $200,000 or less may be exempted from executing the payment and performance bond. When such work is done for the state, the director of the Department of Management Services may delegate to state agencies the authority to exempt any person entering into such a contract amounting to more than $100,000 but less than $200,000 from executing the payment and performance bond. In the event such exemption is granted, the officer or officials shall not be personally liable to persons suffering loss because of granting such exemption. The Department of Management Services shall compile an annual report that lists the number of requests by state agencies for delegation of authority to waive the bond requirements by agency and project number and states whether any request for delegation was denied and the justification for the denial. The report shall be submitted no later than February 1 to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Majority and Minority Leaders of the Senate and the House of Representatives, and the Commission on Minority Economic and Business Development.

Section 2. Section 713.05, Florida Statutes, is amended to read:

713.05 Liens of persons in privity.—A materialman or laborer, either of whom is in privity with the owner, or a contractor who complies with the provisions of this part shall, subject to the limitations thereof, have a lien on the real property improved for any money that is owed to him for labor, services, materials, or other items required by, or furnished in accordance with, the direct contract *and for unpaid finance charges due under the lienor's contract.* No lien under this section shall be acquired until a claim of lien is recorded. A lienor who, as a subcontractor, sub-subcontractor, laborer, or materialman not in privity with the owner, commences to furnish labor, services, or material to an improvement and who thereafter becomes in privity with the owner shall have a lien for any money that is owed to him for the labor, services, or materials furnished after he becomes in privity with the owner. A lienor may record one claim of lien to cover both his work done in privity with the owner and not in privity with the owner. No lienor under this section shall be required to serve a notice to owner as provided in s. 713.06(2). A lienor, except a laborer or materialman, who is in privity with the owner and claims a lien under this section shall furnish the contractor's affidavit required in s. 713.06(3)(d). A contractor may claim a lien for any labor, services, or materials furnished by another lienor for which he is obligated to pay the lienor, regardless of the right of the lienor to claim a lien; but if the lienor claims a valid lien, the contractor shall not recover the amount of the lien recovered by the lienor, and the amount of the contractor's claim of lien may be reduced accordingly by court order. No person shall have a lien under this section except those lienors specified in it, as their designations are defined in s. 713.01.

Section 3. Subsection (1) of section 713.06, Florida Statutes, 1994 Supplement, is amended to read:

713.06 Liens of persons not in privity; proper payments.—

(1) A materialman or laborer, either of whom is not in privity with the owner, or a subcontractor or sub-subcontractor who complies with the provisions of this part and is subject to the limitations thereof, has a lien on the real property improved for any money that is owed to him for labor, services, or materials furnished in accordance with his contract and with the direct contract *and for any unpaid finance charges due under the lienor's contract.* The total amount of all liens allowed under this part for furnishing labor, services, or material covered by any certain direct contract must not exceed the amount of the contract price fixed by the direct contract except as provided in subsection (3). No person may have a lien under this section except those lienors specified in it, as their designations are defined in s. 713.01.

Section 4. Paragraph (g) of subsection (1) of section 713.08, Florida Statutes, is amended to read:

713.08 Claim of lien.—

(1) For the purpose of perfecting his lien under this part, every lienor, including laborers and persons in privity, shall record a claim of lien which shall state:

(g) The amount unpaid the lienor for such labor or services or materials *and for unpaid finance charges due under the lienor's contract.*

Section 5. Section 713.135, Florida Statutes, 1994 Supplement, is amended to read:

713.135 Notice of commencement and applicability of lien.—

(1) When any person applies for a building permit, the authority issuing such permit shall:

(a) Print on the face of each permit card in no less than 18-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT."

(b) Provide the applicant and the owner of the real property upon which improvements are to be constructed with a printed statement stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the Construction Lien Law. The Department of Business and Professional Regulation shall furnish, for distribution, the statement described in this paragraph, and the statement must be a summary of the Construction Lien Law and must include an explanation of the provisions of the Construction Lien Law relating to the recording, and the posting of copies, of notices of commencement and a statement encouraging the owner to record a notice of commencement and post a copy thereof in accordance with s. 713.13. However, the failure by the authorities to provide the summary does not subject the issuing authority to liability.

(c) Inform each applicant who is not the person whose right, title, and interest is subject to attachment that, as a condition to the issuance of a building permit, the applicant must promise in good faith that the statement will be delivered to the person whose property is subject to attachment.

(d) Furnish to the applicant two or more copies of a form of notice of commencement conforming with s. 713.13. The *applicant* ~~issuing authority~~ shall *file with the issuing authority prior to* ~~verify at~~ the first inspection ~~that~~ either a certified copy of the recorded notice of commencement or a notarized statement that the notice of commencement has been filed for recording, along with a copy thereof~~, has been posted in accordance with s. 713.13~~. In the absence of *the filing of a certified copy of the recorded notice of commencement* ~~such verification~~, the issuing authority *shall* ~~must~~ not *perform or* approve *subsequent inspections until the applicant files by mail, facsimile, hand delivery, or any other means such certified copy with the issuing authority* ~~the inspection~~. Nothing herein shall be interpreted as requiring or encouraging the recording of a notice of commencement prior to the issuance of a building permit. *The failure to verify that a certified copy of the notice of commencement has been filed with the issuing authority prior to approving the second inspection constitutes grounds for disciplinary action pursuant to s. 468.621 and subjects the person who signs the second inspection to the penalties described in s. 468.621.*

(2) On or before December 31, 1995, each county and each municipality shall submit an affidavit to the Advisory Council on Intergovernmental Relations that states whether the county or municipality issues

building permits and, if so, the building official must certify that the county or municipality is using a building permit application form that is substantially similar to the form set forth in subsection (7), and further certify that the county or municipality has established and is enforcing procedures to ensure compliance with the requirement to file a certified copy of the recorded notice of commencement contained in paragraph (1)(d) of this section.

(3)~~(2)~~ An issuing authority under subsection (1) is not liable in any civil action for the failure of the person whose property is subject to attachment to receive or to be delivered a printed statement stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the Construction Lien Law.

(4)~~(3)~~ An issuing authority under subsection (1) is not liable in any civil action for the failure to verify that a certified copy of the recorded notice of commencement *has been filed* ~~is posted~~ in accordance with *this section* ~~s. 713.13~~.

(5)~~(4)~~ The several boards of county commissioners, municipal councils, or other similar bodies may by ordinance or resolution establish reasonable fees for furnishing copies of the forms and the printed statement provided in paragraph (1)(d) in an amount not to exceed $5 to be paid by the applicant for each permit in addition to all other costs of the permit; however, no forms or statement need be furnished to, nor may such additional fee be obtained from, applicants for permits in those cases in which the owner of a legal or equitable interest (including that of ownership of stock of a corporate landowner) of the real property to be improved is engaged in the business of construction of buildings for sale to others and intends to make the improvements authorized by the permit on the property and upon completion will offer the improved real property for sale.

(6)~~(5)~~ In addition to any other information required by the authority issuing the permit, each building permit application must contain:

(a) The name and address of the owner of the real property;

(b) The name and address of the contractor;

(c) A description sufficient to identify the real property to be improved; and

(d) The number or identifying symbol assigned to the building permit by the issuing authority, which number or symbol must be affixed to the application by the issuing authority.

(7)~~(6)~~ In addition to any other information required by the authority issuing the permit, the building permit application must be in substantially the following form:

Tax Folio No. . . . . .

BUILDING PERMIT APPLICATION

Owner's Name.....
Owner's Address.....
Fee Simple Titleholder's Name (If other than owner).....
Fee Simple Titleholder's Address (If other than owner).....
City.....
State. . . . . Zip. . . . . .
Contractor's Name.....
Contractor's Address.....
City.....
State. . . . . Zip. . . . . .
Job Name.....
Job Address.....
City. . . . . County. . . . . .
Legal Description.....
Bonding Company.....
Bonding Company Address.....
City. . . . . State. . . . . .
Architect/Engineer's Name.....
Architect/Engineer's Address.....
Mortgage Lender's Name.....
Mortgage Lender's Address.....

Application is hereby made to obtain a permit to do the work and installations as indicated. I certify that no work or installation has commenced prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction. I understand that a separate permit must be secured for ELECTRICAL WORK, PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, etc.

OWNER'S AFFIDAVIT: I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY.

IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

Signature. . . .	Signature. . . .
Owner or Agent (including contractor)	Contractor
Date. . . .	Date. . . .
NOTARY as to Owner or Agent. . . .	NOTARY as to Contractor. . . .
My Commission Expires:	My Commission Expires: . . . .

(Certificate of Competency Holder)

Contractor's State Certification or Registration No. . . . .

Contractor's Certificate of Competency No. . . . . .

APPLICATION APPROVED BY. . . . . Permit Officer

(8)~~(7)~~ This section applies to every municipality and county in the state which now has or hereafter may have a system of issuing building permits for the construction of improvements or for the alteration or repair of improvements on or to real property located within the geographic limits of the issuing authority.

Section 6. Paragraph (h) is added to subsection (1) of section 468.621, Florida Statutes, to read:

468.621 Disciplinary proceedings.—

(1) The following acts constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(h) Failing to comply with the provisions of s. 713.135(1)(d).

Section 7. Section 713.20, Florida Statutes, is amended to read:

713.20 Waiver or release of liens.—

(1) The acceptance by the lienor of an unsecured note for all or any part of the amount of his demand shall not constitute a waiver of his lien therefor unless expressly so agreed in writing, nor shall it in any way affect the period for filing the notice under s. 713.06(2), or the claim of lien under s. 713.08.

(2) A right to claim a lien may not be waived in advance. A lien right may be waived only to the extent of labor, services, or materials furnished. Any waiver of a right to claim a lien that is made in advance is unenforceable.

(3) Any person may at any time waive, release, or satisfy any part of his lien under this part, either as to the amount due for labor, services, or materials furnished or for labor, services, or materials furnished through a certain date subject to exceptions specified at the time of release, or as to any part or parcel of the real property.

(4) *When a lienor is required to execute a waiver or release of lien in exchange for, or to induce payment of, a progress payment, the waiver or release* ~~A partial release of lien~~ may be in substantially the following form:

WAIVER AND ~~PARTIAL~~ RELEASE OF LIEN
UPON PROGRESS PAYMENT

The undersigned lienor, in consideration of *the sum of $* ~~value received~~, hereby *waives and* releases its lien and right to claim a lien ~~to the extent of $. . . . ,~~ ~~or~~ for labor, services, or materials furnished through . . . (insert date) . . . *to . . . (insert the name of your customer) . . . on the job of . . . (insert the name of the owner) . . .*; ~~except . . . (list exceptions) . . .~~ . to the following property:

. . . (description of property) . . .

This waiver and release does not cover any retention or labor, services, or materials furnished after the date specified.

DATED on . . . . , 19. . . . .

. . . (Lienor) . . .

By: . . . . . .

(5) When a lienor is required to execute a waiver or release of lien in exchange for, or to induce payment of, the final payment, the waiver and release may be in substantially the following form:

WAIVER AND RELEASE OF LIEN
UPON FINAL PAYMENT

The undersigned lienor, in consideration of the final payment in the amount of $. . . . . , hereby waives and releases its lien and right to claim a lien for labor, services, or materials furnished to . . . (insert the name of your customer) . . . on the job of . . . (insert the name of the owner) . . . to the following described property:

. . . (description of property) . . .

DATED on . . . . , 19. . . .

LIENOR

By: . . . . . .

(6) A person may not require a lienor to furnish a waiver or release of lien that is different from the forms in subsection (4) or subsection (5).

(7) A lienor who executes a lien waiver and release in exchange for a check may condition the waiver and release on payment of the check.

(8) A lien waiver or lien release that is not substantially similar to the forms in subsections (4) and (5) is enforceable in accordance with the terms of the lien waiver or lien release.

Section 8. Subsection (3) is added to section 713.31, Florida Statutes, to read:

713.31 Remedies in case of fraud or collusion.—

(3) Any person who willfully files a fraudulent lien as defined in this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. Section 713.35, Florida Statutes, is amended to read:

713.35 Making or furnishing false statement ~~shall constitute perjury~~.—Any person, firm, or corporation who *knowingly and intentionally makes* ~~shall willfully make~~ or *furnishes* ~~furnish~~ to another person, firm, or corporation *a written statement in the form of an affidavit, whether or not under oath,* ~~an affidavit~~ containing ~~a~~ false *information about the payment status of subcontractors, sub-subcontractors, or suppliers* ~~statement~~ in connection with the improvement of real property in this state, knowing that the one to whom it was furnished *might* ~~may~~ rely on it, and the one to whom it was furnished *will* ~~shall~~ part with anything of value relying on the truth of such statement as an inducement to do so *is,* ~~shall be~~ guilty of *a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083* ~~perjury and shall be prosecuted and, upon conviction, punished in accordance with the provisions of the laws of this state~~.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 3, after the semicolon (;) insert: amending ss. 255.05, 713.05, 713.06, 713.08, F.S.; providing for the payment of unpaid finance charges due under a claimant's contract; amending s. 713.135, F.S.; revising provisions with respect to notice of commencement with respect to building permits; providing grounds for disciplinary action for failure to verify a certified copy of the notice of commencement; requiring counties and municipalities to submit an affidavit to the Advisory Council on Intergovernmental Relations; amending s. 468.621, F.S.; conforming to the act; amending s. 713.20, F.S.; providing conditions and forms for the execution of a waiver or release of a lien; amending s. 713.31, F.S.; providing a penalty for filing a fraudulent lien; amending s. 713.35, F.S.; providing a penalty for making false statements relating to subcontractors, sub-subcontractors, or suppliers;

Senator Dudley offered the following amendments which were moved by Senator Harden and adopted:

Amendment 14 (with Title Amendment)—On page 98, strike all of lines 3-19 and insert:

(19) "Initial issuance" means the first time a certificate or registration is granted to an individual or business organization, including the first time an individual becomes a qualifying agent for that business organization, and the first time a business organization is qualified by that individual.

Section 87. Subsection (4) of section 320.8245, Florida Statutes, is amended to read:

320.8245 Limitation of alteration or modification to mobile homes or recreational vehicles.—

(4) DESIGNATION AS A QUALIFIED PERSON.—

(a) In order to be designated as a person qualified to alter or modify a mobile home or recreational vehicle, a person must *be a licensed mobile home dealer or* comply with local or county licensing or competency requirements in skills relevant to performing alterations or modifications on mobile homes or recreational vehicles.

(b) When no local or county licensing or competency requirements exist, the department *shall* ~~may~~ certify persons to perform mobile home alterations or modifications, *including mobile home renovation and repair.* The department shall by rule or regulation determine what skills and competency requirements are requisite to the issuance of a certification. A fee sufficient to cover the costs of issuing certifications may be charged by the department. The certification shall be valid for a period which terminates when the county or other local governmental unit enacts relevant competency or licensing requirements. The certification shall be valid only in counties or localities without licensing or competency requirements.

(c) The department shall determine which counties and localities have licensing or competency requirements adequate to eliminate the requirement of certification. This determination shall be based on a review of the relevant county or local standards for adequacy in regulating persons who perform alterations or modifications to mobile homes. The department shall find local or county standards adequate when minimal licensing or competency standards are provided.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 9, line 9, following the first semicolon (;) insert: amending s. 320.8245, F.S.; providing for certain persons to be designated as qualified to alter or modify mobile homes and recreational vehicles;

Amendment 15—On page 91, strike all of lines 22 and 23 and insert: Statutes, 1994 Supplement, are amended, and subsection (19) is added to that

MOTION

On motion by Senator Sullivan, the rules were waived and time of recess was extended until 7:00 p.m.

Senator Sullivan moved the following amendment which was adopted:

Amendment 16 (with Title Amendment)—On page 116, between lines 21 and 22, insert:

Section 106. Subsection (1) of section 553.06, Florida Statutes, 1994 Supplement, is amended to read:

553.06 State Plumbing Code.—

(1) The Board of Building Codes and Standards shall, in accordance with the provisions of chapter 120 and ss. 553.70-553.895, adopt the Standard Plumbing Code, 1994 edition, as adopted at the October 1993 annual meeting of the Southern Building Code Congress International, as the State Plumbing Code which shall be the minimum requirements

statewide for all installations, repairs, and alterations to plumbing. The board may, in accordance with the requirements of chapter 120, adopt updated or revised editions of the State Plumbing Code to keep abreast of latest technological advances in plumbing and installation techniques. *Where testing of water treatment units is required by the Standard Plumbing Code, the Board shall approve alternative testing standards, upon receipt of a request for adoption of alternative testing standards, if the Board receives competent evidence that such standards adequately measure the efficacy of such units for their intended use.* Local governments which have adopted the South Florida, One and Two Family Dwelling or EPCOT Plumbing Codes may continue their use provided the requirements contained therein meet or exceed the requirements of the State Plumbing Code. Provided, however, nothing in this section shall alter or diminish the authority of the Department of Business and Professional Regulation to conduct plan reviews, issue variances, and adopt rules regarding sanitary facilities in public lodging and public food service establishments pursuant to chapter 509, providing that such actions do not conflict with the requirements for public restrooms in s. 553.141.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 10, line 28, after the semicolon (;) insert: amending s. 553.06, F.S.; requiring the Board of Building Codes and Standards to adopt alternative standards for testing water treatment units;

Senator Dyer moved the following amendment which was adopted:

Amendment 17—On page 48, line 25 and on page 49, line 19, after "*Education*" insert: *or a school or college recognized by the American Veterinary Medical Association Commission for Foreign Veterinary Graduates*

Senator Sullivan moved the following amendment which was adopted:

Amendment 18—In title, on page 9, line 7, after "applications;" insert: amending s. 489.103, F.S.; limiting the ordinances, rules, or regulations that a municipality or county may adopt with respect to the installation of water conditioning units;

Senator Harden moved the following amendments which were adopted:

Amendment 19—In title, on page 14, line 14, after the semicolon (;) insert: amending s. 489.103, F.S.; providing an exemption to part I of ch. 489, F.S. which relates to prefabricated portable sheds;

Amendment 20—In title, on page 11, line 27, after the first semicolon (;) insert: amending s. 553.504, F.S.; revising the dimensions of water closet seats; amending s. 553.73, F.S.; providing restrictions upon the subject matter of the state building code;

Amendment 21—In title, on page 9. strike all of lines 9-11 and insert: to contractors; requiring a study of the structure and composition of regulatory boards; amending s. 489.113,

Senator Latvala moved the following amendment which was adopted:

Amendment 22 (with Title Amendment)—On page 145, line 31, insert:

Section 132. Section 509.072, Florida Statutes, is amended to read:

509.072 Hotel and Restaurant Trust Fund; collection and disposition of moneys received.—

(1) There is created a Hotel and Restaurant Trust Fund to be used for the administration and operation of the division and the carrying out of all laws and rules under the jurisdiction of the division pertaining to the construction, maintenance, and operation of public lodging establishments and public food service establishments, including the inspection of elevators as required under chapter 399. All funds collected by the division and the amounts paid for licenses and fees shall be deposited in the State Treasury into the Hotel and Restaurant Trust Fund.

(2) Fees collected under s. 509.302(3) and deposited into the trust fund must be used solely for the purpose of funding the Hospitality Education Program, except for any trust fund service charge imposed by s. 215.20, and may not be used to pay for any expense of the division not directly attributable to the Hospitality Education Program. These funds may not be deposited or transferred into any other trust fund administered by the Department of Business and Professional Regulation or any of its divisions. For audit purposes, fees collected under s. 509.302(3) and all charges against such fees must be maintained by the department as a separate ledger.

Section 133. Section 509.302, Florida Statutes, is amended to read:

509.302 Director of education, personnel, employment duties, compensation.—

(1) The director shall *either:* ~~;~~

(a) With the advice of the advisory council, employ a director of education for the lodging and food service industry*;* ~~or;~~

(b) With the approval of the advisory council, contract with a member of the State University System, offering a program in hospitality administration and management to assume the responsibility of director of education for the lodging and food service industry.

(2) The director of education shall develop and implement an educational program, designated the "Hospitality Education Program," offered for the *benefit of the* entire industry. This program may affiliate with Florida State University, Florida International University, ~~and~~ the University of Central Florida, *or any other member of the State University System, offering a program in hospitality administration and management approved by the advisory council.* The primary goal of this program is to *instruct and train* ~~inform~~ all individuals and businesses licensed under this chapter, *in cooperation with recognized associations that represent such licensees,* ~~as to training and instruction~~ in the application of state and federal laws and rules. Such programs shall also include:

(a) Vocational training.

(b) Management training.

(c) Inservice continuing education programs.

(d) Such other programs as may be deemed appropriate by the director of the division, the advisory council, and the director of education.

(3) All public lodging establishments and all public food service establishments licensed under this chapter shall pay *an annual* ~~a~~ fee of no more than $6 which shall be included in the *annual* license fee and which shall be used for the sole purpose of funding the Hospitality Education Program.

(4) The director of education shall formulate *an annual budget,* programs, and activities to accomplish the purposes of this section, ~~in accordance with and~~ subject to the advice and *approval* ~~recommendations~~ of the advisory council.

(a) The annual budget of the Hospitality Education Program must show that the total fees or charges estimated to be collected during the next fiscal year under this section will be dedicated solely to the estimated cost of funding the Hospitality Education Program, less any trust fund service charge imposed by s. 215.20. If the estimated cost of funding the Hospitality Education Program in any fiscal year is less than the total fees or charges estimated to be collected during that year, the director of education shall submit a report to the division director demonstrating why the amount of such fee or charge should not be immediately reduced to eliminate the projected surplus. The division director shall forward this report to the Secretary of the Department of Business and Professional Regulation as part of the division's annual budget request.

(b) Both the secretary's legislative budget requests submitted pursuant to ss. 216.023 and 216.031 and the Governor's recommended budget submitted pursuant to s. 216.163 must also show that the total fees or charges estimated to be collected during the next fiscal year under this section will be dedicated solely to funding the Hospitality Education Program, less any trust fund service charge imposed by s. 215.20. If the estimated cost of funding the Hospitality Education Program in any fiscal year is less than the total fees or charges estimated to be collected during that year, the secretary shall submit a report demonstrating why the amount of such fee or charge should not be immediately reduced to eliminate the projected surplus.

(5) The director of education, with the approval of the director and with the advice of the advisory council, may employ such personnel as necessary to carry out the purposes of this section.

(6) The director of education and *any* ~~the~~ staff *or contracting state university* shall receive such compensation as may be approved by the director *of the division* acting with the advice of the advisory council.

(7) The director of education, with the ~~approval of the director and~~ consent of the advisory council, may designate funds, not to exceed *$150,000* ~~$100,000~~ annually, to support school-to-career transition programs in the hospitality services field. Such programs shall be designed to prepare students for progressive careers in the hospitality industry *available through statewide organizations.*

(a) The director of education shall have supervision over the administration of the programs set forth in this subsection *and shall report the status of the programs at all meetings of the advisory council and at such other times as are prescribed by the advisory council.*

(b) The division shall *adopt* ~~promulgate~~ rules providing the criteria for program approval and the procedures for processing program applications. The criteria and procedures shall be approved by the advisory council.

Section 134. Paragraphs (a) and (b) of subsection (1) of section 509.291, Florida Statutes, 1994 Supplement, are amended to read:

509.291 Advisory council.—

(1) There is created *an 18-member* ~~a 17-member~~ advisory council.

(a) The Secretary of Business and Professional Regulation shall appoint *11* ~~10~~ voting members to the advisory council. Each member appointed by the secretary must be an operator of an establishment licensed under this chapter and shall represent the industries regulated by the division, except that one member appointed by the secretary must be a layperson and shall represent the general public. Such members of the council shall serve staggered terms of 4 years.

(b) The division, the Department of Health and Rehabilitative Services, the Florida Hotel and Motel Association, the Florida Restaurant Association, the Florida Apartment Association, and the Florida Association of Realtors shall each designate one representative to serve as a voting member of the council *and one member appointed by the secretary shall represent nontransient public lodging establishments.* In addition, one hospitality administration educator from a state university affiliated with the Hospitality Education Program created under s. 509.302 shall serve for a term of 2 years as a voting member of the council. This representative shall be designated on a rotating basis by the state universities affiliated with this program.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 11, line 22, following the semicolon (;) insert: amending s. 509.072, F.S.; limiting uses of moneys deposited into the Hotel and Restaurant Trust Fund from the assessment against public lodging and public food service establishments; amending s. 509.302, F.S.; prescribing additional duties of the Director of the Division of Hotels and Restaurants and the director of education of the program; authorizing the program to affiliate with certain institutions in the State University System; providing budgetary requirements for the program; amending s. 509.291, F.S.; increasing the membership of an advisory council

On motion by Senator Weinstein, the rules were waived to allow the following amendment to be considered:

Senator Weinstein moved the following amendment which was adopted:

Amendment 23 (with Title Amendment)—On page 122, between lines 2 and 3, insert:

Section 113. Subsections (12), (13), (26), and (27) of section 713.01, Florida Statutes, 1994 Supplement, are amended to read:

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

(12) "Improve" means build, erect, place, make, alter, remove, repair, or demolish any improvement over, upon, connected with, or beneath the surface of real property, or excavate any land, or furnish materials for any of these purposes, or perform any labor or services upon the improvements, including the furnishing of carpet or rugs or appliances that are permanently affixed to the real property and final construction cleanup to prepare a structure for occupancy; ~~or~~ perform any labor or services or furnish any materials in grading, seeding, sodding, or planting for landscaping purposes, including the furnishing of trees, shrubs, bushes, or plants that are planted on the real property, or in equipping any improvement with fixtures or permanent apparatus*; or provide any solid-waste collection or disposal on the site of the improvement.*

(13) "Improvement" means any building, structure, construction, demolition, excavation, *solid-waste removal,* landscaping, or any part thereof existing, built, erected, placed, made, or done on land or other real property for its permanent benefit.

(26) "Subcontractor" means a person other than a materialman or laborer who enters into a contract with a contractor for the performance of any part of such contractor's contract, *including the removal of solid waste from the real property.*

(27) "Sub-subcontractor" means a person other than a materialman or laborer who enters into a contract with a subcontractor for the performance of any part of such subcontractor's contract, *including the removal of solid waste from the real property.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 12, line 7, after the semicolon (;) insert: amending s. 713.01, F.S., relating to the Construction Lien Law; revising definitions to include solid-waste collection and disposal activities;

On motion by Senator Harden, by two-thirds vote **HB 2721** as amended was read the third time by title, passed and certified to the House The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Silver, the rules were waived and—

SB 1526—A bill to be entitled An act relating to funding of retained professional sports franchise facilities; amending ss. 212.20 and 288.1162, F.S.; providing for certification of such facilities by the Department of Commerce; providing procedures and requirements for certification; prohibiting certain previously certified applicants from additional certification; providing for a monthly distribution of a portion of sales tax revenues to such certified facilities for a specified period; providing for use of such revenues; amending s. 125.0104, F.S.; authorizing certain counties to impose an additional tourist development tax to pay debt service on bonds issued to finance the construction, reconstruction, or renovation of such a facility; providing requirements with respect thereto; providing an effective date.

—was removed from the table and read the second time by title.

The Committee on Commerce and Economic Opportunities recommended the following amendment which was moved by Senator Silver:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Paragraph (g) of subsection (6) of section 212.20, Florida Statutes, 1994 Supplement, is amended to read:

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

(6) Distribution of all proceeds under this part shall be as follows:

(g) The proceeds of all other taxes and fees imposed pursuant to this part shall be distributed as follows:

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

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

3. After the distribution under subparagraphs 1. and 2., 9.664 percent for the remaining months of fiscal year 1992-1993, and 9.653 percent thereafter, of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.054 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. Of the remaining proceeds:

a. Beginning July 1, 1992, $166,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "facility for a new professional sports franchise" *or a "facility for a retained professional sports franchise"* pursuant to s. 288 1162 and $41,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years Nothing contained herein shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(7). However, a certified applicant shall receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification by the Department of Commerce. *In the event the retained professional sports franchise fails to remain in the same location until retirement of any indebtedness incurred for capital improvements, all taxes expended pursuant hereto shall be repaid.*

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

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

Section 2. Section 288.1162, Florida Statutes, 1994 Supplement, is amended to read:

288.1162 Professional sports franchises; spring training franchises; department duties.—

(1) The Department of Commerce shall serve as the state agency for screening applicants for state funding pursuant to s. 212.20 and for certifying an applicant as a "facility for a new professional sports franchise," *a "facility for a retained professional sports franchise,"* or a "new spring training franchise facility."

(2) The Department of Commerce shall develop rules for the receipt and processing of applications for funding pursuant to s. 212.20.

(3) As used in this section:~~, the term~~

(a) "New professional sports franchise" means a professional sports franchise that is not based in this state prior to July 1, 1990.

(b) "Retained professional sports franchise" means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a facility that has been previously certified under any provision of this section.

(4) Prior to certifying an applicant as a "facility for a new professional sports franchise," *or a "facility for a retained professional sports franchise,"* the Department of Commerce must determine that:

(a) A "unit of local government" as defined in s. 218.369 is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 10 years, *or in the case of a retained professional sports franchise, an agreement for use of the facility for a term of at least 20 years.*

(c) The applicant has a verified copy of the approval from the governing authority of the league in which the *new* professional sports franchise exists authorizing the location of the professional sports franchise in this state after July 1, 1990, *or in the case of a retained professional sports franchise, verified evidence that it has had a league-authorized location in this state on or before December 31, 1976.* The term "league" means the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.

(d) The applicant has projections, verified by the Department of Commerce, which demonstrate that the new *or retained* professional sports franchise will attract a paid attendance of more than 300,000 annually.

(e) The applicant has an independent analysis or study, verified by the department, which demonstrates that the amount of the revenues generated by the taxes imposed under part I of chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed $2 million annually.

(f) The municipality in which the facility for a new *or retained* professional sports franchise is located, or the county if the facility for a new *or retained* professional sports franchise is located in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.

(g) The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.

(h) No applicant previously certified under any provision of this section who has received funding under such certification shall be eligible for an additional certification.

(5) As used in this section, ~~the term~~ "new spring training franchise" means a spring training franchise that is not based in this state prior to July 1, 1990.

(6) Prior to certifying an applicant as a "new spring training franchise facility," the Department of Commerce must determine that:

(a) A "unit of local government" as defined in s. 218.369 is responsible for the construction, management, or operation of the new spring training franchise facility or holds title to the property on which the new spring training franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new spring training franchise for the use of the facility for a term of at least 15 years.

(c) The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the use of the facility by the new spring training franchise.

(d) The proposed facility for the new spring training franchise is located within 20 miles of an interstate or other limited-access highway system.

(e) The applicant has projections, verified by the Department of Commerce, which demonstrate that the new spring training franchise facility will attract a paid attendance of at least 50,000 annually.

(f) The new spring training franchise facility is located in a county that is levying a tourist development tax pursuant to s. 125.0104(3)(b), (c), (d), and (l), at the rate of 4 percent by March 1, 1992, and, 87.5 percent of the proceeds from such tax are dedicated for the construction of a spring training complex.

(7) An applicant certified as a facility for a new professional sports franchise *or a facility for a retained professional sports franchise* or as a new spring training franchise facility may use funds provided pursuant to s. 212.20 only for the public purpose of paying for the construction, reconstruction, or renovation of a facility for a new professional sports franchise, *a facility for a retained professional sports franchise,* or *a* new spring training franchise facility or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(8) The Department of Commerce shall notify the Department of Revenue of any facility certified as a facility for a new professional sports franchise *or a facility for a retained professional sports franchise* or as a new spring training franchise facility. The department may certify no more than six facilities as facilities for a new professional sports franchise, *as facilities for a retained professional sports franchise,* or as new spring training franchise facilities. The department may make no more than one certification for any facility.

(9) The Department of Revenue may audit as provided in s. 213.34 to verify that the distributions pursuant to this section have been expended as required in this section. Such information is subject to the confidentiality requirements of chapter 213. *If the Department of Revenue determines that the distributions pursuant to this section have not been expended as required by this section, it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.*

(10) An applicant shall not be qualified for certification under this section if the franchise formed the basis for a previous certification, unless the previous certification was withdrawn by the facility or invalidated by the department before any funds were distributed pursuant to s. 212.20. This subsection does not disqualify an applicant if the previous certification occurred between May 23, 1993, and May 25, 1993; however, any funds to be distributed pursuant to s. 212.20 for the second certification shall be offset by the amount distributed to the previous certified facility. Distribution of funds for the second certification shall not be made until all amounts payable for the first certification have been distributed.

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

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 funding of retained professional sports franchise facilities; amending ss. 212.20 and 288.1162, F.S.; providing for certification of such facilities by the Department of Commerce; providing procedures and requirements for certification; prohibiting certain previously certified applicants from additional certification; providing for a monthly distribution of a portion of sales tax revenues to such certified facilities for a specified period; providing for use of such revenues; providing for repayment of such revenues in certain circumstances; providing an effective date.

WHEREAS, existing professional sports franchises provide Florida communities with a source of recreation and contribute to civic pride, and

WHEREAS, such existing professional sports franchises provide jobs and enhance economic development and well-being for the citizens of Florida, and

WHEREAS, current state financial incentives for professional sports franchise facilities in section 212.20, Florida Statutes, are limited to "new" professional sports franchises, and

WHEREAS, such restrictions limit the ability of Florida and its communities to retain existing sports franchises from which historically the state and its communities have received substantial benefits, NOW, THEREFORE,

Senator Silver moved the following substitute amendment which was adopted:

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

Section 1. Definitions.—

(1) As used in this section:

(a) A major sports complex is:

1. A professional sports franchise facility, consisting of any real property or any development of regional impact, regardless of whether the development order for the development of regional impact has expired, upon which is located and operating a professional sports franchise approved by the governing authority of the National League or the American League of major league baseball, the National Football League, the National Basketball Association, or the National Hockey League; or

2. A pari-mutuel facility, consisting of that real property upon which is located and operating a race track, jai alai fronton, or other facility that is qualified and permitted to conduct pari-mutuel wagering under chapter 550, Florida Statutes

(b) A new municipality is a municipality as described in section 163.031(4), Florida Statutes, which is created after January 1, 1995

(c) A special purpose unit is a local unit of special purpose government within a limited boundary, created by municipal or county ordinance after January 1, 1995, which may have some, but not all, of the powers of a municipality set forth in section 166.021, Florida Statutes.

(2) Notwithstanding any provision of general, special, or local law or any procedure established, authorized, or recognized pursuant to Section 2 or Section 6 of Article VIII of the State Constitution, no major sports complex located in the unincorporated area of any county as of January 1, 1995, shall be incorporated in any new municipality or included in any new special purpose unit, without the written consent of the franchise holder in case of a professional sports franchise facility or permitholder in case of a pari-mutuel facility.

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

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 sports facilities; prohibiting the incorporation into a municipality or special purpose unit of certain property on which a major sports complex or pari-mutuel facility is located; providing an effective date.

On motion by Senator Silver, by two-thirds vote **SB 1526** 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

THE PRESIDENT PRESIDING

CS for SB 444—A bill to be entitled An act relating to economic development; creating s. 125.0125, F.S., relating to county economic development powers; providing legislative findings; allowing the governing body of a county to expend public funds to attract and retain business enterprises; declaring that such expenditures constitute a public purpose; providing a list of economic development activities for which expending funds constitutes a public purpose; providing that a referendum is required before the county may increase taxes or other fees that are to be used to attract or retain business enterprises; providing an effective date.

—was read the second time by title.

Amendments were adopted to **CS for SB 444** to conform the bill to **CS for CS for HB 1853**.

Pending further consideration of **CS for SB 444** as amended, on motion by Senator Burt, by two-thirds vote **CS for CS for HB 1853** was withdrawn from the Committees on Commerce and Economic Opportunities; Community Affairs; Ways and Means; and Rules and Calendar.

On motion by Senator Burt—

CS for CS for HB 1853—A bill to be entitled An act relating to economic development; creating s. 125.0125, F.S., relating to county economic development powers; providing legislative findings; allowing the governing body of a county to expend public funds to attract and retain business enterprises; declaring that such expenditures constitute a public purpose; providing a list of economic development activities for which expending funds constitutes a public purpose; amending s. 290.0065, F.S.; redesignating enterprise zones in a county as defined in s. 125.011(1), F.S.; allowing for the relocation and modification of certain enterprise zones; removing restrictions on department's approval authority; providing an effective date.

—a companion measure, was substituted for **CS for SB 444** and read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for CS for HB 1853** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—2

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

CS for HB's 1689 and 1219—A bill to be entitled An act relating to the Department of Elderly Affairs; transferring to the department certain responsibilities of the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services; amending s. 20.41, F.S.; providing for headquarters and planning and service areas of the Department of Elderly Affairs; providing that the department is the state unit on aging; providing for area agencies on aging; providing organization and responsibilities; deleting obsolete language; amending ss.

400.401, 400.402, 400.408, 400.426, 400.431, 400.434, 400.441, and 400.452, F.S.; transferring to the department from the Department of Health and Rehabilitative Services certain responsibilities and funding relating to adult congregate living facilities; providing responsibilities of the departments and the Agency for Health Care Administration; conforming language and references; amending ss. 400.551 and 400.562, F.S.; transferring certain responsibilities relating to adult day care centers; providing for standards adopted in rules; amending s. 400.602, F.S.; providing hospice licensure for certain entities under specified conditions; amending ss. 400.601, 400.602, 400.605, and 400.606, F.S.; transferring certain responsibilities relating to hospices; amending ss. 400.618, 400.619, 400.6196, 400.621, and 400.622, F.S.; transferring certain responsibilities and funding relating to adult family-care homes; providing responsibilities of the departments and the Agency for Health Care Administration; providing for future transfer of powers, duties, and functions relating to administration of the nursing home preadmission screening program to the department from the Department of Health and Rehabilitative Services; providing for allocation of resources to the planning and service areas; providing for transfer of positions and funding; providing for comprehensive assessment and review screening for certain persons; providing for future transfer of powers, duties, and functions relating to the home care for the elderly program; abolishing certain staff positions; providing for administration of the program on a contractual basis through the area agencies on aging; providing for a task force for reemployment assistance; providing for transfer of funding; providing for use of savings due to privatized administration of the program; amending and renumbering s. 410.011, F.S.; providing that the Department of Elderly Affairs is the designated state unit for administration of federal aging programs; amending and renumbering ss. 410.021, 410.022, 410.023, 410.024, 410.0241, 410.026, and 410.0295, F.S., relating to the community-care-for-the-elderly program; revising definitions; transferring responsibilities to the Department of Elderly Affairs; revising powers and duties; providing for collection of fees; revising program services; providing for training standards and requirements for service providers and staff; amending ss. 410.031, 410.032, 410.033, 410.034, 410.035, and 410.037, F.S.; providing for future separate administration of provisions relating to home care for disabled adults and the elderly by the Department of Health and Rehabilitative Services and the Department of Elderly Affairs; deleting references to elderly persons from provisions to be administered by the Department of Health and Rehabilitative Services; deleting provisions relating to judicial review of unfitness to provide home care; conforming language; amending and renumbering ss. 410.401 and 410.403, F.S.; transferring responsibility for the Alzheimer's Disease Advisory Committee to the department; providing additional duties; increasing membership; revising appointment procedures; providing for subcommittees; providing for per diem and travel expenses; amending and renumbering s. 410.402, F.S.; revising provisions relating to funding, training, and research at memory disorder clinics and centers; providing department responsibilities; revising provisions relating to day care and respite care programs; creating s. 430.503, F.S.; providing for collection of fees for services under the "Alzheimer's Disease Initiative"; amending ss. 430.01, 430.02, 430.03, and 430.04, F.S.; revising short title, legislative intent, purposes, and duties and responsibilities of the Department of Elderly Affairs; creating ss. 430.601, 430.602, 430.603, 430.604, 430.605, and 430.606, F.S.; providing for future administration by the Department of Elderly Affairs of provisions relating to home care for the elderly; providing legislative intent; providing definitions; providing for minimum standards and procedures; providing for determination of fitness to provide home care; providing for subsidy payments; providing for eligibility; providing a definition for certain purposes; repealing s. 410.016, F.S, relating to responsibilities of the Department of Health and Rehabilitative Services regarding the state's elderly population; repealing s. 410.029, F.S., relating to multiyear plans for implementation of community care systems; repealing ss. 410.201, 410.2015, and 410.202, F.S., relating to the older volunteers service credit program; repealing s. 430.06, F.S., relating to an interdepartmental plan for improving the provision of social service and long-term care to the elderly; amending ss. 110.501, 400.464, 402.33, and 420.36, F.S.; correcting cross references; amending ss. 159.27, 196.1975, 205.1965, 400.0060, 400.0069, 400.401, 400.402, 400.404, 400.407, 400.408, 400.412, 400.4195, 400.42, 400.421, 400.426, 400.435, 400.442, 400.447, 400.452, 400.553, 400.609, 400.618, 400.619, 400.621, 400.701, 400.702, 405.01, 408.032, 408.033, 408.035, 409.212, 410.031, 410.034, 410.502, 415.102, 415.103, 415.105, 415.107, 420.623, 468.1695, 468.505, 509.013, 633.021, 633.022, and 651.083, F.S.; redesignating adult congregate living facilities as "assisted living facilities"; providing effective dates.

—a companion measure, was substituted for **CS for SB's 1946 and 2812** and by two-thirds vote read the second time by title.

Senator Bankhead moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. The home care for the elderly program and the nursing home preadmission screening program (CARES) of the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services, established in s. 20.19(4)(b)2.d., Florida Statutes, are hereby transferred to the Department of Elderly Affairs by a type two transfer, as provided for under s. 20.06(2), Florida Statutes.

Section 2. Section 20.41, Florida Statutes, is amended to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(1) The head of the department is the Secretary of Elderly Affairs. The secretary must be appointed by the Governor, subject to confirmation by the Senate. The requirement for Senate confirmation applies to any person so appointed on or after July 1, 1994. The secretary serves at the pleasure of the Governor. The secretary shall administer the affairs of the department and may employ assistants, professional staff, and other employees as necessary to discharge the powers and duties of the department.

(2) The department shall plan and administer its programs and services through planning and service areas as designated by the department.

(3) The department shall maintain its headquarters in Tallahassee.

~~(2) The Pepper Commission on Aging, created by former s. 410.505, is hereby abolished and all its statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are hereby transferred by a type three transfer, as defined in s. 20.06(3), to the department. The secretary shall add and delete or reclassify personnel positions as may be deemed necessary by the secretary to discharge the duties of the department.~~

(4)~~(3)~~ The department shall administratively house the State Long-Term Care Ombudsman Council, created by s. 400.0067, and the district long-term care ombudsman councils, created by s. 400.0069 *and shall, as required by s. 712 of the federal Older Americans Act of 1965, ensure that both the state and district long-term care ombudsman councils operate in compliance with the Older Americans Act.* The councils in performance of their duties shall not be subject to control, supervision, or direction by the department.

(5) The department shall be the state unit on aging as defined in the federal Older Americans Act of 1965, as amended, and shall exercise all responsibilities pursuant to that act.

(6) In accordance with the federal Older Americans Act of 1965, as amended, the department shall designate and contract with area agencies on aging in each of the department's planning and service areas. Area agencies on aging shall ensure a coordinated and integrated provision of long-term care services to the elderly and shall ensure the provision of prevention and early intervention services. The department shall have overall responsibility for information system planning. The department shall ensure, through the development of equipment, software, data, and connectivity standards, the ability to share and integrate information collected and reported by the area agencies in support of their contracted obligations to the state. Information system plans developed in support of the area agencies shall be included in the department's strategic information resource management plan, as required by s. 282.307.

(7) The department shall contract with the governing body, hereafter referred to as the "board," of an area agency on aging to fulfill programmatic and funding requirements. The board shall be responsible for the overall direction of the agency's programs and services and shall ensure that the agency is administered in accordance with the terms of its contract with the department, legal requirements, established agency policy, and effective management principles. The board shall also ensure the accountability of the agency to the local communities included in the planning and service area of the agency.

(8) The area agency on aging board shall, in consultation with the secretary, appoint a chief executive officer, hereafter referred to as the "executive director," to whom shall be delegated responsibility for agency management and for implementation of board policy, and who shall be accountable for the agency's performance.

Section 3. Subsection (2) of section 400.401, Florida Statutes, is amended to read:

400.401 Short title; purpose.—

(2) The purpose of this act is to promote the availability of appropriate services for elderly persons and adults with disabilities in the least restrictive and most homelike environment, to encourage the development of facilities which promote the dignity, individuality, privacy, and decisionmaking ability of such persons, to provide for the health, safety, and welfare of residents of *assisted* ~~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 Elderly Affairs,* the Department of Health and Rehabilitative Services, *assisted* ~~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 *assisted* ~~adult congregate~~ living facilities. The Legislature recognizes that *assisted* ~~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 *assisted* ~~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. 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.

Section 4. Subsection (9) of section 400.402, Florida Statutes, is amended to read:

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

(9) "Department" means the Department of *Elderly Affairs* ~~Health and Rehabilitative Services~~.

Section 5. Section 400.408, Florida Statutes, is amended to read:

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

(1) It is unlawful to knowingly refer a person for residency to an unlicensed facility that provides services that may only be provided by an *assisted* ~~adult congregate~~ living facility; to an *assisted* ~~adult congregate~~ living facility the license of which is under denial or has been suspended or revoked; or to a facility that has had a moratorium placed on admissions. Any person who violates this subsection is guilty of a noncriminal violation, punishable by a fine not exceeding $500 as provided in s. 775.083.

(a) Any employee of the agency or department, *or the Department of Health and Rehabilitative Services,* who knowingly refers a person for residency to an unlicensed facility; to a facility the license of which is under denial or has been suspended or revoked; or to a facility that has had a moratorium placed on admissions is subject to disciplinary action by the agency or department, *or the Department of Health and Rehabilitative Services.*

(b) The employer of any person who is under contract with the agency or department, *or the Department of Health and Rehabilitative Services,* and who knowingly refers a person for residency to an unlicensed facility; to a facility the license of which is under denial or has been suspended or revoked; or to a facility that has had a moratorium imposed on admissions shall be fined and required to prepare a corrective action plan designed to prevent such referrals.

(2) ~~In at least one office in each district of the department,~~ The agency shall *provide the department and the Department of Health and Rehabilitative Services with* ~~maintain~~ a list of licensed facilities within *each county* ~~that district~~ and shall update the list at least monthly.

(3) At least annually, the agency 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 II of this chapter, and employees of the agency or the department, *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 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 6. Subsections (1), (6), (7), and (8) of section 400.426, Florida Statutes, are amended to read:

400.426 Appropriateness of placements; examinations of residents.—

(1) The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual to the facility and for determining the continued appropriateness of residence of an individual in the facility. A determination shall be based upon an assessment of the strengths, needs, and preferences of the resident, the care and services offered or arranged for by the facility in accordance with facility policy, and any limitations in law or rule related to admission criteria or continued residency for the type of license held by the facility under this part. A resident may not be moved from one facility to another without consultation with and agreement from the resident or, if applicable, the resident's representative or designee or the resident's family, guardian, surrogate, or attorney in fact. In the case of a resident who has been placed by the department *or the Department of Health and Rehabilitative Services,* the administrator must notify the appropriate contact person in the *applicable* department.

(6) Any resident accepted in a facility and placed by the department *or the Department of Health and Rehabilitative Services* shall have been examined by medical personnel within 30 days before placement in the facility. The examination shall include an assessment of the appropriateness of placement in a facility. The findings pursuant to such examination shall be recorded on the examination form provided by the agency. The completed form shall accompany the resident and shall be submitted to the facility owner or administrator. In addition, any resident placed by the department *or the Department of Health and Rehabilitative Services* who is a mental health resident shall also be evaluated by a mental health professional, as defined in s. 394.455(2), to assess the resident's appropriateness for placement in a facility. The *applicable* department shall provide to the facility administrator any information about the resident that would help the administrator meet his responsibilities under subsection (1). Further, ~~the~~ department personnel shall explain to the facility operator any special needs of the resident and advise the operator whom to call should problems arise. The *applicable* department shall advise and assist the facility administrator where the special needs of residents who are recipients of optional state supplementation require such assistance.

(7) The Department *of Health and Rehabilitative Services* may require an examination for supplemental security income and optional state supplementation recipients residing in facilities at any time and shall provide such examination whenever a resident's condition requires it. Any facility administrator, ~~licensure or other department~~ personnel *of the agency, the department, or the Department of Health and Rehabilitative Services,* or long-term care ombudsman council member who believes a resident needs to be evaluated shall notify the resident's case manager, who shall take appropriate action. A report of the examination findings shall be provided to the resident's case manager and the facility administrator to help the administrator meet his responsibilities under subsection (1).

(8) If, at any time after admission to a facility, a resident appears to need care beyond that which the facility is licensed to provide, the *agency* ~~department~~ shall require the resident to be physically examined by a licensed physician or licensed nurse practitioner or evaluated by an

appropriate mental health professional, as defined in s. 394.455(2); such examination shall, to the extent possible, be performed by the resident's preferred physician or nurse practitioner or mental health professional and shall be paid for by the resident with personal funds, except as provided in s. 400.418(1)(b). Pursuant to such examination, the examining physician or licensed nurse practitioner shall complete and sign a medical form provided by the *agency* ~~department~~. The completed medical form shall be submitted to the agency within 30 days from the date the facility owner or administrator is notified by the agency that the physical examination is required. After consultation with the physician or licensed nurse practitioner who performed the examination, a medical review team designated by the *agency* ~~department~~ shall then determine whether the resident is appropriately residing in the facility. The medical review team shall base its decision on a comprehensive review of the resident's physical and functional status, including the resident's preferences, and not on an isolated health-related problem. A facility must not be required to retain a resident who requires more services or care than the facility is able to provide in accordance with its policies and criteria for admission and continued residency. Members of the medical review team making the final determination shall not include the agency personnel who initially questioned the appropriateness of a resident's placement. Such determination shall be final and binding upon the facility and the resident. Any resident who is determined by the medical review team to be inappropriately residing in a facility shall be given 30 days' written notice to relocate by the owner or administrator, unless the resident's continued residence in the facility presents an imminent danger to the health, safety, or welfare of the resident or a substantial probability exists that death or serious physical harm would result to the resident if allowed to remain in the facility.

Section 7. Subsection (2) of section 400.431, Florida Statutes, is amended to read:

400.431 Closing of facility; notice; penalty.—

(2) Immediately upon the notice by the agency of the voluntary or involuntary termination of such operation, the agency shall monitor the transfer of residents to other facilities and ensure that residents' rights are being protected. The department, *in consultation with the Department of Health and Rehabilitative Services,* shall specify *procedures* ~~in rule which program offices are responsible~~ for ensuring that all residents who receive services ~~from the department~~ are appropriately relocated.

Section 8. Section 400.434, Florida Statutes, is amended to read:

400.434 Right of entry and inspection.—Any duly designated officer or employee of the department, *the Department of Health and Rehabilitative Services,* the agency, the state or local fire marshal, or a member of the state or district long-term care ombudsman council shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part and of rules or standards in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the agency has reason to believe is being operated or maintained as a facility without a license; but no such entry or inspection of any premises may be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing such entry. The warrant requirement shall extend only to a facility which the agency has reason to believe is being operated or maintained as a facility without a license. Any application for a license or renewal thereof made pursuant to this part shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints. Any current valid license shall constitute unconditional permission for, and complete acquiescence in, any entry or inspection of the premises by authorized personnel. The agency shall retain the right of entry and inspection of facilities that have had a license revoked or suspended within the previous 24 months, to ensure that the facility is not operating unlawfully. However, before entering the facility, a statement of probable cause must be filed with the director of the agency, who must approve or disapprove the action within 48 hours. Probable cause shall include, but is not limited to, evidence that the facility holds itself out to the public as a provider of personal care services or the receipt of a complaint by the long-term care ombudsman council about the facility.

Section 9. Subsections (1) and (2) of section 400.441, Florida Statutes, are amended to read:

400.441 Rules establishing standards.—

(1) Pursuant to the intention of the Legislature to provide safe and sanitary facilities, the department, in consultation with the agency and the Department of *Health and Rehabilitative Services* ~~Elderly Affairs~~, shall promulgate, publish, and enforce rules, *policies, and procedures* to implement the provisions of this part, which shall include reasonable and fair minimum standards in relation to:

(a) The maintenance of facilities, not in conflict with the provisions of chapter 553, relating to plumbing, heating, lighting, ventilation, and other housing conditions, which will ensure the health, safety, and comfort of residents and protection from fire hazard, including adequate provisions for fire alarm and other fire protection suitable to the size of the structure. Uniform firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the agency, *the department,* and the Department *of Health and Rehabilitative Services.* Facilities which are fully sprinkled and in compliance with other firesafety standards shall not be required to conduct more than one of the required fire drills between the hours of 11 p.m. and 7 a.m., per year. In lieu of the remaining drills, staff responsible for residents during such hours shall participate in a mock drill which includes a review of evacuation procedures. The agency shall not duplicate fire inspections performed by state or local fire marshals. Such standards shall be included or referenced in the rules promulgated by the department after consultation with the State Fire Marshal. Pursuant to s. 633.022(1)(b), the State Fire Marshal shall be the final administrative authority for firesafety standards established and enforced pursuant to this section.

(b) The preparation and annual update of a comprehensive emergency management plan. Such standards must be included in the rules adopted by the department after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including *provision of* emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; *communication* ~~communicating~~ with families; and *responses* ~~responding~~ to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(c) The number and qualifications of all personnel having responsibility for the care of residents. The rules shall require adequate staff to provide for the safety of all residents.

(d) All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of residents. The rules shall clearly delineate the responsibilities of the agency's licensure staff and the responsibilities of the county public health units and ensure that inspections are not duplicative. The agency may collect fees for food service inspections conducted by the county public health units and transfer such fees to the Department *of Health and Rehabilitative Services.*

(e) The levying and enforcement of penalties and use of income from fees and fines.

(f) The enforcement of the resident bill of rights specified in s. 400.428

(g) The care and maintenance of residents which shall include, but not be limited to:

1. The provision of personal services;

2. The provision of, or arrangement for, social and leisure activities;

3. The arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents;

4. The provision of limited nursing services; and

5. The provision of extended congregate care services.

(h) The establishment of specific criteria to define appropriateness of admission and continued residency.

(i) The definition and use of physical or chemical restraints. The use of physical restraints is limited to half-bed rails as prescribed and documented by the resident's physician with the consent of the resident or, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact. The use of chemical restraints is limited to prescribed dosages of medications authorized by the resident's physician and must be consistent with the resident's diagnosis. Residents who are receiving medications that can serve as chemical restraints must be evaluated by their physician at least annually to assess:

1. The continued need for the medication.

2. The level of the medication in the resident's blood.

3. The need for adjustments in the prescription.

(2) In adopting any rules pursuant to this part, the *department, in conjunction with the* agency, shall make distinct standards for facilities based upon facility size; the types of care provided; the physical and mental capabilities and needs of residents; ~~and~~ the type, frequency, and amount of services and care offered; and the staffing characteristics of the facility. Rules developed pursuant to this section shall not restrict the use of shared staffing and shared programming in facilities *that* ~~which~~ are part of retirement communities that provide multiple levels of care and otherwise meet the requirements of law and rule. Except for uniform firesafety standards, the department shall adopt by rule separate and distinct standards for facilities with 16 or fewer beds and for facilities with 17 or more beds. The standards for facilities with 16 or fewer beds shall be appropriate for a noninstitutional residential environment, provided that the structure is no more than two stories in height and all persons who cannot exit the facility unassisted in an emergency reside on the first floor. The *department, in conjunction with the* agency, may make other distinctions among types of facilities as necessary to enforce the provisions of this part. Where appropriate, the agency shall offer alternate solutions for complying with established standards, based on distinctions made by the *department and the* agency relative to the physical characteristics of facilities and the types of care offered therein.

Section 10. Subsection (4) of section 400.452, Florida Statutes, is amended to read:

400.452 Staff training and educational programs; core educational requirement.—

(4) If the department *or the agency* determines that there are problems in a facility that could be reduced through specific staff training or education beyond that already required under this section, the department *or the agency* may require, and provide, or cause to be provided, the training or education of any personal care staff in the facility.

Section 11. All moneys in the Operations and Management Trust Fund of the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services, which have been collected as fees for training and education pursuant to s. 400.452(3), Florida Statutes, are hereby transferred to the Department of Elderly Affairs. The positions, allocations, appropriations, resources, and other funds associated with the training and education requirements of s. 400.452, Florida Statutes, are hereby transferred to the Department of Elderly Affairs by a type two transfer, as provided for in s. 20.06(2), Florida Statutes.

Section 12. Subsection (4) of section 400.551, Florida Statutes, is amended to read:

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

(4) "Department" means the Department of *Elderly Affairs* ~~Health and Rehabilitative Services~~.

Section 13. Section 400.562, Florida Statutes, is amended to read:

400.562 Rules establishing standards.—

(1) ~~The Department of Health and Rehabilitative Services in consultation with the agency and~~ The Department of Elderly Affairs, *in conjunction with the agency,* shall adopt rules to implement the provisions of this part. The rules must include reasonable and fair standards. Any conflict between these standards and those that may be set forth in local, county, or municipal ordinances shall be resolved in favor of those having statewide effect. Such standards must relate to:

(a) The maintenance of adult day care centers with respect to plumbing, heating, lighting, ventilation, and other building conditions, including adequate meeting space, to ensure the health, safety, and comfort of participants and protection from fire hazard. Such standards may not conflict with chapter 553 and must be based upon the size of the structure and the number of participants.

(b) The number and qualifications of all personnel employed by adult day care centers who have responsibilities for the care of participants.

(c) All sanitary conditions within adult day care centers and their surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance of sanitary conditions, to ensure the health and comfort of participants.

(d) Basic services provided by adult day care centers.

(e) Supportive and optional services provided by adult day care centers.

(f) Data and information relative to participants and programs of adult day care centers, including, but not limited to, the physical and mental capabilities and needs of the participants, the availability, frequency, and intensity of basic services and of supportive and optional services provided, the frequency of participation, the distances traveled by participants, the hours of operation, the number of referrals to other centers or elsewhere, and the incidence of illness.

~~(2) The department may not enforce a standard adopted by rule under this part until 6 months after adopting that rule.~~

(2)~~(3)~~ Pursuant to s. 119.07, the agency may charge a fee for furnishing a copy of this part, or of the rules adopted under this part, to any person upon request for the copy.

(3)~~(4)~~ Pursuant to rules adopted by the *department* ~~agency~~, the agency may conduct an abbreviated biennial inspection of key quality-of-care standards, in lieu of a full inspection, of a center that has a record of good performance. However, the agency must conduct a full inspection of a center that has had one or more confirmed complaints within the licensure period immediately preceding the inspection or which has a serious problem identified during the abbreviated inspection. The agency shall develop the key quality-of-care standards ~~and rules~~, taking into consideration the comments and recommendations of the Department of Elderly Affairs and of provider groups. *These standards shall be included in rules adopted by the Department of Elderly Affairs.*

Section 14. Present subsections (2) through (9) of section 400.601, Florida Statutes, are renumbered as subsections (3) through (10), respectively, and a new subsection (2) is added to that section to read:

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

(2) "Department" means the Department of Elderly Affairs.

Section 15. Subsection (5) of section 400.602, Florida Statutes, is amended and subsection (6) is added to that section to read:

400.602 Licensure required; prohibited acts; exemptions; display, transferability of license.—

(5) Notwithstanding s. 400.601*(3)*~~(2)~~, any hospice operating in corporate form exclusively as a hospice, incorporated on or before July 1, 1978, may be transferred to a for-profit or not-for-profit entity, and may transfer the license to that entity.

(6) Notwithstanding s. 400.601(2), at any time after July 1, 1995, any entity entitled to licensure under subsection (5) may obtain a license for up to two additional hospices in accordance with the other requirements of this part and upon receipt of any certificate of need that may be required under the provisions of ss. 408.031-408.045.

Section 16. Section 400.605, Florida Statutes, is amended to read:

400.605 Administration; forms; fees; rules; inspections; fines.—

(1) The department, in consultation with the agency, shall by rule establish minimum standards and licensure procedures for a hospice. The rules must include:

(a) The qualifications of professional and ancillary personnel to ensure the provision of appropriate and adequate hospice care.

(b) Standards for the administrative management of a hospice.

(c) Standards for hospice services that ensure the provision of quality patient care.

(d) Procedures for maintaining and ensuring confidentiality of patient records.

(e) Provision for contractual arrangements for the inpatient component of hospice care and for other professional and ancillary hospice services.

(f) Standards for hospice care provided in hospice residential units and freestanding inpatient facilities that are not otherwise licensed medical facilities.

(2) The *agency* ~~administration of this act is vested in the agency, which~~ shall:

(a)~~(1)~~ Prepare and furnish all forms necessary under the provisions of this part in relation to applications for licensure or licensure renewals.

(b)~~(2)~~ Collect from the applicant at the time of filing an application for a license or at the time of renewal of a license a fee which must be reasonably calculated to cover the cost of regulation under this part, but may not exceed $600 per program. All fees collected under this part shall be deposited in the Health Care Trust Fund for the administration of this part.

(c)~~(3)~~ Issue hospice licenses to all applicants which meet the provisions of this part and applicable rules.

~~(4) In consultation with the Department of Health and Rehabilitative Services and the Department of Elderly Affairs adopt applicable rules in furtherance of the purpose of this part and amend such rules as may be necessary. The rules shall include the following:~~

~~(a) The qualifications of professional and ancillary personnel to ensure the provision of appropriate and adequate hospice care.~~

~~(b) Standards for the administrative management of the hospice.~~

~~(c) Standards for hospice services that ensure the provision of quality patient care.~~

~~(d) Procedures for maintaining and assuring confidentiality of patient records.~~

~~(e) Provision for contractual arrangements for the inpatient component of hospice care and for other professional and ancillary hospice services.~~

~~(f) Standards for hospice care provided in hospice residential units and freestanding inpatient facilities that are not otherwise licensed medical facilities.~~

(d)~~(5)~~ Conduct annual licensure inspections of all licensees, except that licensure inspections may be conducted biennially for hospices *having* ~~with~~ a 3-year record of substantial compliance.

(e)~~(6)~~ Conduct such inspections and investigations as are necessary in order to determine the state of compliance with the provisions of this part and adopted rules. The right of inspection ~~shall~~ also *extends* ~~extend~~ to any program *that* ~~which~~ the agency has reason to believe is offering or advertising itself as a hospice without a license, but no inspection may be made without the permission of the owner or person in charge thereof unless a warrant is first obtained from a circuit court authorizing such inspection. *An* application for a license or license renewal made pursuant to this part *constitutes* ~~shall constitute~~ permission for an inspection of the hospice for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application.

(f)~~(7)~~ Impose *an* administrative *fine* ~~fines~~ for any violation of the provisions of this part.

Section 17. Subsections (1) and (4) of section 400.606, Florida Statutes, are amended to read:

400.606 License; application; renewal; conditional license or permit; certificate of need.—

(1) A license application *must* ~~shall~~ be filed on a form *provided* ~~prescribed~~ by the agency and *must* ~~shall~~ be accompanied by the appropriate license fee as well as satisfactory proof that the hospice is in compliance with this part and any rules adopted by the *department* ~~agency~~ and proof of financial ability to operate and conduct the hospice in accordance with the requirements of this part. The initial application *must* ~~shall~~ be accompanied by a plan for the delivery of home, residential, and homelike inpatient hospice services to terminally ill persons and their families. Such plan *must* ~~shall~~ contain, but *need* not be limited to:

(a) The estimated average number of terminally ill persons to be served monthly.

(b) The geographic area in which hospice services will be available.

(c) A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing providers.

(d) Provisions for the implementation of hospice home care within 3 months *after* ~~of~~ licensure.

(e) Provisions for the implementation of hospice homelike inpatient care within 12 months *after* ~~of~~ licensure.

(f) The number and disciplines of professional staff to be employed.

(g) The name and qualifications of any existing or potential contractee.

(h) A plan for attracting and training volunteers.

(i) The projected annual operating cost of the hospice.

(j) A statement of financial resources and personnel available to the applicant to deliver hospice care.

If the applicant is an existing health care provider, the application *must* ~~shall~~ be accompanied by a copy of the most recent profit-loss statement and, if applicable, the most recent licensure inspection report.

(4) The agency shall not issue a license to a hospice *that* ~~which~~ fails to receive a certificate of need under the provisions of ss. 408.031-408.045. *A licensed hospice is a health care facility as that term is used in s. 408.039(5)(a) and is entitled to initiate or intervene in an administrative hearing.*

Section 18. Present subsections (4) through (10) of section 400.618, Florida Statutes, are renumbered as subsections (5) through (11), respectively, a new subsection (4) is added to that section, and present subsection (6) is amended, to read:

400.618 Definitions.—As used in ss. 400.616-400.629, the term:

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

(7)~~(6)~~ "Department" means the Department of *Elderly Affairs* ~~Health and Rehabilitative Services~~.

Section 19. Section 400.619, Florida Statutes, is amended to read:

400.619 Licensure requirements.—

(1) Each person who intends to be a provider of an adult family-care home must obtain a license from the *agency* ~~department~~ before caring for a disabled adult or an aged person in the adult family-care home. Such application must be made at least 90 days before the applicant intends to operate the adult family-care home.

(2) A person who intends to be a provider of an adult family-care home must own or rent and live in the adult family-care home that is to be licensed.

(3) Application for a license or annual license renewal to operate an adult family-care home must be made on a form provided by the *agency* ~~department~~ and must be accompanied by a licensing fee of $100 per year to *offset* ~~cover~~ the cost of ~~licensing and of departmental~~ training and education programs *by the Department of Elderly Affairs* for providers.

(4) Upon receipt of a license application and the fee, the *agency* ~~department~~ must check with the abuse registry and the Department of Law Enforcement concerning the adult family-care home applicant, all adult household members, and all staff members. The *agency* ~~department~~ shall also conduct an onsite visit *to* ~~of~~ the home that is to be licensed.

(5) Access to a licensed adult family-care home must be provided at reasonable times for the appropriate officials of the department, *the Department of Health and Rehabilitative Services, the agency,* 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 these standards. In addition, access to a licensed adult family-care home must be provided at reasonable times for the long-term care ~~facility~~ ombudsman council.

(6) A license is effective for 1 year after the date of issuance unless revoked sooner. Each license must state the name of the provider, the address of the home to which the license applies, and the maximum number of residents of the home. 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.

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

(9) Each adult family-care home must designate at least one licensed space for a resident receiving optional state supplementation as defined in s. 409.212. The Department *of Health and Rehabilitative Services* shall specify by rule the procedures to be followed for referring residents who receive optional state supplementation to adult family-care homes. Those homes licensed as adult foster homes or adult congregate living facilities prior to January 1, 1994, that convert to adult family-care homes, are exempt from the requirement of designating one space for a resident receiving optional state supplementation.

(10) The *agency* ~~department~~ may issue a conditional license to a provider for the purpose of bringing the adult family-care home into compliance with licensure requirements. A conditional license must be limited to a specific period, not exceeding 6 months, as determined by the department, *in consultation with the agency.* The department shall, by rule, establish criteria for conditional licenses.

(11) The *agency* ~~department~~ may deny, suspend, or revoke a license for any of the following reasons:

(a) A confirmed report, obtained under s. 415.107(5)(b), of abuse, neglect, or exploitation, or conviction of a crime related to abuse, neglect, or exploitation.

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

(c) A violation of ss. 400.616-400.629 or rules adopted under ss. 400.616-400.629, including the failure to comply with any restrictions specified in the license.

(d) Submission of fraudulent or inaccurate information to the *agency* ~~department~~.

(e) Conviction of a felony involving violence to a person.

(f) Failure to pay a civil penalty assessed under this part.

(12) All moneys collected under this section must be deposited into the *Department of Elderly Affairs Administrative* ~~Aging and Adult Services Operations and Maintenance~~ Trust Fund and must be used to offset the expenses of ~~licensing and of~~ departmental training and education for adult family-care home providers.

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

Section 20. The positions, appropriations, allocations, resources, or other funds associated with the licensing of adult family-care homes pursuant to s. 400.619, Florida Statutes, are hereby transferred to the Agency for Health Care Administration by a type two transfer, as provided for in s. 20.06(2), Florida Statutes.

Section 21. Subsections (1), (3), (4), (6), and (7) of section 400.6196, Florida Statutes, are amended to read:

400.6196 Violations; penalties.—

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

(a) Violating any term or condition of a license; or

(b) Violating any rule adopted under ss. 400.616-400.629.

(3) In determining whether a penalty is to be imposed, and in fixing the amount of any penalty to be imposed, the *agency* ~~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 *agency* ~~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.

(6) Civil penalties paid by a provider must be deposited into the *Department of Elderly Affairs Administrative* ~~Aging and Adult Services Operations and Maintenance~~ Trust Fund and used to offset the expenses ~~of licensing and~~ of departmental training and education for adult family-care home providers.

(7) The *agency* ~~department~~ may impose an immediate moratorium on admissions to any adult family-care home if the *agency* ~~department~~ finds that a condition in the home presents a threat to the health, safety, or welfare of its residents.

Section 22. Section 400.621, Florida Statutes, is amended to read:

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

(1) The department shall, in consultation with the Department of *Health and Rehabilitative Services and the agency* ~~Elderly Affairs~~, by rule, establish minimum standards and licensure procedures for adult family-care homes. The rules must, at a minimum:

(a) Provide for the health, safety, and well-being of each resident in the adult family-care home.

(b) Provide procedures for annual license renewal, prevention of abuse, proper management of each resident's property and personal affairs, inspections, and records and reports.

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

(d) Promote the goal of aging in place.

(e) Mandate compliance with chapter 419.

(f) 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. A person who would not be an appropriate resident in any adult congregate living facility under s. 400.426 would not be an appropriate resident in an adult family-care home.

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

(h) Provide procedures to protect the residents' rights as provided in s. 400.628.

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

(3) The department shall by rule establish standards for the adequate supervision of adult family-care residents.

(4) The provider of any adult family-care home that is in operation at the time any rules are adopted or amended under ss. 400.616-400.629 may be given a reasonable time, not exceeding 6 months, within which to comply with those new or revised rules and standards.

Section 23. Subsections (1) and (4) of section 400.6211, Florida Statutes, are amended to read:

400.6211 Training and education programs.—

(1) The Department *of Elderly Affairs* must provide training and education programs for all adult family-care home providers.

(4) If the Department *of Health and Rehabilitative Services, the agency, or the department* determines that there are problems in an adult family-care home which could be reduced through specific training or education beyond that required under this section, the department may require the provider or staff to complete such training or education.

Section 24. Subsection (1) of section 400.622, Florida Statutes, is amended to read:

400.622 Injunctive proceedings.—

(1) The department, *the Department of Health and Rehabilitative Services, or the agency* may institute injunctive proceedings in a court of competent jurisdiction to:

(a) Enforce the provisions of ss. 400.616-400.629 or any license requirement, minimum standard, rule, or order issued or entered into under ss. 400.616-400.629; or

(b) Terminate the operation of an adult family-care home when violations of any license requirement, standard, or rule adopted under ss. 400.616-400.629 exist which materially affect the health, safety, or welfare of residents.

Section 25. (1) Effective October 1, 1995, all statutory powers, duties, and functions related to administering the nursing home preadmission screening program (CARES) are transferred from the Department of Health and Rehabilitative Services to the Department of Elderly Affairs by a type two transfer, as defined in s. 20.06(2), Florida Statutes. The Department of Elderly Affairs shall allocate resources necessary for program administration to the planning and service areas, including, but not limited to, staff support and office space. The Department of Elderly Affairs shall, within the funds appropriated for that specific purpose, make available to every person not eligible for Medicaid the opportunity to participate in the comprehensive assessment and review screening provided by this program.

(2) The Executive Office of the Governor shall determine the full-time-equivalent positions, appropriations, allocations, resources, or other funds that are to be transferred from the Department of Health and Rehabilitative Services to the Department of Elderly Affairs to provide the level of administrative support resources commensurate with the program functions of the nursing home preadmission screening program transferred to the Department of Elderly Affairs.

Section 26. (1) All statutory powers, duties, and functions relating to the home care for the elderly program are transferred from the Department of Health and Rehabilitative Services to the Department of Elderly Affairs by a type two transfer, as defined in s. 20.06(2), Florida Statutes. All district staff positions related to this program in the Department of Health and Rehabilitative Services are abolished. This transfer shall be effective January 1, 1996. The funds associated with those positions are transferred to the Department of Elderly Affairs and are to be used to administer the program throughout the state on a contractual basis. A task force, composed of representatives of the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Department of Labor and Employment Security, and the Department of Management Services shall be established by the secretaries of these departments no later than August 1, 1995, to provide reemployment assistance to all employees whose positions are abolished by this transfer. This task force may be disbanded on January 1, 1996.

(2) The Executive Office of the Governor shall determine the full-time-equivalent positions, appropriations, allocations, or other funds that are to be transferred from the Department of Health and Rehabilitative Services to the Department of Elderly Affairs to provide the level of administrative support resources commensurate with the program functions of the home care for the elderly program transferred to the Department of Elderly Affairs.

(3) If the transfer to the Department of Elderly Affairs of responsibilities relating to the home care for the elderly program, and the subsequent privatization of administration of the program, results in a savings of general revenue currently appropriated to the Department of Health and Rehabilitative Services for these responsibilities, the savings shall be identified by the department and shall be used, subject to any applicable provisions of chapter 216 or approval in the General Appropriations Act, to increase the number of elderly persons served by the program or to increase the actual services provided directly to the elderly.

Section 27. Section 410.011, Florida Statutes, is renumbered as section 430.101, Florida Statutes, and amended to read:

430.101 ~~410.011~~ Administration of federal aging programs.—*The Department of Elderly Affairs is designated the state unit on aging under the federal Older Americans Act of 1965, as amended, and shall exercise all responsibilities under that act.* The department *is the* ~~of Health and Rehabilitative Services shall be the designated~~ state agency *designated* to handle all programs of the Federal Government relating to the aging, by virtue of funds appropriated through the Older Americans Act of 1965 and subsequent amendments, requiring actions within the state which are not the specific responsibility of another state agency under the provisions of federal or state law. Authority is hereby conferred on the department to accept and use any funds in accordance with established state budgetary procedures which might become available pursuant to the purposes set out herein.

Section 28. Effective January 1, 1996, section 410.031, Florida Statutes, is amended to read:

410.031 Legislative intent.—It is the intent of the Legislature to encourage the provision of care for disabled adults ~~and the elderly~~ in family-type living arrangements in private homes as an alternative to institutional or nursing home care for such persons. The provisions of ss. 410.031-410.036 are intended to be supplemental to the provisions of chapter 400, relating to the licensing and regulation of nursing homes and adult congregate living facilities, and *do not* ~~shall not operate to~~ exempt any person who is otherwise subject to regulation under the provisions of *that* ~~said~~ chapter.

Section 29. Effective January 1, 1996, section 410.032, Florida Statutes, is amended to read:

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

~~(1) "Elderly person" means any person 60 years of age or over who is currently a resident of this state and has an intent to remain in this state.~~

~~(2) "Home care for the elderly" means a full-time family-type living arrangement, in a private home, under which a person or group of persons provides, on a nonprofit basis, basic services of maintenance and supervision, and any necessary specialized services as may be needed, for three or fewer elderly relatives or nonrelatives.~~

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

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

(3) "Home care for disabled adults" means a full-time, family-type living arrangement in a private home under which a person or group of persons provides, on a nonprofit basis, basic services of maintenance and supervision, and any necessary specialized services as are needed, for three or fewer disabled adults.

Section 30. Effective January 1, 1996, 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 *provision of care 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 for a disabled adult *is* ~~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 *must* ~~shall~~ operate within the funds appropriated by the Legislature.

Section 31. Effective January 1, 1996, section 410.034, Florida Statutes, is amended to read:

410.034 Department determination of *fitness* ~~unfitness~~ to provide home care~~; judicial review~~.—In accordance with the provisions of s. 400.402, a person caring for an adult who is related to such person by blood or marriage *is not* ~~shall not be~~ subject to the provisions of the *Assisted* ~~Adult Congregate~~ Living Facilities Act. If, however, the ~~home care to be provided by such~~ person *who plans to provide home care* under this act is found by the department to be *unable to provide this care, the department shall notify* ~~unfit,~~ the person wishing to provide home care *of this determination* ~~shall be notified by the department of such unfitness~~, and the person shall not be eligible for subsidy payments under ss. 410.031-410.036. ~~A person wishing to provide care under ss. 410.031-410.036, but whose home has been found unfit by the department, may petition the circuit court having jurisdiction over the home found unfit, and the court shall resolve the question of fitness.~~

Section 32. Effective January 1, 1996, section 410.035, Florida Statutes, is amended to read:

410.035 Subsidy payments.—

~~(1)~~ The department shall develop ~~by October 1, 1988,~~ a schedule of subsidy payments to be made to persons providing home care 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:

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

(2)~~(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.

(3)~~(c)~~ When necessary, special supplements to provide for any service and specialized care required to maintain the health and well-being of the disabled adult ~~or elderly person~~.

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

Section 33. Effective January 1, 1996, section 410.037, Florida Statutes, is amended to read:

410.037 Confidentiality of information.—Information about ~~elderly persons or~~ disabled adults who receive services under ss. 410.031-410.036 which is received through files, reports, inspection, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to disabled adults ~~or elderly persons~~ under ss. 410.031-410.036 through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). *The* ~~Such~~ information may not be disclosed publicly in ~~such~~ a manner *that identifies* ~~as to identify~~ a disabled adult ~~or elderly person~~, unless *the* ~~such~~ person or his legal guardian provides written consent. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 34. Section 430.01, Florida Statutes, is amended to read:

430.01 Short title.—This chapter may be cited as the "Department of Elderly Affairs Act," or the "Pepper Act" as a memorial to Congressman Claude Denson Pepper. *The department is also known as the Department of Elder Affairs.*

Section 35. Subsection (7) is added to section 430.02, Florida Statutes, to read:

430.02 Legislative intent.—It is the intent of the Legislature to:

(7) Organize the Department of Elderly Affairs as the state agency that has lead responsibility for administering human service programs for the elderly and for developing policy recommendations for long-term care.

Section 36. Section 430.03, Florida Statutes, is amended to read:

430.03 Purposes.—The purposes of the Department of Elderly Affairs~~, hereafter referred to as the department,~~ are to:

(1) Serve as the primary state agency responsible for administering human services programs for the elderly and for developing policy recommendations for long-term care.

(2)~~(1)~~ Combat ageism and create public awareness and understanding of the potentials and needs of elderly persons.

(3)~~(2)~~ Study and plan for programs and services to meet identified and projected needs and to provide opportunities for personal development and achievement of persons aged 60 years and older.

(4)~~(3)~~ Advocate quality programs and services for the state's elderly population and on behalf of individual citizen's needs.

(5)~~(4)~~ Coordinate interdepartmental policy development and program planning for all state agencies that provide services for the elderly population in order to prevent duplicative efforts, to maximize utilization of resources, and to ensure cooperation, communication, and departmental linkages.

(6)~~(5)~~ Recommend state and local level organizational models for the planning, coordination, implementation, and evaluation of programs serving the elderly population.

(7)~~(6)~~ Oversee implementation of federally funded and state-funded programs and services for the state's elderly population.

(8)~~(7)~~ Recommend legislative budget requests for programs and services for the state's elderly population.

(9)~~(8)~~ Serve as a state-level information clearinghouse and encourage the development of local-level identifiable points of information and referral regarding all federal, state, and local resources of assistance to elderly citizens.

(10)~~(9)~~ Assist elderly persons to secure needed services in accordance with personal choice and in a manner that achieves or maintains autonomy and prevents, reduces, or eliminates dependency.

(11)~~(10)~~ Promote the maintenance and improvement of the physical well-being and mental health of elderly persons.

(12)~~(11)~~ Promote opportunities for volunteerism among the elderly population.

(13)~~(12)~~ Promote the prevention of neglect, abuse, or exploitation of elderly persons unable to protect their own interests.

(14)~~(13)~~ Eliminate and prevent inappropriate institutionalization of elderly persons by promoting community-based care, home-based care, or other forms of less intensive care.

(15)~~(14)~~ Aid in the support of families and other caregivers of elderly persons.

(16)~~(15)~~ Promote intergenerational relationships.

(17)~~(16)~~ Oversee aging research conducted or funded by any state agency to ensure that such activities are coordinated and directed to fulfill the intent and purposes of this act.

Section 37. Section 430.04, Florida Statutes, is amended to read:

430.04 Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall:

(1) Administer human services and long-term care programs, including programs funded under the federal Older Americans Act of 1965, as amended, and other programs that are assigned to it by law.

(2) Be responsible for ensuring that each area agency on aging operates in a manner to ensure that the elderly of this state receive the best services possible. The department shall rescind designation of an area agency on aging or take intermediate measures against the agency, including corrective action, unannounced special monitoring, temporary assumption of operation of one or more programs by the department, placement on probationary status, imposing a moratorium on agency action, imposing financial penalties for nonperformance, or other administrative action pursuant to chapter 120, if the department finds that:

(a) An intentional or negligent act of the agency has materially affected the health, welfare, or safety of clients, or substantially and negatively affected the operation of an aging services program.

(b) The agency lacks financial stability sufficient to meet contractual obligations or that contractual funds have been misappropriated.

(c) The agency has committed multiple or repeated violations of legal and regulatory requirements or department standards.

(d) The agency has failed to continue the provision or expansion of services after the declaration of a state of emergency.

(e) The agency has failed to adhere to the terms of its contract with the department.

(3)~~(1)~~ Prepare and submit to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees a master plan for policies and programs in the state related to aging. The plan *must* ~~shall~~ identify and assess the needs of the elderly population in the areas of housing, employment, education and training, medical care, long-term care, preventive care, protective services, social services, mental health, transportation, *and long-term care* insurance, and other areas *considered* ~~as deemed~~ appropriate by the department. The plan *must* ~~shall~~ assess the needs of particular subgroups of the population and evaluate the capacity of existing programs, both public and private and in state and local agencies, to respond effectively to identified needs. *If the plan recommends the transfer of any program or service from the Department of Health and Rehabilitative Services to another state department, the plan must also include recommendations that provide for an independent third-party mechanism, as currently exists in the human rights advocacy committees established in ss. 402.165 and 402.166, for protecting the constitutional and human rights of recipients of departmental services.* The plan *must* ~~shall~~ include policy goals and program strategies designed to respond efficiently to current and projected needs. The plan *must* ~~shall~~ also include policy goals and program strategies to promote intergenerational relationships and activities. Public hearings and other appropriate processes shall be utilized by the department to solicit input for the development and updating of the master plan from parties including, but not limited to, the following:

(a) Elderly citizens and their families and caregivers.

(b) *Local-level* ~~Local level~~ public and private service providers, advocacy organizations, and other organizations relating to the elderly.

(c) Local governments.

(d) All state agencies that provide services to the elderly.

(e) University centers on aging.

(f) Area agency on aging and community care for the elderly lead agencies.

(4)~~(2)~~ Serve as an information clearinghouse at the state level, and assist local-level information and referral resources as a repository and means for dissemination of information regarding all federal, state, and local resources for assistance to the elderly in the areas of, but not limited to, health, social welfare, long-term care, protective services, consumer protection, education and training, housing, employment, recreation, transportation, insurance, and retirement.

(5)~~(3)~~ Recommend guidelines for the development of roles for state agencies that provide services for the aging, review plans of agencies that provide such services, and relay these plans to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees.

(6)~~(4)~~ Recommend to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees an organizational framework for the planning, coordination, implementation, and evaluation of programs related to aging, with the purpose of expanding and improving programs and opportunities available to the state's elderly population and enhancing a continuum of long-term care. This framework *must* ~~shall~~ assure that:

(a) Performance objectives are established.

(b) Program reviews are conducted statewide.

(c) Each major program related to aging is reviewed every 3 years.

(d) Agency budget requests reflect the results and recommendations of such program reviews.

(e) Program decisions lead to the distinctive roles established for state agencies that provide aging services.

(7)~~(5)~~ Advise the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and *the* chairpersons of appropriate House and Senate committees regarding the need for and location of programs related to aging.

(8)~~(6)~~ Review and coordinate aging research plans of all state agencies to ensure the conformance of research objectives to issues and needs addressed in the master plan for policies and programs related to aging. *The* research activities *that must* ~~to~~ be reviewed and coordinated by the department ~~shall~~ include, but *are not* ~~be~~ limited to, contracts with academic institutions, development of educational and training curriculums, Alzheimer's disease and other medical research, studies of long-term care and other personal assistance needs, and design of adaptive or modified living environments.

(9)~~(7)~~ Review budget requests for programs related to aging for compliance with the master plan for policies and programs related to aging before submission to the Governor and the Legislature.

(10)~~(8)~~ Update the master plan for policies and programs related to aging every 3 years.

(11)~~(9)~~ Review implementation of the master plan for programs and policies related to aging and annually report to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and *the* chairpersons of appropriate House and Senate committees the progress towards implementation of the plan.

(12)~~(10)~~ Request other departments that administer programs affecting the state's elderly population to amend their plans, rules, policies, and research objectives as necessary to conform with the master plan for policies and programs related to aging.

(13)~~(11)~~ Hold public meetings *regularly* ~~on a regular basis~~ throughout the state for purposes of receiving information and maximizing the visibility of important issues.

(14)~~(12)~~ Conduct policy analysis and program evaluation studies assigned by the Legislature.

(15)~~(13)~~ Assist the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and *the* chairpersons of appropriate House and Senate committees in the conduct of their responsibilities in such capacities as they *consider* ~~deem~~ appropriate.

(16)~~(14)~~ Call upon appropriate agencies of state government for such assistance as is needed in the discharge of its duties. All agencies shall cooperate in assisting the department in carrying out its responsibilities as prescribed by this section. However, no provision of law with respect to confidentiality of information may be violated.

Section 38. Effective January 1, 1996, section 430.601, Florida Statutes, is created to read:

430.601 Home care for the elderly; legislative intent.—It is the intent of the Legislature to encourage the provision of care for the elderly in family-type living arrangements in private homes as an alternative to institutional or nursing home care for such persons. The provisions of ss. 430.601-430.606 are intended to be supplemental to the provisions of chapter 400, relating to the licensing and regulation of nursing homes and assisted living facilities, and do not exempt any person who is otherwise subject to regulation under the provisions of that chapter.

Section 39. Effective January 1, 1996, section 430.602, Florida Statutes, is created to read:

430.602 Home care for the elderly; definitions.—As used in ss. 430.601-430.606:

(1) "Department" means the Department of Elderly Affairs.

(2) "Elderly person" means any person 60 years of age or over who is currently a resident of this state and has an intent to remain in this state.

~~(3) "Home care for the elderly" means a full-time family-type living arrangement, in a private home, under which a person or group of persons provides, on a nonprofit basis, basic services of maintenance and supervision, and any necessary specialized services as may be needed, for three or fewer elderly persons.~~

Section 40. Effective January 1, 1996, section 430.603, Florida Statutes, is created to read:

430.603 Home care for the elderly; rules.—The department shall by rule establish minimum standards and procedures for the provision of home care for the elderly, and for the approval of persons seeking to provide such care. Any person who is approved to provide care, goods, or services for an elderly person shall be eligible for the subsidy payments described in s. 430.605. However, the home care for the elderly program must be operated within the funds appropriated by the Legislature.

Section 41. Effective January 1, 1996, section 430.604, Florida Statutes, is created to read:

430.604 Department determination of inability to provide home care.—If a person who plans to provide home care under ss. 430.601-430.606 is found by the department, or its designee, to be unable to provide this care, the department must notify the person seeking to provide home care of this determination, and the person is not eligible for subsidy payments under ss. 430.601-430.606.

Section 42. Effective January 1, 1996, section 430.605, Florida Statutes, is created to read:

430.605 Subsidy payments.—The department shall develop a schedule of subsidy payments to be made to persons providing home care, and to providers of goods and services, for certain eligible elderly persons. Payments must be based on the financial status of the person receiving care. Payments must include, but need not be limited to:

(1) A support and maintenance element, including costs of housing, food, clothing, and incidentals.

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

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

Section 43. Effective January 1, 1996, section 430.606, Florida Statutes, is created to read:

430.606 Eligibility for services.—The criteria for determining eligibility for this program shall be substantially similar to the criteria used to determine eligibility for nursing home care under the Medicaid program.

Section 44. Sections 400.623, 410.016, 410.029, 410.201, 410.2015, 410.202, and 430.06, Florida Statutes, are hereby repealed.

Section 45. All statutory powers, duties, and functions related to the displaced homemaker program are transferred from the Department of Health and Rehabilitative Services to the Division of Community Colleges of the Department of Education by a type two transfer, as defined in section 20.06, Florida Statutes, 1994 Supplement.

Section 46. Section 410.30, Florida Statutes, 1994 Supplement, is transferred, renumbered as section 446.50, Florida Statutes, and amended to read:

446.50 ~~410.30~~ Displaced homemakers; multiservice programs; report to the Legislature; Displaced Homemaker Trust Fund created.—

(1) INTENT.—It is the intent of the Legislature to require the Department of *Education* ~~Health and Rehabilitative Services~~ to enter into contracts with, and make grants to, public and nonprofit private entities for purposes of establishing multipurpose service programs to provide necessary training, counseling, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life.

(2) DEFINITIONS.—For the purposes of this act:

(a) "Displaced homemaker" means an individual who:

1. Is 35 years of age or older;

2. Has worked in the home, providing unpaid household services for family members;

3. Is not adequately employed, as defined by rule of the department;

4. Has had, or would have, difficulty in securing adequate employment; and

5. Has been dependent on the income of another family member but is no longer supported by such income, or has been dependent on federal assistance.

(b) "Department" means the Department of *Education* ~~Health and Rehabilitative Services~~.

(3) DEPARTMENT POWERS AND DUTIES.—

(a) The department shall establish, or contract for the establishment of, programs for displaced homemakers which *must* ~~shall~~ include:

1. Job counseling, by professionals and peers, specifically designed for a person entering the job market after a number of years as a homemaker.

2. Job training and placement services, including:

a. Training programs for available jobs in the public and private sectors, taking into account the skills and job experiences of a homemaker and developed by working with public and private employers.

b. Assistance in locating available employment for displaced homemakers, some of whom could be employed in existing job training and placement programs.

c. Utilization of the services of the state employment service, which shall cooperate with the department in locating employment opportunities.

3. Financial management services providing information and assistance with respect to insurance, including, but not limited to, life, health, home, and automobile insurance, and taxes, estate and probate problems, mortgages, loans, and other related financial matters.

4. Educational services, including high school equivalency degree and such other courses as the department determines would be of interest and benefit to displaced homemakers.

5. Outreach and information services with respect to federal and state employment, education, health, and unemployment assistance programs which the department determines would be of interest and benefit to displaced homemakers.

(b)1. The department shall enter into contracts with, and make grants to, public and nonprofit private entities for purposes of establishing multipurpose service programs for displaced homemakers under this act. Such grants and contracts shall be awarded pursuant to chapter 287 and based on criteria established in the state plan developed pursuant to this section. The department shall designate catchment areas which together shall comprise the entire state, and, to the extent possible from revenues in the Displaced Homemaker Trust Fund, the department shall contract with, and make grants to, entities which will serve entire catchment areas so that displaced homemaker service programs are available statewide. The department may give priority to existing displaced homemaker programs when evaluating bid responses to the department's request for proposals.

2. In order to receive funds under this section, and unless specifically prohibited by law from doing so, an entity that provides displaced homemaker service programs must~~, by the 1991-1992 fiscal year,~~ receive at least 25 percent of its funding from one or more local, municipal, or county sources or nonprofit private sources. In-kind contributions may be evaluated by the department and counted as part of the required local funding.

3. The department shall require an entity that receives funds under this section to maintain appropriate data to be compiled in an annual report to the department. Such data *must* ~~shall~~ include, but *is* ~~shall~~ not ~~be~~ limited to, the number of clients served, the units of services provided, designated client-specific information including intake and outcome information specific to each client, costs associated with specific services and program administration, total program revenues by source and other appropriate financial data, and client followup information at specified intervals after the placement of a displaced homemaker in a job.

(c) The department shall consult and cooperate with the Commissioner of Education, the U.S. Commissioner of the Social Security Administration, and such other persons in the executive branch of the state government as the department considers appropriate to facilitate the coordination of multipurpose service programs established under this act with existing programs of a similar nature.

(d) Supervisory, technical, and administrative positions relating to programs established under this act shall, to the maximum extent practicable, be filled by displaced homemakers.

(e) The department shall adopt rules establishing minimum standards necessary for entities that provide displaced homemaker service programs to receive funds from the department and any other rules necessary to administer this section.

(4) STATE PLAN.—

(a) The department shall develop a 3-year state plan for the displaced homemaker program which *must* ~~shall~~ be updated annually. The plan must address, at a minimum, the need for programs specifically designed to serve displaced homemakers, any necessary service components for such programs in addition to those enumerated in this section, goals of the displaced homemaker program with an analysis of the extent to which those goals are being met, and recommendations for ways to address any unmet program goals. Any request for funds for program expansion must be based on the state plan.

(b) Each annual update must address any changes in the components of the 3-year state plan and a report which must include, but need not be limited to, the following:

1. The scope of the incidence of displaced homemakers;

2. A compilation and report, by program, of data submitted to the department pursuant to subparagraph (b)3. by funded displaced homemaker service programs;

3. An identification and description of the programs in the state that receive funding from the department, including funding information; and

4. An assessment of the effectiveness of each displaced homemaker service program based on outcome criteria established by rule of the department.

(c) The 3-year state plan must be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor on or before *January 1, 1996* ~~January 1, 1989~~, and annual updates of the plan must be submitted by January 1 of each subsequent year.

(5) DISPLACED HOMEMAKER TRUST FUND.—

(a) There is established within the State Treasury a Displaced Homemaker Trust Fund to be used by the Department *of Education* for its administration of the displaced homemaker program and to fund displaced homemaker service programs according to criteria established under this section.

(b) The trust fund shall receive funds generated from an additional fee on marriage license applications and dissolution of marriage filings as specified in ss. 741.01(3) and 28.101, respectively, and may receive funds from any other public or private source.

(c) Funds that are not expended by the department at the end of the budget cycle or through a supplemental budget approved by the department shall revert to the trust fund.

Section 47. Section 410.301, Florida Statutes, is transferred, renumbered as section 446.51, Florida Statutes, and amended to read:

446.51 ~~410.301~~ Displaced homemaker programs; discrimination prohibited.—No person in this state shall, on the basis of sex, age, race, color, religion, or national origin, be excluded from participating in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available *for displaced homemakers* ~~under this act~~.

Section 48. Section 410.302, Florida Statutes, is transferred, renumbered as section 446.52, Florida Statutes, and amended to read:

446.52 ~~410.302~~ Confidentiality of information.—Information about displaced homemakers who receive services under ss. *446.50 and 446.51* ~~410.30 and 410.301~~ which is received through files, reports, inspections, or otherwise, by the Department *of Education* or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to displaced homemakers under ss. *446.50 and 446.51* ~~410.30 and 410.301~~ through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a displaced homemaker, unless such person or her legal guardian provides written consent. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 49. Except as otherwise provided in this act, this act shall take effect July 1, 1995.

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 elderly and other adult services; transferring to the department certain responsibilities and specified funds of the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services; amending s. 20.41, F.S.; providing for headquarters and planning and service areas of the Department of Elderly Affairs; providing that the department is the state unit on aging; providing for area agencies on aging; providing organization and responsibilities; deleting obsolete language; amending ss. 400.401, 400.402, 400.408, 400.426, 400.431, 400.434, 400.441, and 400.452, F.S.; changing references to adult congregate living facilities to assisted living facilities; transferring to the department from the Department of Health and Rehabilitative Services certain responsibilities and funding relating to assisted living facilities; providing responsibilities of the departments and the Agency for Health Care Administration; conforming provisions and references; amending ss. 400.551 and 400.562, F.S.; transferring certain responsibilities relating to adult day care centers; providing for standards adopted in rules; amending s. 400.602, F.S.; providing hospice licensure for certain entities under specified conditions; amending ss. 400.601, 400.602, 400.605, and 400.606, F.S.; transferring certain responsibilities relating to hospices; allowing for additional hospices under certain conditions; amending ss. 400.618, 400.619, 400.6196, 400.621, 400.6211, and 400.622, F.S.; transferring certain responsibilities and funding relating to adult family-care homes; providing responsibilities of the departments and the Agency for Health Care Administration; providing for future transfer of powers, duties, and functions relating to administration of the nursing home preadmission screening program to the department from the Department of Health and Rehabilitative Services; providing for allocation of resources to the planning and service areas; providing for transfer of positions and funding; providing for comprehensive assessment and review screening for certain persons; providing for future transfer of powers, duties, and functions relating to the home care for the elderly program; abolishing certain staff positions; providing for administration of the program on a contractual basis through the area agencies on aging; providing for a task force for reemployment assistance; providing for transfer of funding; providing for use of savings due to privatized administration of the program; amending and renumbering s. 410.011, F.S.; providing that the Department of Elderly Affairs is the designated state unit for administration of federal aging programs; amending ss. 410.031, 410.032, 410.033, 410.034, 410.035, and 410.037, F.S.; providing for future separate administration of provisions relating to home care for disabled adults and the elderly by the Department of Health and Rehabilitative Services and the Department of Elderly Affairs; deleting references to elderly persons from provisions to be administered by the Department of Health and Rehabilitative Services; deleting provisions relating to judicial review of unfitness to provide home care; conforming language; amending ss. 430.01, 430.02, 430.03, and 430.04, F.S.; revising short title, legislative intent, purposes, and duties and responsibilities of the Department of Elderly Affairs; creating ss. 430.601, 430.602, 430.603, 430.604, 430.605, and 430.606, F.S.; providing for future administration by the Department of Elderly Affairs of provisions relating to home care for the elderly; providing legislative intent; providing definitions; providing for minimum standards and procedures; providing for determination of fitness to provide home care; providing for subsidy payments; providing for eligibility; providing a definition for certain purposes; repealing s. 410.016, F.S, relating to responsibilities of the Department of Health and Rehabilitative Services regarding the state's elderly population; repealing s. 410.029, F.S., relating to multiyear plans for implementation of community care systems; repealing ss. 410.201, 410.2015, and 410.202, F.S., relating to the older volunteers service credit program; repealing s. 430.06, F.S., relating to an interdepartmental plan for improving the provision of social service and long-term care to the elderly; transferring the powers, duties, and functions of the displaced homemaker program from

the Department of Health and Rehabilitative Services to the Department of Education; transferring, renumbering, and amending ss. 410.30, 410.301, 410.302, F.S.; conforming terminology to the transfer of the displaced homemaker program; transferring at a future date certain powers, duties, and functions of the Department of Health and Rehabilitative Services related to nursing home preadmission screening, home care for the elderly, and training of adult congregate living facilities to the Department of Elderly Affairs; providing an effective date.

Senator Bankhead moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A (with Title Amendment)—On page 52, line 31, insert:

Section 49. Section 415.101, Florida Statutes, is amended to read:

415.101 Adult Protective Services Act; legislative intent.—

(1) *Sections 415.101-415.113* ~~This act shall be known and~~ may be cited as the "Adult Protective Services Act."

(2) The Legislature recognizes that there are many persons in this state who, because of age or disability, are in need of protective services. Such services should allow such an individual the same rights as other citizens and, at the same time, protect the individual from abuse, neglect, and exploitation. It is the intent of the Legislature to provide for the detection and correction of abuse, neglect, and exploitation through social services and criminal investigations and to establish a program of protective services for all ~~aged persons or~~ disabled adults *or elderly persons* in need of them. It is intended that the mandatory reporting of such cases will cause the protective services of the state to be brought to bear in an effort to prevent further abuse, neglect, and exploitation of ~~aged persons or~~ disabled adults *or elderly persons*. In taking this action, the Legislature intends to place the fewest possible restrictions on personal liberty and the exercise of constitutional rights, consistent with due process and protection from abuse, neglect, and exploitation. *Further, the Legislature intends to encourage the constructive involvement of families in the care and protection of disabled adults or elderly persons.*

Section 50. Section 415.102, Florida Statutes, is amended to read:

415.102 Definitions of terms used in ss. 415.101-415.113.—As used in ss. 415.101-415.113, the term:

(1) "Abuse" means the nonaccidental infliction of physical or psychological injury *or sexual abuse upon a* ~~to an aged person or~~ disabled adult *or an elderly person* by a relative, caregiver, or ~~adult~~ household member, or *an action by any of those persons which could reasonably be expected to result in* ~~the failure of a caregiver to take reasonable measures to prevent the occurrence of~~ physical or psychological injury, *or sexual abuse of a disabled adult or an elderly person by any person* ~~to an aged person or disabled adult~~. *"Abuse" also means the active encouragement of any person by a relative, caregiver, or household member to commit an act that inflicts or could reasonably be expected to result in physical or psychological injury to a disabled adult or an elderly person.*

(2) "Alleged perpetrator" means a person who has been named by a reporter as the person responsible for abusing, neglecting, or exploiting a disabled adult or an elderly person. "Alleged perpetrator" also means a person who has been named by an adult protective investigator, in a report that has been classified as proposed confirmed, as the person responsible for abusing, neglecting, or exploiting a disabled adult or an elderly person.

(3) "Capacity to consent" means that a disabled adult or elderly person has sufficient understanding to make and communicate responsible decisions regarding the disabled adult's or elderly person's person or property, including whether or not to accept protective services offered by the department.

~~(2) "Abused person" means any aged person or disabled adult who has been subjected to abuse or whose condition suggests that he has been abused.~~

~~(3) "Aged person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by organic brain damage, advanced age, or other physical, mental, or emotional dysfunctioning to the extent that the person is impaired in his ability to adequately provide for his own care or protection.~~

(4) "Caregiver" means a person *who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a disabled adult or an elderly person on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. "Caregiver" includes, but is not limited to, relatives, household members, guardians, neighbors, and employees and volunteers of facilities as defined in subsection (10).* ~~or persons responsible for the care of an aged person or disabled adult. "Caregiver" includes, but is not limited to, relatives, adult children, parents, neighbors, day care personnel, adult foster home sponsors, personnel of public and private institutions and facilities, nursing homes, adult congregate living facilities, and state institutions who have voluntarily assumed the care of an aged person or disabled adult or have been entrusted with the care of an aged person or disabled adult on a temporary or permanent basis.~~ For the purpose of departmental investigative jurisdiction, "caregiver" does not include law enforcement officers or employees of municipal or county detention facilities or the Department of Corrections while acting in an official capacity.

(5) "Closed without classification" means the closure of a report in which an adult protective investigator determines that:

(a) Some evidence exists that abuse, neglect, or exploitation has occurred, but a preponderance of evidence cannot be established;

(b) A preponderance of the evidence exists that abuse, neglect, or exploitation has occurred, but no perpetrator can be identified; or

(c) Self-neglect is the sole cause of the neglect.

(6)~~(5)~~ "Confirmed report" means a proposed confirmed report that has been determined to be valid after a hearing under *s. 415.1075(2),* ~~s. 415.103(3)(d)3. or~~ a proposed confirmed report for which the alleged perpetrator has failed to request amendment or expunction within the time allotted for such *a* request under *s. 415.1075(1), or a proposed confirmed report for which the alleged perpetrator has failed to request an administrative hearing within the time allotted by s. 415.1075(2)* ~~s. 415.103(3)(d)2.~~

(7)~~(6)~~ "Criminal justice agency" means any court, any law enforcement agency, or any government agency or subunit thereof as defined *under* ~~pursuant to~~ s. 943.045(10).

(8) "Deception" means a misrepresentation or concealment of a material fact relating to services rendered, disposition of property, or the use of property intended to benefit a disabled adult or an elderly person.

(9)~~(7)~~ "Department" means the Department of Health and Rehabilitative Services.

(10)~~(8)~~ "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations *that substantially* ~~which~~ restrict ~~his~~ ability to perform the normal activities of daily living.

(11) "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning to the extent that the ability of the person to provide adequately for the persons' own care or protection is impaired.

(12)(a)~~(9)~~ "Exploitation" means *a person who:*

1. Stands in a position of trust and confidence with a disabled adult or an elderly person and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a disabled adult's or an elderly person's funds, assets, or property with the intent to temporarily or permanently deprive a disabled adult or an elderly person of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the disabled adult or elderly person; or

2. Knows or should know that the disabled adult or elderly person lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the disabled adult's or elderly person's funds, assets, or property with the intent to temporarily or permanently deprive the disabled adult or elderly person of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the disabled adult or elderly person.

(b) "Exploitation" may include, but is not limited to:

1. Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;

2. Unauthorized taking of personal assets;

3. Misappropriation, misuse, or transfer of moneys belonging to a disabled adult or elderly person from a personal or joint account; or

4. Intentional or negligent failure to effectively use a disabled adult's or elderly person's income and assets for the necessities required for that person's support and maintenance. ~~, but is not limited to, the improper or illegal use or management of an aged person's or disabled adult's funds, assets, or property or the use of an aged person's or disabled adult's power of attorney or guardianship for another's or one's own profit or advantage.~~

(13)~~(10)~~ "Facility" means *any location providing day or residential care or treatment for disabled adults or elderly persons. The term "facility" may include,* but is not limited to, any ~~public or private~~ hospital, training center, state institution, ~~clinic,~~ nursing home, adult congregate living facility, adult *family-care* ~~foster~~ home, adult day care center, *group home, or mental health treatment center* ~~or other program or service for aged persons or disabled adults.~~

(14) "False report" means a report of abuse, neglect, or exploitation of a disabled adult or an elderly person to the central abuse registry and tracking system which is unfounded and is maliciously made for the purpose of:

(a) Harassing, embarrassing, or harming another person;

(b) Personal financial gain for the reporting person;

(c) Acquiring custody of a disabled adult or an elderly person; or

(d) Personal benefit for the reporting person in any other private dispute involving a disabled adult or an elderly person.

The term "false report" does not include a report of abuse, neglect, or exploitation of a disabled adult or an elderly person which is made in good faith to the central abuse registry and tracking system and which is classified as unfounded at the conclusion of the investigation.

(15) "Fiduciary relationship" means a relationship based upon the trust and confidence of the disabled adult or elderly person in the caregiver, relative, household member, or other person entrusted with the use or management of the property or assets of the disabled adult or elderly person. The relationship exists where there is a special confidence reposed in one who in equity and good conscience is bound to act in good faith and with due regard to the interests of the disabled adult or elderly person. For the purposes of this part, a fiduciary relationship may be formed by an informal agreement between the disabled adult or elderly person and the other person and does not require a formal declaration or court order for its existence. A fiduciary relationship includes, but is not limited to, court-appointed or voluntary guardians, trustees, or conservators of a disabled adult's or an elderly person's assets or property.

(16) "Guardian" means a person who has been appointed by a court to act on behalf of a person; a preneed guardian, as provided in chapter 744; or a health care surrogate expressly designated by a principal to make health care decisions on behalf of the principal upon the principal's incapacity, as provided in chapter 765.

(17) "In-home services" means the provision of nursing, personal care, supervision, or other services to disabled adults or elderly persons in their own homes.

(18) "Intimidation" means the communication by word or act to a disabled adult or an elderly person that that person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, or financial support or will suffer physical violence.

(19)~~(11)~~ "Lacks capacity to consent" means *a mental* ~~an~~ impairment *that causes a disabled adult or an elderly person to lack* ~~by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause to the extent that an aged person or disabled adult lacks~~ sufficient understanding or capacity to make or communicate responsible decisions concerning *the disabled adult's or elderly person's* ~~his~~ person *or property, including whether or not to accept protective services offered by the department.*

(20)~~(12)~~ "Neglect" means the failure or omission on the part of the caregiver or ~~aged person or~~ disabled adult *or an elderly person* to provide the care, *supervision,* and services necessary to maintain the physical and mental health of ~~an aged person or~~ disabled adult *or an elderly person,* including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would *consider* ~~deem~~ essential for the well-being of *a* ~~an aged person or~~ disabled adult *or an elderly person. The term "neglect" also means the failure of a caregiver to make a reasonable effort to protect a disabled adult or an elderly person from abuse, neglect, or exploitation by others.* "Neglect" is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or *psychological injury* ~~mental harm~~ or a substantial risk of death.

(21) "No jurisdiction" means the disposition of a report that the department does not investigate because the report does not meet the criteria specified in ss. 415.101-415.113.

(22) "Obtains or uses" means any manner of:

(a) Taking or exercising control over property; or

(b) Making any use, disposition, or transfer of property.

(23) "Perpetrator" means the person who has been named as causing abuse, neglect, or exploitation to a disabled adult or an elderly person in a report that has been classified as confirmed.

(24) "Position of trust and confidence" with respect to a disabled adult or an elderly person means the position of a person who:

(a) Is a parent, spouse, adult child, or other relative by blood or marriage of the disabled adult or elderly person;

(b) Is a joint tenant or tenant in common with the disabled adult or elderly person;

(c) Has a legal or fiduciary relationship with the disabled adult or elderly person, including, but not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator; or

(d) Is a caregiver of the disabled adult or elderly person.

(25) "Property" means anything of value, and includes;

(a) Real property, including things growing on, affixed to, and found in land.

(b) Tangible personal property, including, but not limited to, furniture, jewelry, or clothing and intangible personal property, including rights, privileges, interests, and claims.

(26)~~(13)~~ "Proposed confirmed report" means a report *of abuse, neglect, or exploitation which is* made pursuant to *s. 415.1034* ~~s. 415.103~~ when an adult protective investigation alleges that *there is a preponderance of evidence that* abuse, ~~or~~ neglect, *or exploitation* occurred and which identifies the alleged perpetrator.

(27) "Protective investigator" means an employee of the department responsible for:

(a) The onsite investigation, classification, and disposition of all reports alleging abuse, neglect, or exploitation of a disabled adult or an elderly person;

(b) The determination of immediate risk to a disabled adult or an elderly person, which determination must include the provision of emergency services and the arrangement for immediate in-home and nonemergency services to prevent the recurrence of further abuse, neglect, or exploitation; and

(c) The evaluation of the need for and referrals to ongoing protective services for a disabled adult or an elderly person.

(28)~~(14)~~ "Protective services" means *the provision or arrangement of services to protect a disabled adult or an elderly person from further occurrences of abuse, neglect, or exploitation. Such services may include, but are not limited to, protective supervision, placement, and in-home and community-based services.* ~~those services, the objective of which is to protect an aged person or disabled adult from abuse, neglect, or exploitation. Such protective services include, but are not limited to:~~

~~(a) Evaluation of the need for protective services.~~

~~(b) Casework for the purpose of planning and providing needed services.~~

~~(c) Obtaining financial benefits to which the aged person or disabled adult is entitled.~~

~~(d) Securing medical and legal services.~~

~~(e) Maintenance of the aged person or disabled adult in his own home through the provision of protective services.~~

~~(f) Assistance in obtaining out-of-home services, including respite care, emergency housing, and placement settings, as necessary.~~

~~(g) Seeking protective placement, as necessary.~~

(29) "Protective supervision" means those services arranged for or implemented by the department to protect disabled adults or elderly persons from further occurrences of abuse, neglect, or exploitation during an investigation or following a report that has been classified as proposed confirmed or confirmed, or has been closed without classification.

(30) "Psychological injury" means an injury to the intellectual functioning or emotional state of a disabled adult or an elderly person as evidenced by an observable or measurable reduction in the disabled adult's or elderly person's ability to function within that person's customary range of performance and that person's behavior.

(31) "Records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, videotapes, or other material, regardless of physical form or characteristics, made or received pursuant to an adult protective investigation.

(32) "Sexual abuse" means acts of a sexual nature committed for the sexual gratification of the abuser and in the presence of a disabled adult or an elderly person without that person's informed consent. "Sexual abuse" includes, but is not limited to, the acts defined in s. 794.011(1)(h), fondling, exposure of a disabled adult's or elderly person's sexual organs, or the use of a disabled adult or an elderly person to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act that may reasonably be construed to be normal caregiving action or appropriate display of affection.

(33) "Specified medical personnel" means licensed or certified physicians, osteopaths, nurses, paramedics, advanced registered nurse practitioners, psychologists, psychiatrists, mental health professionals, or any other licensed or certified medical personnel.

(34)~~(15)~~ "Unfounded report" means a report made pursuant to *s. 415.1034 in which the department* ~~s. 415.103 when an adult protective services investigation~~ determines that no *evidence* ~~indication~~ of abuse, neglect, or exploitation exists.

(35) "Victim" means any disabled adult or elderly person named in a report of abuse, neglect, or exploitation.

Section 51. Section 415.103, Florida Statutes, is amended to read:

415.103 ~~Mandatory reporting of abuse, neglect, or exploitation of aged persons or disabled adults; mandatory reports of death;~~ Central abuse registry and tracking system~~; immunity from liability.~~—

~~(1) MANDATORY REPORTING.—~~

~~(a) Any person, including, but not limited to, any:~~

~~1. Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of aged persons or disabled adults;~~

~~2. Health or mental health professional other than one listed in subparagraph 1.;~~

~~3. Practitioner who relies solely on spiritual means for healing;~~

~~4. Nursing home staff, adult congregate living facility staff, adult day care center staff, social worker, or other professional adult care, foster care, residential, or institutional staff;~~

~~5. State, county, or municipal criminal justice employee or law enforcement officer;~~

~~6. Human rights advocacy committee or long-term care ombudsman council member; or~~

~~7. Bank, savings and loan, or credit union officer, trustee, or employee,~~

~~who knows, or has reasonable cause to suspect, that an aged person or disabled adult is an abused, neglected, or exploited person shall immediately report such knowledge or suspicion to the central abuse registry and tracking system of the department on the single statewide toll-free telephone number.~~

~~(b) To the extent possible, a report made pursuant to paragraph (a) shall contain, but not be limited to, the following information:~~

~~1. Name, age, race, sex, and physical description of each aged person or disabled adult alleged to have been abused, neglected, or exploited;~~

~~2. Names, addresses, and telephone numbers of the alleged victim's family members;~~

~~3. Name, address, and telephone number of each alleged perpetrator of abuse, neglect, or exploitation;~~

~~4. Name, address, and telephone number of the caregiver of the aged person or disabled adult, if different from the alleged perpetrator;~~

~~5. Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation involving the victim or the alleged perpetrator;~~

~~6. Description of the physical injuries sustained;~~

~~7. Actions taken by the reporter, if any, such as notification of the criminal justice agency; and~~

~~8. Any other information available to the reporting person which may establish the cause of abuse, neglect, or exploitation which occurred or is occurring.~~

~~(c) Each report made by a person listed in paragraph (a) shall be confirmed in writing to the local office of the department designated by the central abuse registry and tracking system, within 48 hours of the initial report.~~

~~(2) MANDATORY REPORTS OF DEATH.—Any person required to report or investigate cases of suspected abuse, neglect, or exploitation who has reasonable cause to suspect that an aged person or disabled adult died as a result of abuse, neglect, or exploitation shall report his suspicion to the appropriate medical examiner; to the appropriate criminal justice agency, and to the department, notwithstanding the existence of a death certificate signed by a practicing physician. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report his findings, in writing, to the appropriate local criminal justice agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 415.107.~~

~~(3) CENTRAL ABUSE REGISTRY AND TRACKING SYSTEM.—~~

(1)~~(a)~~ The department shall establish and maintain a central abuse registry and tracking system *that receives* ~~which shall receive~~ all reports made pursuant to *s. 415.1034* ~~this section~~ in writing or through a single statewide toll-free telephone number. ~~which~~ Any person may use *the statewide toll-free telephone number* to report known or suspected abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person* at any hour of the day or night, any day of the week. The central abuse registry and tracking system *must* ~~shall~~ be operated in such a manner as to enable the department to:

(a) Accept reports for investigation when there is a reasonable cause to suspect that a disabled adult or an elderly person has been or is being abused, neglected, or exploited.

(b) Determine whether the allegations made by the reporter require an immediate, 24-hour, or next-working-day response priority.

(c) When appropriate, refer calls that do not allege the abuse, neglect, or exploitation of a disabled adult or an elderly person to other organizations that might better resolve the reporter's concerns.

(d)~~1.~~ Immediately identify and locate prior reports ~~or cases~~ of ~~adult~~ abuse, neglect, or exploitation through the *central abuse registry and* ~~department's automated~~ tracking system.

~~2. Monitor and evaluate the effectiveness of the department's program for reporting, investigating, and classifying suspected abuse, neglect, or exploitation of aged persons or disabled adults, and the provision of protective services to such persons through the development and analysis of statistical and other information, and to report thereon.~~

(e)~~3.~~ Track critical steps in the investigative process to ensure compliance with all requirements for all reports.

(f)~~4.~~ Maintain *data to facilitate the production of* ~~and produce~~ aggregate statistical reports for monitoring patterns of abuse, neglect, or exploitation of ~~aged persons or~~ disabled adults *or elderly persons*.

(g)~~5.~~ Serve as a resource for the evaluation, management, and planning of preventive and remedial services for ~~aged persons or~~ disabled adults *or elderly persons* who have been subject to abuse, neglect, or exploitation.

~~6. Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in confirmed reports on adult maltreatment to further enhance programs for the protection of aged persons or disabled adults.~~

(2)~~(b)~~ Upon receiving an oral or written report of known or suspected abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person*, the central abuse registry and tracking system *must* ~~shall~~ determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse registry and tracking system *must immediately* ~~shall~~ notify the department's designated ~~aging and~~ adult *protective investigative* ~~services~~ district staff responsible for protective investigations ~~immediately~~ to ensure prompt initiation of an onsite investigation. For reports not requiring an immediate onsite protective investigation, the central abuse registry and tracking system *must* ~~shall~~ notify the department's designated ~~aging and~~ adult *protective investigative* ~~services~~ district staff responsible for protective investigations in sufficient time to allow for an investigation to be commenced within 24 hours. At the time of notification of district staff with respect to the report, the central abuse registry and tracking system *must* ~~shall~~ also provide *any known* information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(3) The department shall set standards, priorities, and policies to maximize the efficiency and effectiveness of the central abuse registry and tracking system.

~~(c)1. Upon commencing an investigation, the adult protective investigator shall inform any subject of the investigation of the following:~~

~~a. The names of the investigators and identifying credentials from the department.~~

~~b. The purpose of the investigation.~~

~~c. The possible consequences of the investigation.~~

~~d. How the information provided by the subject may be used.~~

~~e. The description of the risk assessment process and placement of an adult.~~

~~f. That the aged or disabled adult named as the victim, the named victim's guardian or guardians, the alleged perpetrator named in a proposed confirmed report, and legal counsel for any of the aforementioned persons have a right to a copy of any proposed confirmed or confirmed report at the conclusion of the investigation.~~

~~g. That persons who are entitled to receive a copy of the report also have the right to submit a written comment or rebuttal which may be made a part of the record.~~

~~h. That subjects may have additional appeal rights which will be explained in writing when appropriate and necessary at the conclusion of the investigation.~~

~~i. The telephone number and name of a department employee available to answer questions.~~

~~2. Upon completion of its investigation, the department shall classify reports as "proposed confirmed" or "unfounded," unless the report is closed without classification, and shall give notice of its classification as follows:~~

~~a. In the case of an unfounded report, notice of the classification shall be given to the guardian or guardians of the aged person or disabled adult, the aged person or disabled adult, and the alleged perpetrator.~~

~~b. In the case of a proposed confirmed classification, notice shall be given to the guardian or guardians of the aged person or disabled adult, the aged person or disabled adult, the alleged perpetrator, and legal counsel for the aforementioned persons.~~

~~The department shall adopt rules prescribing the content of the notice to be provided and requiring uniformity of content and appearance of each notice of classification issued by the department.~~

~~(d)1. The contents of the notice of classification of reports shall be as follows:~~

~~a. In the case of unfounded reports, notice shall be provided to the persons specified in sub-subparagraph (c)2.a., may be sent by regular mail, and shall advise the recipient that the report will be expunged in 30 days.~~

~~b. In case of a proposed confirmed report, notice shall be provided to the persons specified in sub-subparagraph (c)2.b. and, in the case of the alleged perpetrator, shall be sent by certified mail with return receipt requested. The notice shall state the facts that are alleged to support the proposed confirmed classification, the nature of the alleged abuse, neglect, or exploitation, and that an alleged perpetrator of a confirmed report may be disqualified from working with children, the developmentally disabled, disabled adults, or aged persons. The notice shall further advise the recipient of his right to request a copy of the report, to submit a written statement of explanation or rebuttal with respect to the report, and to request amendment or expunction of the report. The notice shall clearly advise the person that failure to make such a request within 60 days after receipt of the notice, as evidenced by the date on the return receipt, means that the person agrees not to contest the classification of the report, and shall prevent further proceedings in the matter. If the alleged perpetrator of a proposed confirmed report asks for amendment or expunction, the secretary may amend or expunge the record. If the secretary refuses or does not act within 30 days after receiving such a request, the alleged perpetrator of a proposed confirmed report shall have the right to an administrative hearing pursuant to chapter 120 to contest whether the record of the report should be amended or expunged. A request for an administrative hearing must be submitted in writing to the department within 30 days after notification of the secretary's decision to deny the requested amendment or expunction, or, if the secretary fails to act on the request, within 30 days after the expiration of the 30 day time period within which the secretary may act under the provisions of this sub-subparagraph. The alleged perpetrator may, within 1 year after the classification of the report as confirmed, request the department to set aside a confirmed report where it can be shown that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.~~

~~2. The schedule for requesting reports, submitting written comments, and requesting amendment or expunction of reports shall be as follows:~~

~~a. A person entitled to request a copy of an investigative report shall do so within 15 days after receipt of the notice as provided in this paragraph. In the case of an unfounded report, the 15 days shall be counted from the date of mailing of the notice. In the case of a proposed confirmed report, the 15 days shall be counted from the date of delivery of the original notice as evidenced by the return receipt.~~

~~b. A person entitled to submit a written statement of explanation or rebuttal and to request amendment or expunction of the report pursuant to sub-subparagraph 1.b. shall submit the statement or make such a request within 60 days after receipt of the original notice as evidenced by the return receipt. The failure to make a timely request for amendment or expunction of the report means the person agrees not to contest the classification of the report.~~

~~3. At a hearing conducted pursuant to the provisions of chapter 120, the department shall prove by a preponderance of the evidence that the alleged perpetrator committed the abuse, neglect, or exploitation. The department's investigative report shall be considered competent evidence at the hearing, and the technical rules of evidence shall not exclude such report. If the department's classification as proposed confirmed is upheld, the report shall become a confirmed report.~~

~~4. The confidentiality of the abuse or neglect report shall, to the extent possible, be maintained during the administrative hearing process. The administrative hearing shall be closed, the administrative files shall be confidential and exempt from the provisions of s. 119.07(1), and any identifying information in the recommended or final order shall be deleted prior to publishing pursuant to chapter 120. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(e) All identifying information in the central abuse registry and tracking system or other computer systems or records that is related to an unfounded report shall be expunged 30 days after the case is classified as "unfounded." Computer records of a confirmed report shall be retained for 50 years from the date the report is classified. All information, other than identifying information, related to an unfounded report at the time of expunction shall be disposed of in a manner deemed appropriate by the department and pursuant to ss. 119.041 and 257.36(7). Unfounded reports shall only be indexed by the name of the aged person or disabled adult to detect patterns of abuse, neglect, or exploitation. Persons named in unfounded reports may not be identified as perpetrators. All information in the records of the central abuse registry and tracking system or other computer systems or records shall be subject to the confidentiality provisions in s. 415.107. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(f) Reports closed without classification shall be indexed only by the name of the aged person or disabled adult and the institution or facility at which the abuse, neglect, or exploitation occurred, if appropriate, to detect patterns of abuse, neglect, or exploitation. Each report shall be maintained by the department for a period of 7 years after the date the report is closed and is subject to the confidentiality provisions in s. 415.107.~~

~~(g) Nothing in this section is intended to require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.~~

~~(h) A person who is the alleged perpetrator in a report that the department has classified as unfounded may request the department to retain the report for 1 year for the purpose of detecting a person who knowingly makes a false report.~~

~~(4) POSTING STATEWIDE TOLL FREE TELEPHONE NUMBER FOR THE CENTRAL ABUSE REGISTRY AND TRACKING SYSTEM.—~~

~~(a) The statewide toll-free telephone number for the central abuse registry and tracking system shall be posted in all facilities operated by or under contract with or licensed by the department which provide services to aged persons or disabled adults. Such posting shall be clearly visible and in a prominent place within the facility and shall be accompanied by the words, "To Report the Abuse, Neglect, or Exploitation of an Aged Person or Disabled Adult, Please Call: . . . . ."~~

~~(b) Every facility serving aged persons or disabled adults shall inform residents of their rights to report abusive, neglectful, or exploitive practices and shall establish appropriate policies and procedures to facilitate such reporting.~~

~~(5) IMMUNITY.—~~

~~(a) Any person participating in the making of a report pursuant to this section or participating in a judicial proceeding resulting therefrom is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any liability, civil or criminal, that otherwise might be incurred or imposed. Nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, neglected, or exploited, or committed any illegal act upon or against, an aged person or disabled adult. Further, no resident or employee of a facility serving aged persons or disabled adults may be subjected to reprisal or discharge because of his actions in reporting abuse, neglect, or exploitation pursuant to the requirements of this section.~~

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

Section 52. Section 415.1034, Florida Statutes, is created to read:

415.1034 Mandatory reporting of abuse, neglect, or exploitation of disabled adults or elderly persons; mandatory reports of death.—

(1) MANDATORY REPORTING.—

(a) Any person, including, but not limited to, any:

1. Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of disabled adults or elderly persons;

2. Health professional or mental health professional other than one listed in subparagraph 1.;

3. Practitioner who relies solely on spiritual means for healing;

4. Nursing home staff; adult congregate living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;

5. State, county, or municipal criminal justice employee or law enforcement officer;

6. Human rights advocacy committee or long-term care ombudsman council member; or

7. Bank, savings and loan, or credit union officer, trustee, or employee,

who knows, or has reasonable cause to suspect, that a disabled adult or an elderly person has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse registry and tracking system on the single statewide toll-free telephone number.

(b) To the extent possible, a report made pursuant to paragraph (a) must contain, but need not be limited to, the following information:

1. Name, age, race, sex, physical description, and location of each disabled adult or an elderly person alleged to have been abused, neglected, or exploited.

2. Names, addresses, and telephone numbers of the disabled adult's or elderly person's family members.

3. Name, address, and telephone number of each alleged perpetrator.

4. Name, address, and telephone number of the caregiver of the disabled adult or elderly person, if different from the alleged perpetrator.

5. Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation.

6. Description of the physical or psychological injuries sustained.

7. Actions taken by the reporter, if any, such as notification of the criminal justice agency.

8. Any other information available to the reporting person which may establish the cause of abuse, neglect, or exploitation that occurred or is occurring.

(2) MANDATORY REPORTS OF DEATH.—Any person who is required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a disabled adult or an elderly person died as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, to the appropriate criminal justice agency, and to the department, notwithstanding the existence of a death certificate signed by a practicing physician. The medical examiner shall accept the report for investigation pursuant to s. 406.11 and shall report the findings of the investigation, in writing, to the appropriate local criminal justice agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 415.107.

Section 53. Section 415.1035, Florida Statutes, is created to read:

415.1035 Facility's duty to inform residents of their rights to report.—

(1) Every facility that serves disabled adults or elderly persons must inform residents of their rights to report abusive, neglectful, or exploitive practices and must establish appropriate policies and procedures to facilitate such reporting.

(2) The statewide toll-free telephone number for the central abuse registry and tracking system must be posted in all facilities operated by, under contract with, or licensed by the department or the Agency for Health Care Administration which provide services to disabled adults or elderly persons. Such posting must be clearly visible and in a prominent place within the facility and must be accompanied by the words, "To Report the Abuse, Neglect, or Exploitation of a Disabled Adult or an Elderly Person, Please Call:. . . . ."

Section 54. Section 415.1036, Florida Statutes, is created to read:

415.1036 Immunity.—

(1) Any person who participates in making a report under s. 415.1034 or participates in a judicial proceeding resulting therefrom is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any liability, civil or criminal, that otherwise might be incurred or imposed. This section does not grant immunity, civil or criminal, to any person who is suspected of having abused, neglected, or exploited, or committed any illegal act upon or against, a disabled adult or an elderly person. Further, a resident or employee of a facility that serves disabled adults or elderly persons may not be subjected to reprisal or discharge because of the resident's or employee's actions in reporting abuse, neglect, or exploitation pursuant to s. 415.1034.

(2) Any person who makes a report under s. 415.1034 has a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of the reporting party's making the report. Any detrimental change made in the residency or employment status of such a person, such as, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations, within 120 days after the report is made establishes a rebuttable presumption that the detrimental action was retaliatory.

Section 55. Section 415.1045, Florida Statutes, is created to read:

415.1045 Protective investigations; onsite investigations; photographs, videotapes, and medical examinations; abrogation of privileged communications; confidential records and documents; classification or closure of records.—

(1) PROTECTIVE INVESTIGATIONS.—

(a) The department shall, upon receipt of a report alleging abuse or neglect of a disabled adult or an elderly person, commence, or cause to be commenced within 24 hours, a protective investigation of the facts alleged therein. The department shall, upon receipt of a report alleging only the exploitation of a disabled adult or an elderly person, commence, or cause to be commenced within 24 hours, excluding Saturdays, Sundays, and legal holidays, a protective investigation of the facts alleged therein.

(b) Upon commencing an investigation, the adult protective investigator shall inform all disabled adults and elderly persons and alleged perpetrators named in the report of the following:

1. The names of the investigators and identifying credentials from the department.

2. The purpose of the investigation.

3. The possible consequences of the investigation.

4. That the victim, the victim's guardian, the victim's caregiver, and the alleged perpetrator, and legal counsel for any of those persons, have a right to a copy of the report at the conclusion of the investigation.

5. That appeal rights may exist and that such rights will be explained in writing when appropriate and necessary at the conclusion of the investigation.

6. The name and telephone number of the adult protective investigator's supervisor available to answer questions.

(c) Except as provided in paragraph (d), in an investigative interview, any person being interviewed may be represented by an attorney, at the person's own expense, or may choose to have another person present. The other person present may not be an alleged perpetrator in any report currently under investigation. Before participating in such interview, the other person present shall execute an agreement to comply with the confidentiality requirements of ss. 415.101-415.113. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons.

(d) In an investigative interview with the disabled adult or an elderly person, the protective investigator may conduct the interview with no other person present.

(2) ONSITE INVESTIGATIONS.—For each report it receives, the department shall perform an onsite investigation to:

(a) Determine whether the person is a disabled adult or an elderly person as defined in s. 415.102.

(b) Determine whether there is an indication that any disabled adult or elderly person has been or is being abused, neglected, or exploited, including a determination of the immediate and long-term risk; the nature and extent of present or prior injuries; and the nature and extent of any abuse, neglect, or exploitation, and any evidence thereof.

(c) Determine whether protective and ameliorative services are necessary to safeguard and ensure the disabled adult's or elderly person's well-being and cause the delivery of those services.

(d) Determine the person or persons apparently responsible for the abuse, neglect, or exploitation.

(e) Determine the composition of the family or household, including all disabled adults and elderly persons named in the report, all persons in the care of the caregiver, any other persons responsible for the disabled adult's or elderly person's welfare, and any other adults or children in the same household.

(f) Gather appropriate demographic data. Each person must cooperate to the fullest extent possible by providing the person's name, address, date of birth, social security number, sex, and race to the department's representative.

(3) PHOTOGRAPHS AND VIDEOTAPES.—

(a) The adult protective investigator, while investigating a report of abuse, neglect, or exploitation, may take or cause to be taken photographs and videotapes of the disabled adult or elderly person, and of the disabled adult's or elderly person's environment, which are relevant to the investigation. All photographs and videotapes taken during the course of the protective investigation are confidential and exempt from public disclosure as provided in s. 415.107.

(b) Any photographs or videotapes made pursuant to this subsection, or copies thereof, must be sent to the department as soon as possible.

(4) MEDICAL EXAMINATIONS.—

(a) With the consent of the disabled adult or elderly person who has the capacity to consent or the disabled adult's or elderly person's guardian, or pursuant to s. 415.1051, the department may cause the disabled adult or elderly person to be referred to a licensed physician or any emergency department in a hospital or health care facility for medical examination, diagnosis, or treatment if any of the following circumstances exist:

1. The areas of trauma visible on the disabled adult or elderly person indicate a need for medical examination;

2. The disabled adult or elderly person verbally complains or otherwise exhibits signs or symptoms indicating a need for medical attention as a consequence of suspected abuse, neglect, or exploitation; or

3. The disabled adult or elderly person is alleged to have been sexually abused.

(b) Upon admission to a hospital or health care facility, with the consent of the disabled adult or elderly person who has capacity to consent or that person's guardian, or pursuant to s. 415.1051, the medical staff of the facility may examine, diagnose, or treat the disabled adult or elderly person. If a person who has legal authority to give consent for the provision of medical treatment to a disabled adult or elderly person has not given or has refused to give such consent, examination and treatment must be limited to reasonable examination of the patient to determine

the medical condition of the patient and treatment reasonably necessary to alleviate the medical condition or to stabilize the patient pending a determination by the court of the department's petition authorizing protective services. Any person may seek an expedited judicial intervention under rule 5.900 of the Florida Probate Rules concerning medical treatment procedures.

(c) Medical examination, diagnosis, and treatment provided under this subsection must be paid for by third-party reimbursement, if available, or by the disabled adult or elderly person or that person's guardian from the disabled adult's or elderly person's assets, if the disabled adult or elderly person is determined to be financially able to pay; or, if the disabled adult or elderly person is unable to pay, the department shall pay the costs within available emergency services funds.

(d) Reports of examination, diagnosis, and treatment made under this subsection, or copies thereof, must be sent to the department as soon as possible.

(e) This subsection does not obligate the department to pay for any treatment other than that necessary to alleviate the immediate presenting problems.

(5) ABROGATION OF PRIVILEGED COMMUNICATIONS.—The privileged quality of communication between husband and wife and between any professional and the professional's patient or client, and any other privileged communication except that between attorney and client or clergy and person, as such communication relates to both the competency of the witness and to the exclusion of confidential communications, does not apply to any situation involving known or suspected abuse, neglect, or exploitation of a disabled adult or an elderly person and does not constitute grounds for failure to report as required by s. 415.1034, for failure to cooperate with the department in its activities under ss. 415.101-415.113, or for failure to give evidence in any judicial or administrative proceeding relating to abuse, neglect, or exploitation of a disabled adult or an elderly person.

(6) MEDICAL, SOCIAL, OR FINANCIAL RECORDS OR DOCUMENTS.—

(a) The adult protective investigator, while investigating a report of abuse, neglect, or exploitation, must have access to, inspect, and copy all medical, social, or financial records or documents in the possession of any person, caregiver, guardian, or facility which are relevant to the allegations under investigation, unless specifically prohibited by the disabled adult or elderly person who has capacity to consent.

(b) The confidentiality of any medical, social, or financial record or document that is confidential under state law does not constitute grounds for failure to:

1. Report as required by s. 415.1034;

2. Cooperate with the department in its activities under ss. 415.101-415.113;

3. Give access to such records or documents; or

4. Give evidence in any judicial or administrative proceeding relating to abuse, neglect, or exploitation of a disabled adult or an elderly person.

(7) CLASSIFICATIONS AND CLOSURES.—No later than 45 days after receiving an initial report in which the department has jurisdiction, the adult protective investigator shall complete the investigation and classify the report as proposed confirmed or unfounded, or close the report without classification. The adult protective investigator must document the details of the investigation, close the report, and enter the data into the central abuse registry and tracking system no later than 60 days after receiving the initial report.

Section 56. Section 415.105, Florida Statutes, is amended to read:

415.105 Provision of protective services with consent ~~of aged person or disabled adult~~; withdrawal of consent~~; caregiver refusal~~.—

(1) PROTECTIVE SERVICES WITH CONSENT.—If the department determines *through its investigation* that *a* ~~an aged person or~~ disabled adult *disabled adult or an elderly person* demonstrates a need for protective services *or protective supervision*, the department shall immediately provide, or arrange for the provision of, protective services *or protective supervision, including in-home services,* provided that the ~~aged person or~~ disabled adult *or elderly person* consents.

(2) WITHDRAWAL OF CONSENT.—If the ~~aged person or~~ disabled adult *or elderly person* withdraws ~~his~~ consent to the receipt of protective services *or protective supervision*, the services *may* ~~shall~~ not be provided, except pursuant to *s. 415.1051* ~~the provisions of subsection (3)~~.

~~(3) LACK OF CAPACITY TO CONSENT.—If the department has reasonable cause to believe that an aged person or disabled adult is being abused, neglected, or exploited and is in need of protective services but lacks the capacity to consent to protective services, the department shall petition the court for an order authorizing the provision of protective services. The petition shall allege specific facts sufficient to show that the aged person or disabled adult is in need of protective services and lacks the capacity to consent to them. Notice of the filing of such petition shall be given to the aged person or disabled adult, to his spouse, to legal counsel representing the aged person or disabled adult, and, where known, to his adult children or next of kin.~~

~~(a) Hearing.—The court shall set the case for hearing within 14 days after the filing of the petition. The aged person or disabled adult shall receive at least 5 days' notice of any hearing held pursuant to this subsection. The aged person or disabled adult and any person given notice of the filing of the petition shall have the right to be present at any such hearing. The aged person or disabled adult shall have the right to be represented by legal counsel at any such hearing. The court shall appoint legal counsel to represent the aged person or disabled adult if he is without legal representation.~~

~~(b) Hearing findings.—If at the hearing the court finds clear and convincing evidence that the aged person or disabled adult is in need of protective services and lacks the capacity to consent to protective services, the court may issue an order authorizing the provision of protective services. If an order is issued, it shall include the designation of an individual or agency to be responsible for the performing or obtaining of essential services on behalf of the aged person or disabled adult, or otherwise consenting to protective services in his behalf. Within 60 days from the appointment of such an individual or agency, the court shall conduct a hearing to determine whether:~~

~~1. Protective services shall be provided with the consent of the aged person or disabled adult pursuant to subsection (1);~~

~~2. Protective services shall be discontinued; or~~

~~3. A petition should be filed pursuant to the provisions of chapter 744.~~

~~If it is decided to file a petition pursuant to the provisions of chapter 744, for good cause shown the court may order continued protective services until a determination is made by the court regarding the aged person's or disabled adult's competency.~~

~~(4) CAREGIVER REFUSAL.—When a caregiver of an aged person or disabled adult refuses to allow the provision of protective services to the aged person or disabled adult pursuant to this section, the department shall petition the court for an order enjoining the caregiver from interfering with the provision of protective services to the aged person or disabled adult. The petition shall allege specific facts sufficient to show that the aged person or disabled adult is in need of protective services and that the caregiver refuses to allow the provision of such services. If the court finds by clear and convincing evidence that the aged person or disabled adult is in need of protective services and that the caregiver refuses to allow the provision of such services, the court may issue an order enjoining the caregiver from interfering with the provision of protective services to the aged person or disabled adult.~~

~~(5) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the department has reason to believe that an aged person or disabled adult is suffering from abuse or neglect which presents a substantial risk of death or immediate and serious physical harm to such aged person or disabled adult, and that the aged person or disabled adult lacks the capacity to consent to emergency protective services, the department may take action pursuant to this subsection. If the aged person or disabled adult has the capacity to consent and refuses consent to emergency protective services, emergency protective services shall not be provided. For purposes of this subsection "immediate" means within 24 hours. For purposes of this subsection specified medical personnel means those medical personnel included in the adult protection teams in s. 415.1102.~~

~~(a) Emergency entry of premises.—If, upon arrival at the scene of the incident, consent is not obtained for access to the alleged victim for purposes of conducting a protective services investigation pursuant to this subsection and the department has reason to believe that the situation presents a potential risk of death or immediate and serious physical harm, a representative of the department and the appropriate law enforcement officer may forcibly enter the premises. If, after obtaining access to the alleged victim, it is determined through a personal assessment of the situation that no emergency exists and there is no requirement for emergency intervention pursuant to this subsection, the department shall either terminate the provision of services or shall provide protective services pursuant to the provisions of s. 415.104 or this section.~~

~~(b) Emergency removal from premises.—When, from the personal observations of a representative of the department including specified medical personnel, it appears that the aged person or disabled adult lacks the capacity to consent to emergency protective services and it appears from the personal observations of the representative of the department, including specified medical personnel and the law enforcement officer, that the aged person or disabled adult is likely to incur a substantial risk of death or immediate and serious physical harm if such person is not immediately removed from the premises, the representative of the department shall transport or arrange for the transportation of the aged person or disabled adult to an appropriate medical or protective services facility. The department shall, within 24 hours of taking such action, petition the court for an emergency order authorizing protective services.~~

~~(c) Authorization for medical treatment.—If, immediately upon admission to a medical facility, a person who is legally authorized to give consent for the provision of medical treatment to an aged person or disabled adult has not given or has refused to give such consent and it is the professional opinion of the medical staff of the facility that treatment is necessary to prevent serious physical harm or death, the medical facility may proceed with treatment to the aged person or disabled adult. The person who is authorized to give consent may petition an appropriate court to prevent or withdraw treatment.~~

~~(d) Contents of petition.—The petition filed pursuant to the provisions of paragraph (b) shall allege the name, age, and address of the aged person or disabled adult and the facts constituting the emergency intervention and subsequent removal, information relating to the capacity of the aged person or disabled adult to consent to services, and the efforts of the department to obtain consent, and the services needed.~~

~~(e) Preliminary hearing.—~~

~~1. When action is taken under this subsection, a preliminary hearing shall be held within 48 hours of the signing of the emergency protective services order, excluding Saturday, Sunday, and legal holidays, to establish probable cause for grounds to continue emergency protective services. If the court finds that probable cause to continue emergency protective services does not exist, the provision of emergency protective services pursuant to this subsection shall be discontinued.~~

~~2. In the event that probable cause for continued emergency protective services is determined to exist, the court may order temporary emergency protective services for up to 4 days. In issuing an emergency protective services order, the court shall adhere to the following limitations:~~

~~a. Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered, and the court shall specifically designate the approved services in the order of the court.~~

~~b. Protective services authorized by an emergency protective services order shall not include a change of residence, unless the court specifically finds such action is necessary to remove the conditions creating the emergency and gives specific approval for such action in the order of the court. Emergency placement may be made to such facilities as adult foster homes, adult congregate living facilities, nursing homes, or other appropriate facilities. Emergency placement shall not be made to facilities for the acutely mentally ill, except as provided in chapter 394.~~

~~(f) Notice.—Notice of the filing of a petition pursuant to paragraph (g) and other relevant information, including the factual basis of the belief that emergency protective services are needed and a description of the exact services rendered, shall be given to the aged person or disabled adult, to his spouse, to his guardian, if any, to legal counsel representing the aged person or disabled adult, and, where known, to his adult children or next of kin. Such notice shall be given at least 24 hours prior to the hearing of the petition for emergency protective services pursuant to paragraph (g).~~

~~(g) Hearing.—A hearing shall be held at the end of 4 days to determine whether:~~

~~1. Protective services shall be provided with the consent of the aged person or disabled adult pursuant to subsection (1);~~

~~2. Protective services shall be discontinued; or~~

~~3. A petition shall be filed to provide protective services pursuant to the provisions of subsection (3).~~

~~(h) If at a hearing held under the provisions of this paragraph it is decided to file a petition pursuant to the provisions of subsection (3), the court may order continued protective services until a determination is made by the court regarding the aged person's or disabled adult's capacity to consent.~~

~~(6) LIMITATIONS.—This section shall not be construed as limiting in any way the authority of the court, or a criminal justice officer or any other duly appointed official, to intervene in emergency circumstances under existing statutes.~~

Section 57. Section 415.1051, Florida Statutes, is created to read:

415.1051 Protective services interventions when capacity to consent is lacking; nonemergencies; emergencies; orders; limitations.—

(1) NONEMERGENCY PROTECTIVE SERVICES INTERVENTIONS.—If the department has reasonable cause to believe that a disabled adult or elderly person is being abused, neglected, or exploited and is in need of protective services but lacks the capacity to consent to protective services, the department shall petition the court for an order authorizing the provision of protective services.

(a) Nonemergency protective services petition.—The petition must state the name, age, and address of the disabled adult or elderly person, allege specific facts sufficient to show that the disabled adult or elderly person is in need of protective services and lacks the capacity to consent to them, and indicate the services needed.

(b) Notice.—Notice of the filing of the petition and a copy of the petition must be given to the disabled adult or elderly person, to that person's spouse, guardian, legal counsel, and, when known, to the adult children or next of kin of the disabled adult or elderly person. Such notice must be given at least 5 days before the hearing.

(c) Hearing.—

1. The court shall set the case for hearing within 14 days after the filing of the petition. The disabled adult or elderly person and any person given notice of the filing of the petition have the right to be present at the hearing. The department must make reasonable efforts to ensure the presence of the disabled adult or elderly person at the hearing.

2. The disabled adult or elderly person has the right to be represented by legal counsel at the hearing. The court shall appoint legal counsel to represent a disabled adult or elderly person who is without legal representation.

3. The court shall determine whether:

a. Protective services, including in-home services, are necessary for the disabled adult or elderly person; and

b. The disabled adult or elderly person lacks the capacity to consent to the provision of such services.

(d) Hearing findings.—If at the hearing the court finds by clear and convincing evidence that the disabled adult or elderly person is in need of protective services and lacks the capacity to consent to protective services, the court may issue an order authorizing the provision of protective services. If an order for protective services is issued, it must include a statement of the services to be provided and designate an individual or agency to be responsible for performing or obtaining the essential services on behalf of the disabled adult or elderly person or otherwise consenting to protective services on behalf of the disabled adult or elderly person.

(e) Continued protective services.—

1. No more than 60 days after the date of the order authorizing the provision of protective services, the department shall petition the court to determine whether:

a. Protective services will be continued with the consent of the disabled adult or elderly person pursuant to subsection (1);

b. Protective services will be continued for the disabled adult or elderly person who lacks capacity;

c. Protective services will be discontinued; or

d. A petition for guardianship should be filed pursuant to chapter 744.

2. If the court determines that a petition for guardianship should be filed pursuant to chapter 744, the court, for good cause shown, may order continued protective services until it makes a determination regarding the disabled adult's or elderly person's capacity.

(f) Costs.—The costs of services ordered under this section must be paid by the perpetrator if the perpetrator is financially able to do so; or by third-party reimbursement, if available. If the disabled adult or elderly person is unable to pay for guardianship, application may be made to the public guardian for public guardianship services, if available.

(2) EMERGENCY PROTECTIVE SERVICES INTERVENTION.—If the department has reasonable cause to believe that a disabled adult or an elderly person is suffering from abuse or neglect that presents a risk of death or serious physical injury to the disabled adult or elderly person and that the disabled adult or elderly person lacks the capacity to consent to emergency protective services, the department may take action under this subsection. If the disabled adult or elderly person has the capacity to consent and refuses consent to emergency protective services, emergency protective services may not be provided.

(a) Emergency entry of premises.—If, upon arrival at the scene of the incident, consent is not obtained for access to the alleged victim for purposes of conducting a protective investigation under this subsection and the department has reason to believe that the situation presents a risk of death or serious physical injury, a representative of the department and a law enforcement officer may forcibly enter the premises. If, after obtaining access to the alleged victim, it is determined through a personal assessment of the situation that no emergency exists and there is no basis for emergency protective services intervention under this subsection, the department shall terminate the emergency entry and may provide protective services with the consent of the disabled adult or elderly person or may petition the court to provide nonemergency protective services or protective supervision pursuant to subsection (1).

(b) Emergency removal from premises.—If it appears that the disabled adult or elderly person lacks the capacity to consent to emergency protective services and that the disabled adult or elderly person, from the personal observations of the representative of the department and specified medical personnel or law enforcement officers, is likely to incur a risk of death or serious physical injury if such person is not immediately removed from the premises, then the representative of the department shall transport or arrange for the transportation of the disabled adult or elderly person to an appropriate medical or protective services facility in order to provide emergency protective services. Law enforcement personnel have a duty to transport when medical transportation is not available or needed and the disabled adult or elderly person presents a threat of injury to self or others. If the disabled adult's or elderly person's caregiver or guardian is present, the adult protective investigator must seek the caregiver's or guardian's consent pursuant to subsection (4) before the disabled adult or elderly person may be removed from the premises, unless the adult protective investigator suspects that the disabled adult's or elderly person's caregiver or guardian has caused the abuse, neglect, or exploitation to the disabled adult or elderly person. The department shall, within 24 hours after providing or arranging for emergency removal of the disabled adult or elderly person, excluding Saturdays, Sundays, and legal holidays, petition the court for an order authorizing emergency protective services.

(c) Emergency medical treatment.—If, upon admission to a medical facility, it is the opinion of the medical staff that immediate medical treatment is necessary to prevent serious physical injury or death, and that such treatment does not violate a known health care advance directive prepared by the disabled adult or elderly person, the medical facility may proceed with treatment to the disabled adult or elderly person. If a person with legal authority to give consent for the provision of medical treatment to a disabled adult or an elderly person has not given or has refused to give such consent, examination and treatment must be limited to reasonable examination of the patient to determine the medical condition of the patient and treatment reasonably necessary to alleviate the emergency medical condition or to stabilize the patient pending court determination of the department's petition authorizing emergency protective services. Any person may seek an expedited judicial intervention under rule 5.900 of the Florida Probate Rules concerning medical treatment procedures.

(d) Emergency protective services petition.—A petition filed under this subsection must state the name, age, and address of the disabled adult or elderly person and allege the facts constituting the emergency protective services intervention and subsequent removal of the disabled adult or elderly person or provision of in-home services, the facts relating to the capacity of the disabled adult or elderly person to consent to services, the efforts of the department to obtain consent, and the services needed or delivered.

(e) Notice.—Notice of the filing of the emergency protective services petition and a copy of the petition must be given to the disabled adult or elderly person, to that person's spouse, to that person's guardian, if any, to legal counsel representing the disabled adult or elderly person, and, when known, to adult children or next of kin of the disabled adult or elderly person. Such notice must be given at least 24 hours before any hearing on the petition for emergency protective services.

(f) Hearing.—When emergency removal has occurred under this subsection, a hearing must be held within 4 days after the filing of the emergency protective services petition, excluding Saturday, Sunday, and legal holidays, to establish reasonable cause for grounds to continue emergency protective services.

1. The court shall determine, by clear and convincing evidence, whether an emergency existed which justified the emergency protective services intervention, whether the disabled adult or elderly person is in need of emergency protective services, whether the disabled adult or elderly person lacks the capacity to consent to emergency protective services, and whether:

a. Emergency protective services will continue with the consent of the disabled adult or elderly person pursuant to s. 415.105(1);

b. Emergency protective services will continue without the consent of the disabled adult or elderly person pursuant to subsection (2); or

c. Emergency protective services will be discontinued.

2. The disabled adult or elderly person has the right to be represented by legal counsel at the hearing. The court shall appoint legal counsel to represent a disabled adult or an elderly person who is without legal representation.

3. The department must make reasonable efforts to ensure the presence of the disabled adult or elderly person at the hearing.

4. If an order to continue emergency protective services is issued, it must state the services to be provided and designate an individual or agency to be responsible for performing or obtaining the essential services on behalf of the disabled adult or elderly person, or otherwise consenting to protective services on behalf of the disabled adult or elderly person.

(g) Continued emergency protective services.—

1. Not more than 60 days after the date of the order authorizing the provision of emergency protective services, the department shall petition the court to determine whether:

a. Emergency protective services will be continued with the consent of the disabled adult or elderly person pursuant to subsection (1);

b. Emergency protective services will be continued for the disabled adult or elderly person who lacks capacity;

c. Emergency protective services will be discontinued; or

d. A petition should be filed under chapter 744.

2. If it is decided to file a petition under chapter 744, for good cause shown, the court may order continued emergency protective services until a determination is made by the court regarding the disabled adult's or elderly person's capacity.

(h) Costs.—The costs of services ordered under this section must be paid by the perpetrator if the perpetrator is financially able to do so, or by third-party reimbursement, if available. If the disabled adult or

elderly person is unable to pay for guardianship, application may be made to the public guardian for public guardianship services, if available.

(3) PROTECTIVE SERVICES ORDER.—In ordering any protective services under this section, the court shall adhere to the following limitations:

(a) Only such protective services as are necessary to ameliorate the conditions creating the abuse, neglect, or exploitation may be ordered, and the court shall specifically designate the approved services in the order of the court.

(b) Protective services ordered may not include a change of residence, unless the court specifically finds such action is necessary to ameliorate the conditions creating the abuse, neglect, or exploitation and the court gives specific approval for such action in the order. Placement may be made to such facilities as adult family-care homes, adult congregate living facilities, or nursing homes, or to other appropriate facilities. Placement may not be made to facilities for the acutely mentally ill, except as provided in chapter 394.

(c) If an order to continue emergency protective services is issued, it must include the designation of an individual or agency to be responsible for performing or obtaining the essential services on behalf of the disabled adult or elderly person or otherwise consenting to protective services on behalf of the disabled adult or elderly person.

(4) PROTECTIVE SERVICES INTERVENTIONS WITH CAREGIVER OR GUARDIAN PRESENT.—

(a) When a disabled adult or an elderly person who lacks the capacity to consent has been identified in a report as the victim of abuse, neglect, or exploitation and evidences a need for emergency or nonemergency protective services or protective supervision, and a caregiver or guardian who is responsible for the care of the disabled adult or elderly person is present, the adult protective investigator must first request consent from the caregiver or guardian before providing protective services or protective supervision, unless the adult protective investigator suspects that the disabled adult's or elderly person's caregiver or guardian has caused the abuse, neglect, or exploitation of the disabled adult or elderly person.

(b) If the caregiver or guardian agrees to engage or provide services designed to prevent further abuse, neglect, or exploitation, the department may provide protective supervision for the disabled adult or elderly person.

(c) If the caregiver or guardian refuses to give consent or later withdraws consent to agreed-upon services, or otherwise fails to provide needed care and supervision, the department may provide emergency protective services as provided in subsection (2). If emergency protective services are so provided, the department must then petition the court for an order to provide emergency protective services under subsection (3).

(5) LIMITATIONS.—This section does not limit in any way the authority of the court or a criminal justice officer, or any other duly appointed official, to intervene in emergency circumstances under existing statutes. This section does not limit the authority of any person to file a petition for guardianship under chapter 744.

Section 58. Section 415.1052, Florida Statutes, is created to read:

415.1052 Interference with investigation or with the provision of protective services.—

(1) If, upon arrival of the adult protective investigator, any person refuses to allow the department to begin a protective investigation, interferes with the department's ability to conduct such an investigation, or refuses to give access to the disabled adult or elderly person, the appropriate law enforcement agency must be contacted to assist the department in commencing the protective investigation.

(2) If any person refuses to allow the adult protective investigator to have access to, inspect, or copy any medical, social, or financial record or document in the possession of any person, caregiver, guardian, or facility which is relevant to the allegations under investigation, the department may petition the court for an order requiring the person to give access to the record or document. The petition must allege specific facts sufficient to show that the record or document is relevant to the allegations under investigation and that the person refuses to give access to such record or document. If the court finds by a preponderance of the evidence that the record or document is relevant to the allegations under investigation, the court may order the person to give access to and permit the inspection or copying of the medical, social, or financial record or document.

(3) When any person refuses to allow the provision of protective services to the disabled adult or elderly person who has the capacity to consent to services, the department shall petition the court for an order enjoining the person from interfering with the provision of protective services. The petition must allege specific facts sufficient to show that the disabled adult or elderly person is in need of protective services and that the person refuses to allow the provision of such services. If the court finds by clear and convincing evidence that the disabled adult or elderly person is in need of protective services and that the person refuses to allow the provision of such services, the court may issue an order enjoining the person from interfering with the provision of protective services to the disabled adult or elderly person.

(4) When a court order exists authorizing protective services for a disabled adult or an elderly person who lacks capacity to consent and any person interferes with the provision of such court-ordered protective services to the disabled adult or elderly person, the appropriate law enforcement agency shall enforce the order of the court.

Section 59. Section 415.1055, Florida Statutes, is created to read:

415.1055 Notification to administrative entities, subjects, and reporters; notification to law enforcement and state attorneys.—

(1) NOTIFICATION TO ADMINISTRATIVE ENTITIES.—

(a) The department shall, within 24 hours after receipt of a report of abuse, neglect, or exploitation of a disabled adult or an elderly person within a facility, excluding Saturdays, Sundays, and legal holidays, notify the appropriate human rights advocacy committee and the long-term care ombudsman council, in writing, that the department has reasonable cause to believe that a disabled adult or an elderly person has been abused, neglected, or exploited at the facility.

(b) Upon receipt of a report that alleges that an employee or agent of the department or the Department of Elderly Affairs, acting in an official capacity, has committed an act of abuse, neglect, or exploitation, the department shall notify the state attorney in whose circuit the abuse, neglect, or exploitation occurred. This notification may be oral or written.

(c) If at any time during a protective investigation the department has reasonable cause to believe that a disabled adult or an elderly person has been abused, neglected, or exploited by another person, the state attorney having jurisdiction in the county in which the abuse, neglect, or exploitation occurred shall be notified immediately, either orally or in writing.

(d) If at any time during a protective investigation the department has reasonable cause to believe that a disabled adult or an elderly person has been abused, neglected, or exploited by another person, the appropriate law enforcement agency shall be immediately notified. Such agency may begin a criminal investigation concurrent with or independent of the protective investigation of the department. This notification may be oral or written.

(e) If at any time during a protective investigation the department has reasonable cause to believe that abuse, neglect, or exploitation of a disabled adult or an elderly person has occurred within a facility that receives Medicaid funds, the department shall notify the Medicaid Fraud Control Unit within the Department of Legal Affairs, Office of the Attorney General, in order that it may begin an investigation concurrent with the protective investigation of the department. This notification may be oral or written.

(f) If at any time during a protective investigation the department has reasonable cause to believe that an employee of a facility, as defined in s. 415.102(10), is the alleged perpetrator of abuse, neglect, or exploitation of a disabled adult or an elderly person, the department shall notify the Agency for Health Care Administration, Division of Health Quality Assurance, in writing.

(g) If at any time during a protective investigation the department has reasonable cause to believe that professional licensure violations have occurred, the department shall notify the Division of Medical Quality Assurance within the Agency for Health Care Administration. This notification must be in writing.

(h) When a report has been classified as proposed confirmed, the department shall notify the state attorney having jurisdiction in the county in which the abuse, neglect, or exploitation occurred. The department may submit a report that has been closed without classification if evidence indicates that further criminal investigation is warranted. This notification must be in writing.

(i) At the conclusion of a protective investigation at a facility, the department shall notify either the human rights advocacy committee or long-term care ombudsman council of the results of the investigation. This notification must be in writing.

(j) At the conclusion of a protective investigation, the department shall notify the Agency for Health Care Administration when a licensee or a certified nursing assistant has been named as perpetrator in a report that has been classified as proposed confirmed or confirmed. This notification must be in writing.

(k) When a report has been classified as proposed confirmed in cases involving a guardian of the person or property, or both, the department shall notify the probate court having jurisdiction over the guardianship of the proposed confirmed report. This notification must be in writing.

(2) NOTIFICATION TO OTHER PERSONS.—

(a) In the case of a report that has been classified as unfounded, notice of the classification must be given to the disabled adult or elderly person, the guardian of that person, the caregiver of that person, and the person who had been named as the alleged perpetrator. The notice must be sent by regular mail and must advise the recipient that the report will be expunged in 1 year.

(b) If a report has been classified as proposed confirmed, notice of the classification must be given to the disabled adult or elderly person, the guardian of that person, the caregiver of that person, and the alleged perpetrator, and legal counsel, if known, for those persons.

1. The notice must state the nature of the alleged abuse, neglect, or exploitation and the facts that are alleged to support the proposed confirmed classification.

2. The notice must advise the recipient of the recipient's right to request a copy of the report within 60 days after receipt of the notice.

3. The notice must clearly advise the alleged perpetrator that the alleged perpetrator has the right to request amendment or expunction of the report within 60 days after receipt of the notice, and that failure to request amendment or expunction within 60 days means that the report will be reclassified as confirmed at the expiration of the 60 days and that the alleged perpetrator agrees not to contest the classification of the report. No further administrative or judicial proceedings in the matter are allowed.

4. The notice must state that, if the report becomes confirmed, the alleged perpetrator may be disqualified from working with children, the developmentally disabled, disabled adults, and elderly persons.

5. Notice of a proposed confirmed report must be personally served upon the alleged perpetrator in this state by an adult protective investigator, a sheriff, or a private process server in the district in which the alleged perpetrator resides, works, or can be found. Proof of service of the notice must be by affidavit prepared by the individual serving the notice upon the alleged perpetrator. The affidavit must state the name of the person serving the notice, the name of the alleged perpetrator served, the location at which the alleged perpetrator was served, and the time the notice was served. If the notice of a proposed confirmed report cannot be personally served upon the alleged perpetrator in this state or if the alleged perpetrator does not reside in this state, the notice of the proposed confirmed report must be sent by certified mail, return receipt requested, forwarding and address correction requested, to the last known address of the alleged perpetrator. If an alleged perpetrator cannot be served either by personal service or by certified mail, the record of the proposed confirmed report must be maintained pursuant to s. 415.1065.

6. Notice to other named persons may be sent by regular mail, with the department giving notice to the caregiver, the guardian, legal counsel for all parties, and the disabled adult or elderly person.

7. If a proposed confirmed report becomes confirmed because the alleged perpetrator fails to make a timely request to amend or expunge the proposed confirmed report, the department must give notice of the confirmed classification to the perpetrator and the perpetrator's legal counsel.

a. Notice of the confirmed classification must inform the perpetrator that the perpetrator may be disqualified from working with children, the developmentally disabled, disabled adults, and elderly persons.

b. The notice must inform the perpetrator that further departmental proceedings in the matter are not allowed.

c. The notice of the confirmed classification must be sent by certified mail, return receipt requested.

(c) If a report is closed without classification, notice must be given to the guardian of the disabled adult or elderly person, the disabled adult or elderly person, the caregiver of that person, and the person who had been named as the alleged perpetrator. The notice must be sent by regular mail and must advise the recipient that:

1. The report will be retained for 7 years.

2. The recipient has a right to request a copy of this report.

3. Any person named in a report classified as closed without classification has the right to request amendment or expunction of the report within 60 days after the receipt of the notice, and that failure to request amendment or expunction within 60 days means that the report will remain classified as closed without classified and that the person agrees not to contest the classification of the report. No further proceeding will be allowed in this matter.

(d) The department shall adopt rules prescribing the content of the notices to be provided and requiring uniformity of content and appearance of each notice of classification or closure without classification.

(3) NOTIFICATION BY LAW ENFORCEMENT AND STATE ATTORNEYS.—

(a) Whenever the law enforcement agency and the department have conducted independent investigations, the law enforcement agency shall, within 5 working days after concluding its investigation, report its findings to the department and to the state attorney.

(b) Within 15 days after completion of an investigation of a case reported to the state attorney under this section, the state attorney shall report the findings to the department and shall include a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 60. Section 415.106, Florida Statutes, is amended to read:

415.106 Cooperation by the department and criminal justice and other agencies ~~with respect to investigation of known or suspected cases of abuse, neglect, or exploitation of aged persons or disabled adults.~~—

(1) All criminal justice agencies have a duty and responsibility to cooperate fully with the department so as to enable the department to fulfill its responsibilities under ss. 415.101-415.113. Such duties include, but are not limited to, forced entry, emergency removal, emergency transportation, and the enforcement of court orders obtained under ss. 415.101-415.113.

(2)~~(1)~~ To ensure coordination, communication, and cooperation with the investigation of abuse, neglect, or exploitation of ~~aged persons or~~ disabled adults *or elderly persons*, the department shall develop and maintain interprogram agreements or operational procedures among *appropriate departmental programs* ~~the Aging and Adult Services Program Office, those departmental programs which serve aged persons or disabled adults as defined in s. 415.102,~~ and the State Long-Term Care Ombudsman Council, *the* ~~and~~ Statewide Human Rights Advocacy Committee, *and other agencies that provide services to disabled adults or elderly persons*. These agreements or procedures *must* ~~shall~~ cover such subjects as the appropriate roles and responsibilities of the department in identifying and responding to reports of abuse, neglect, or exploitation of ~~aged persons or~~ disabled adults *or elderly persons*; the provision of services; and related coordinated activities.

~~(2) Due to the particular vulnerability of persons served under the Adult Protective Services Act, the department shall develop regulations governing preservice and inservice training for protective services staff and, within available resources, shall provide appropriate preservice and inservice training to such staff. Within available resources, the department shall also cooperate with other appropriate agencies in developing and providing information and education programs designed to stimulate public awareness of the problems of abuse of aged persons and disabled adults and ways to report, prevent, and treat such problems.~~

~~(3) All criminal justice agencies shall have a duty and responsibility to cooperate fully with the department so as to enable the department to fulfill its responsibilities under ss. 415.101-415.113.~~

(3)~~(4)~~ To the fullest extent possible, the department shall cooperate with and seek cooperation from all appropriate public and private agencies, including health *agencies*, *educational agencies* ~~education~~, social services *agencies*, courts, organizations, or programs providing or concerned with human services related to the prevention, identification, or treatment of abuse, neglect, or exploitation of ~~aged persons or~~ disabled adults *and elderly persons*.

Section 61. Section 415.1065, Florida Statutes, is created to read:

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

(1) RECORDS OF UNFOUNDED REPORTS.—

(a) The department shall retain the record of a report classified as unfounded for 1 year after the date the report is classified and closed.

1. After 1 year, the department shall expunge the names, social security numbers, addresses, telephone numbers, and narrative language of the record from the central abuse registry and tracking system. Nonidentifying data remaining in the record may be used only for statistical purposes.

2. After 1 year, the department shall expunge the hard copy file of the record in its entirety.

(b) During the 1-year retention period, the department shall index each unfounded report by the name of the disabled adult or elderly person who was the alleged victim, by the report number, and by the facility, if appropriate. These reports may be used to detect persons who knowingly make a false report.

(c) A person named in an unfounded report may not be identified as a perpetrator.

(2) RECORDS OF PROPOSED CONFIRMED REPORTS.—

(a) The department shall retain the record of a report classified as proposed confirmed until all the individuals named as alleged perpetrators have completed the appeals process or have waived the right to appeal.

(b) When a classification changes as a result of an appeal or a failure to appeal, the retention period of the record is the retention period of the new classification or, if appropriate, of a record that is closed without classification.

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

(3) RECORDS OF CONFIRMED REPORTS.—The department shall retain the record of a report classified as confirmed for 50 years after the date the report is classified as confirmed.

(4) RECORDS OF REPORTS CLOSED WITHOUT CLASSIFICATION.—

(a) The department shall maintain the record of a report closed without classification for 7 years after the date the report is closed.

(b) The department shall index a report closed without classification by the name of the disabled adult or elderly person; the facility at which the investigation was conducted, if appropriate; and the report number.

(c) A person named in a report closed without classification may not be identified as a perpetrator, and information in such report may not be allowed to interfere with any person's employment.

(5) RECORDS OF REPORTS WITH A DISPOSITION OF NO JURISDICTION.—The department shall retain the record of a report with a disposition of no jurisdiction for 1 year after the date the report is closed. After 1 year, the record must be expunged in its entirety.

(6) CONFIDENTIALITY.—All information *in* the central abuse registry and tracking system and in the hard copy file of the records maintained in the district offices is subject to the confidentiality provisions of s. 415.107.

(7) MANNER OF STORAGE AND DISPOSAL.—All reports, regardless of classification, shall be stored and disposed of in a manner deemed appropriate to the department and in accordance with ss. 119.041 and 257.36(7).

(8) EXEMPTION.—This section does not require the expunction or destruction of case records or information required by the Federal Government to be retained for future audit.

Section 62. Section 415.107, Florida Statutes, 1994 Supplement, is amended to read:

415.107 Confidentiality of reports and records ~~in cases of abuse, neglect, or exploitation of aged persons or disabled adults.~~—

(1)(a) In order to protect the rights of the individual or other persons responsible for the welfare of *a* ~~an aged person or~~ disabled adult *or an elderly person*, all records concerning reports of abuse, neglect, or exploitation of the ~~aged person or~~ disabled adult *or elderly person*, including reports made to the central abuse registry and tracking system, and all records generated as a result of such reports shall be confidential and exempt from ~~the provisions of~~ s. 119.07(1) and *may* ~~shall~~ not be disclosed except as specifically authorized by ss. 415.101-415.113.

(b) Except for information identifying individuals, all records involving the death of *a* ~~an aged person or~~ disabled adult *or an elderly person* as a result of abuse or neglect, including reports to the central abuse registry and tracking system, and all records generated as a result of such reports, *must* ~~shall~~ be released to the public within 10 days after the completion of the investigation.

These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2) Access to *all* ~~such~~ records, excluding the name of the reporter which shall be released only as provided in subsection *(6)* ~~(4)~~, ~~shall depend on the classification of the report, and~~ shall be granted only to the following persons, officials, and agencies: ~~Access to unfounded reports shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (g), and (h). Access to proposed confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (i). Access to confirmed reports shall be limited to the persons and for the purposes stated in paragraphs (a) through (m). Access to reports closed without classification shall be limited to the persons and for the purposes stated in paragraphs (a), (b), (c), (e), (f), and (g), as follows:~~

(a) Employees or agents of the department, *of the Agency for Health Care Administration, or of the Department of Elderly Affairs who are* responsible for carrying out adult ~~or child~~ protective ~~services~~ investigations, ongoing adult ~~or child~~ protective services, or licensure or approval of nursing homes, adult congregate living facilities, adult day care centers, adult *family-care* ~~foster~~ homes, home care for the elderly, hospices, or other facilities used for the placement of ~~aged persons or~~ disabled adults *or elderly persons*.

(b) A criminal justice agency investigating a report of known or suspected abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person*.

(c) The state attorney of the judicial circuit in which the ~~aged person or~~ disabled adult *or elderly person* resides or in which the alleged abuse, neglect, or exploitation occurred.

(d) Any ~~aged~~ person ~~or disabled adult or perpetrator~~ who is the subject of a ~~proposed confirmed or confirmed~~ report or the subject's guardian, caregiver, or legal counsel.

(e) A court, by subpoena, upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access *must* ~~shall~~ be limited to inspection in camera, unless the court determines that public disclosure of the information contained in such records is necessary for the resolution of an issue then pending before it.

(f) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(g) Any appropriate official of the human rights advocacy committee or long-term care ombudsman council investigating a report of known or suspected abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person.*

(h) Any appropriate official of the department, *of the Agency for Health Care Administration, or of the Department of Elderly Affairs who is* responsible for:

1. Administration or supervision of the *programs* ~~department's program~~ for the prevention, investigation, or treatment of adult abuse, neglect, or exploitation when carrying out *an* ~~his~~ official function; or

2. Taking appropriate administrative action concerning an employee ~~of the department~~ alleged to have perpetrated institutional abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person.*

(i) Any person engaged in bona fide research or auditing. However, ~~no~~ information identifying the subjects of the report *must not* ~~shall~~ be made available to the researcher.

(j) Employees or agents of an agency of another state that has jurisdiction comparable to the jurisdiction described in paragraph (a).

(k) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information that specifically identifies persons other than the employee.

(3)~~(j)~~ The Division of Administrative Hearings *may have access to a proposed confirmed or a confirmed report, excluding the name of the reporter,* for purposes of any administrative challenge relating to a proposed confirmed or confirmed report.

(4)~~(k)~~ The *Agency for Health Care Administration may have access to a confirmed report, excluding the name of the reporter,* ~~Department of Business and Professional Regulation~~ when taking disciplinary action against a licensee *or certified nursing assistant* for actions *that* ~~which~~ resulted in a confirmed report of abuse, neglect, or exploitation which has been upheld following a chapter 120 hearing or a waiver of such proceedings.

~~(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).~~

~~(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.~~

~~These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

(5)~~(3)~~ The department may release to any professional person such information as is necessary for the diagnosis and treatment of, *and service delivery to, a* ~~the aged person or~~ disabled adult *or an elderly person* or the person perpetrating the abuse, neglect, or exploitation. ~~This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

(6)~~(4)~~ The *identity* ~~name~~ of any person reporting adult abuse, neglect, or exploitation *may not* ~~shall in no case~~ be released, *without that person's written consent,* to any person other than employees of the department responsible for adult protective services, the central abuse registry and tracking system, or the appropriate state attorney. *This subsection grants protection only for the person who reported the adult abuse, neglect, or exploitation and protects only the fact that the person is the reporter.* ~~without the written consent of the person reporting abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect an aged person or disabled adult who is the subject of a report, provided the fact that such person made the report is not disclosed. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~ This *subsection* does not prohibit the subpoena of a person reporting adult abuse, neglect, or exploitation when deemed necessary by the state attorney or the department to protect *a* ~~an aged person or~~ disabled adult *or an elderly person* who is the subject of a report, *if* ~~provided~~ the fact that *the* ~~such~~ person made the report is not disclosed. ~~Any person who reports a case of adult abuse, neglect, or exploitation may, at the time he makes the report, request that the department notify him that an adult protective services investigation occurred as a result of the report. The department shall mail such a notice to the reporter within 10 working days of the completion of the adult protective services investigation.~~

(7) For the purposes of this section, the term "access" means a visual inspection or copy of the hard-copy record maintained in the district.

(8)~~(5)(a)~~ The department, upon receipt of the applicable fee, shall search its central abuse registry and tracking system records pursuant to the requirements of ss. 39.076, 110.1127, 393.0655, 394.457, 397.451, 400.506, 400.509, 400.512, 402.305(1), 402.3055, 402.313, 409.175, and 409.176 for the existence of a confirmed report made on the personnel as defined in the foregoing provisions. The department shall report the existence of any confirmed report and advise the authorized licensing agency, applicant for licensure, or other authorized agency or person of the results of the search and the date of the report. Prior to a search being conducted, the department or its designee shall notify such person that an inquiry will be made. The department shall notify each person for whom a search is conducted of the results of the search upon request.

~~(b) The department shall, upon receipt of an application of a person applying for an initial license or renewal of a license for a facility to provide day or residential care for aged persons or disabled adults, search its central abuse registry and tracking system for the existence of a confirmed report of child or adult abuse, neglect, or exploitation as defined in ss. 415.102(1), (5), (9), and (12) and 415.503(3) and (6) on an owner or administrator who is directly involved in the onsite day-to-day care of the residents of the facility and advise the licensing agent of any report found and the results of the investigation conducted pursuant thereto, including whether the time period has elapsed for requesting an amendment or expunction of the report, and the result of any subsequent administrative hearing held on the report. The department may search its central abuse registry and tracking system for confirmed reports of child or adult abuse, neglect, or exploitation as defined in ss. 415.102(1), (5), (9), and (12) and 415.503(3) and (6) on corporate owners and board of director members, partners, or other owners who are not directly involved in the onsite day-to-day care of the residents of the facility. Such a report shall disqualify an individual from licensure, but the department may grant an exemption from disqualification if the department has clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of aged persons or disabled adults. The decision of the department regarding an exemption may be contested through a hearing pursuant to chapter 120. A disqualified person may also request amendment or expunction of the report pursuant to s. 415.103(3)(d). For purposes of a licensure application, these remedies must be requested within 30 days of notification, or be deemed waived. The department shall notify any individual disqualified from licensure of the right to appeal that disqualification, of remedies available, and of the time limit for requesting such remedies pursuant to the provisions of this subsection. The department may issue no license until screening procedures and, if necessary, administrative remedies are complete. However, a conditional or provisional license may be issued in the case of an existing licensed facility for only that time necessary to complete the above screening procedures and administrative remedies. No application for licensure shall be deemed complete until all requested screening information has been correctly submitted pursuant to department procedure.~~

(9)~~(6)~~ Upon receipt of the applicable fee and with the written consent of a person applying to work with ~~aged persons or~~ disabled adults *or elderly persons*, the department shall search its central abuse registry and tracking system for the existence of a confirmed report. ~~This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~ The department shall advise the employer and the person of any such report found and the results of the investigation.

(10)~~(7)~~ The department may charge a user fee to an employer or the agency in charge of a volunteer, whichever is applicable, for a search of the central abuse registry and tracking system of up to one-third of the actual cost of the screening process. All fees received by the department under this section shall be deposited in an administrative trust fund of the department and may be expended only for the *caregiver* ~~caretaker~~ screening program.

Section 63. Section 415.1075, Florida Statutes, is created to read:

415.1075 Administrative remedies; request for amendment or expunction; appeals; excusable neglect or fraud; requests for exemption.—

(1) REQUESTS FOR AMENDMENT OR EXPUNCTION.—

(a) If any person who is the alleged perpetrator in a report that is classified as proposed confirmed disagrees with the classification, the person may request the amendment or expunction of the report.

(b) The request must be received by the department no later than 60 days after the alleged perpetrator receives notice of the proposed confirmed classification.

(c) An alleged perpetrator, by failing to make a timely request for amendment or expunction of the report, agrees not to contest the classification of the report as confirmed. When a proposed confirmed report becomes confirmed because the alleged perpetrator fails to make a timely request to amend or expunge the proposed confirmed report, the department must give notice of the confirmed classification to the perpetrator and to the perpetrator's legal counsel.

1. Notice of the confirmed classification must inform the perpetrator that the perpetrator may be disqualified from working with children, the developmentally disabled, and disabled adults or elderly persons.

2. The notice must inform the perpetrator that further departmental proceedings in the matter are not allowed.

3. The notice of the confirmed classification must be sent by certified mail, return receipt requested.

(d) Upon receipt of the request, the department shall review its investigative report to determine whether a preponderance of the evidence supports a finding that the alleged perpetrator committed abuse, neglect, or exploitation of a disabled adult or an elderly person.

1. If the department determines that sufficient evidence exists to support a finding that the alleged perpetrator committed abuse, neglect, or exploitation, the report must remain classified as proposed confirmed, and the alleged perpetrator and the alleged perpetrator's legal counsel, if known, must be so notified. Notice to the alleged perpetrator must be by certified mail, return receipt requested.

2. If the department determines that the report does not contain sufficient evidence to support a finding that the alleged perpetrator committed abuse, neglect, or exploitation, the report must be reclassified as unfounded or must be closed without classification. The change in classification must be reported to the alleged perpetrator and entered into the central abuse registry and tracking system.

(2) APPEALS.—

(a) If a request for amendment or expunction is made and the secretary of the department denies the request or does not act within 60 days after receiving the request, or if the alleged perpetrator otherwise disagrees with any decision made by the secretary, the alleged perpetrator of the proposed confirmed report has the right to an administrative hearing under chapter 120 to contest whether the record of the report should be amended or expunged.

(b) A request for an administrative hearing must be submitted in writing to the department within 30 days after the alleged perpetrator receives notification of the secretary's decision to deny the requested amendment or expunction or, if the secretary fails to act on the request, within 30 days after the expiration of the 60-day time period within which the secretary may act.

(c) If an alleged perpetrator fails to timely request an administrative hearing, the proposed confirmed report must be reclassified as confirmed. When a report becomes confirmed because the alleged perpetrator failed to make a timely request for an administrative hearing, the department must give notice of the confirmed classification to the perpetrator and the perpetrator's legal counsel.

1. The notice must inform the perpetrator that the perpetrator may be disqualified from working with children, the developmentally disabled, disabled adults, and elderly persons.

2. The notice must inform the perpetrator that further departmental or judicial proceedings in the matter are not allowed.

3. The notice must be sent by certified mail, return receipt requested.

(d) If an alleged perpetrator of a proposed confirmed report has pled guilty to or has been found guilty of abuse, neglect, or exploitation of a disabled adult or an elderly person under this chapter, the alleged perpetrator may not relitigate the issues of abuse, neglect, or exploitation of a disabled adult or an elderly person in an administrative hearing requested under chapter 120 regarding the same incident or incidents of abuse, neglect, or exploitation which were the subject of the pleas or adjudication of guilt. The plea or adjudication of guilt requires the department to reclassify the proposed confirmed report as a confirmed report. If a court of competent jurisdiction reverses or vacates a plea or an adjudication of guilt of abuse, neglect, or exploitation of a disabled adult or an elderly person, the perpetrator may apply to expunge or amend the confirmed report within 60 days after receiving the notice that the plea or adjudication of guilt of abuse, neglect, or exploitation of a disabled adult or an elderly person was vacated or reversed.

(e) At a hearing conducted under chapter 120, the department must prove by a preponderance of the evidence that the alleged perpetrator committed abuse, neglect, or exploitation of a disabled adult or an elderly person. In hearings conducted under this section, the hearing officer may not require a standard of proof that goes beyond a preponderance of the evidence. The department's investigative report is to be considered competent evidence at the hearing.

1. If the department's classification of the report as proposed confirmed is upheld, the report becomes a confirmed report.

2. If the department's classification of the report as proposed confirmed is not upheld, the report must be reclassified as unfounded or must be closed without classification.

3. The change in classification must be reported to the alleged perpetrator and entered into the central abuse registry and tracking system.

4. If the department upholds the proposed confirmed report as confirmed, the department must give notice of the decision to the perpetrator and to the perpetrator's legal counsel.

a. The notice must inform the perpetrator that the decision of the department to classify the report as confirmed constitutes final agency action within the meaning of chapter 120 and that the perpetrator may seek judicial review of this decision under s. 120.68.

b. The notice must inform the perpetrator that the perpetrator may be disqualified from working with children, the developmentally disabled, disabled adults, and elderly persons.

c. The notice must inform the perpetrator that further departmental proceedings in the matter are not allowed.

d. The notice must be sent by certified mail, return receipt requested.

(f) The confidentiality of the abuse or neglect report must, to the extent possible, be maintained during the administrative hearing process. The administrative hearing must be closed, the administrative files are confidential and may not be disclosed to the public under s. 119.07(1), and any identifying information in the recommended or final order must be deleted before the order is published pursuant to chapter 120. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(3) EXCUSABLE NEGLECT OR FRAUD.—The alleged perpetrator may, within 1 year after the classification of the report as confirmed, request the department to set aside a confirmed report when it can be shown that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.

Section 64. Section 415.1099, Florida Statutes, is created to read:

415.1099 Waiver of filing fees.—In all proceedings under ss. 415.101-415.113, court fees must not be charged to the department; to any party to a petition; to any legal custodian of records, documents, or persons; or to any adult named in a summons. In a proceeding under ss. 415.101-415.113, witness fees are not allowed to the department; to any party to a petition; to any legal custodian of records, documents, or persons; or to any adult named in a summons.

Section 65. Section 415.1102, Florida Statutes, is amended to read:

415.1102 Adult protection teams; services; eligible cases.—Subject to an appropriation, the department may develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of the ~~service~~ districts of the department. Such teams may be composed of, but *need* not *be* limited to, representatives of appropriate health, mental health, social service, legal service, and law enforcement agencies. ~~The department shall develop a statewide data bank of volunteer long-term care experts in all professions practicing in the long-term care field. The department shall utilize at no cost the services of volunteer expert long-term care consultants in the investigation of any abuse, neglect, or exploitation case.~~

(1) The department shall utilize and convene the teams to supplement the protective services activities of the ~~aging and~~ adult *protective* services program of the department. ~~Nothing in~~ This section *does not* ~~shall be construed to~~ prevent a person from reporting *under s. 415.1034* ~~pursuant to s. 415.103~~ all suspected or *known* ~~actual~~ cases of abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person*. The role of the teams *is* ~~shall be~~ to support activities of the ~~aging and~~ adult *protective* services program and to provide services deemed by the teams to be necessary and appropriate to abused, neglected, and exploited ~~aged persons or~~ disabled adults *or elderly persons* upon referral. Services *must* ~~shall~~ be provided with the consent of the ~~aged person,~~ disabled adult, *or elderly person* or *that person's* guardian, or through court order. The specialized diagnostic assessment, evaluation, coordination, and other supportive services that an adult protection team *must* ~~shall~~ be capable of providing include, but are not limited to~~, the following~~:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, neglect, or exploitation as defined by department policy or rule.

(d) Psychological and psychiatric diagnosis and evaluation services for the ~~aged person or~~ disabled adult *or elderly person.*

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated~~, except that the appropriate district administrator may authorize such treatment for individual adults beyond this limitation if the administrator deems it appropriate~~.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for ~~aged persons or~~ disabled adults *and elderly persons* whose cases have been referred to the team. An adult protection team may provide consultation with respect to *a* ~~an aged person or~~ disabled adult *or elderly person* who has not been referred to the team. *The*~~, but who is alleged or is shown to be abused, neglected, or exploited, which~~ consultation *must* ~~shall~~ be provided at the request of a representative of the ~~aging and~~ adult *protective* services program or at the request of any other professional involved with *the* ~~an aged person or~~ disabled adult *or elderly person* or *that person's* ~~his~~ guardian ~~or guardians~~, or other caregivers. In every such adult protection team case staffing consultation or staff activity involving *a* ~~an aged person or~~ disabled adult *or elderly person*, an ~~aging and~~ adult *protective* services program representative shall attend and participate.

(h) ~~Case~~ Service coordination and assistance, including the location of services available from other public and private agencies in the community.

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling adult abuse, neglect, or exploitation cases.

(j) Education and community awareness campaigns on adult abuse, neglect, or exploitation in an effort to enable citizens ~~more successfully~~ to prevent, identify, and treat adult abuse, neglect, and exploitation in the community *more successfully.*

(2) The adult abuse, neglect, or exploitation cases that are appropriate for referral by the ~~aging and~~ adult *protective* services program to adult protection teams for supportive services include, but are not limited to, cases involving:

(a) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in *a* ~~an aged person or~~ disabled adult *or an elderly person.*

(b) Sexual abuse *or*~~,~~ molestation, or *sexual* exploitation, of *a* ~~an aged person or~~ disabled adult *or elderly person.*

(c) Reported medical, physical, or emotional neglect, either self or second party, of *a* ~~an aged person or~~ disabled adult *or an elderly person.*

(d) Reported financial exploitation of *a* ~~an aged person or~~ disabled adult *or elderly person.*

In all instances in which an adult protection team is providing certain services to abused, neglected, or exploited ~~aged persons or~~ disabled adults *or elderly persons*, other offices and units of the department shall avoid duplicating the provisions of those services.

Section 66. Section 415.1105, Florida Statutes, is created to read:

415.1105 Training programs.—

(1) The department shall develop rules governing preservice and inservice training for adult protective investigation staff and, within available resources, shall provide appropriate preservice and inservice training to such staff.

(2) Within available resources, the department shall cooperate with other appropriate agencies in developing and providing preservice and inservice training programs for those persons specified in s. 415.1034(1)(a).

Section 67. Section 415.111, Florida Statutes, is amended to read:

415.111 *Criminal* penalties ~~relating to abuse, neglect, or exploitation of aged person or disabled adult~~.—

(1) A person who *knowingly and willfully fails* ~~is required by s. 415.103~~ to report a case of known or suspected abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person* ~~and who knowingly and willfully fails to do so~~, or who knowingly and willfully prevents another person from doing so, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse registry and tracking system, or in other computer systems, or in the records of any case of abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or elderly person*, except as provided in ss. 415.101-415.113, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. ~~This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.~~

~~(3) A person who knowingly or willfully abuses, neglects, or tortures, or willfully and unlawfully cages, an aged person or disabled adult and, in so doing, causes great bodily harm, permanent disfigurement, or permanent disability to such person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(4) A person who knowingly or willfully abuses, neglects, or tortures, or willfully and unlawfully cages, an aged person or disabled adult commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(5) A person who knowingly or willfully exploits an aged person or disabled adult by the improper or illegal use or management of the funds, assets, property, power of attorney, or guardianship of such aged person or disabled adult for profit, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(3) A person who has custody of records and documents the confidentiality of which is abrogated under s. 415.1045(5) and who refuses to grant access to such records commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4)~~(6)~~ A person who knowingly and willfully makes a false report of abuse, neglect, or exploitation of *a* ~~an aged person or~~ disabled adult *or an elderly person*, or a person who advises another to make a false report, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(a) The department shall establish procedures for determining whether a false report of abuse, neglect, or exploitation of a disabled adult or an elderly person has been made and for submitting all identifying information relating to such a false report to the state attorney for prosecution.

(b) Anyone making a report who is acting in good faith is immune from any liability under this subsection.

~~(7) The department shall establish procedures for determining whether a false report of abuse, neglect, or exploitation of an aged person or disabled adult has been made and for submitting all identifying information relating to such a report to the State Attorney for prosecution.~~

(5) A person who knowingly commits an assault or battery upon a protective investigator while the protective investigator is engaged in the lawful performance of duties:

(a) In the case of assault, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) In the case of battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) In the case of aggravated assault, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) In the case of aggravated battery, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) ~~(8)~~ Each state attorney shall establish procedures to facilitate the prosecution of persons under this section.

Section 68. Section 415.1111, Florida Statutes, is created to read:

415.1111 Civil penalties.—

(1) A person who is named as a perpetrator in a confirmed report of abuse, neglect, or exploitation of a disabled adult or an elderly person is subject to civil penalties as follows:

(a) For the first offense, a penalty of $250.

(b) For the second offense, a penalty of $500.

(c) For the third and subsequent offenses, a penalty of $1,000 per occurrence.

Second and subsequent offenses may be for the same type of abuse, neglect, or exploitation or for a different type, and may be perpetrated upon the same or a different disabled adult or elderly person.

(2) All fines received by the department under this section must be deposited in the Operation and Maintenance Trust Fund within the Aging and Adult Services Program Office of the department. The Legislature shall annually appropriate from the fund an amount that is no less than the amount deposited under this section, to be expended only for the adult protective services program.

(3) A disabled adult or an elderly person who has been named as a victim in a confirmed report of abuse, neglect, or exploitation as specified in this part has a cause of action against any perpetrator named in the confirmed report and may recover actual and punitive damages for such abuse, neglect, or exploitation. The action may be brought by the disabled adult or elderly person, or that person's guardian, by a person or organization acting on behalf of the disabled adult or elderly person with the consent of that person or that person's guardian, or by the personal representative of the estate of a deceased disabled adult or elderly person without regard to whether the cause of death resulted from the abuse, neglect, or exploitation. The action may be brought in any court of competent jurisdiction to enforce such action and to recover actual and punitive damages for any deprivation of or infringement on the rights of a disabled adult or an elderly person. A party who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a disabled adult or an elderly person.

Section 69. Section 415.1113, Florida Statutes, is created to read:

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

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed $1,000 for each violation, upon a person who knowingly and willfully makes a false report of abuse, neglect, or exploitation of a disabled adult or an elderly person, or a person who counsels another to make a false report.

(2) If the department alleges that a person has knowingly and willfully filed a false report with the central abuse registry and tracking system, the department must file a notice of intent that alleges the name, age, and address of the individual; the facts constituting the allegation that the individual made a false report; and the administrative fine that the department proposes to impose on the person. Each time that a false report is made constitutes a separate violation.

(3) The notice of intent to impose the administrative fine must be served by certified mail, return receipt requested, upon the person alleged to have filed the false report and upon the person's legal counsel, if any.

(4) Any person alleged to have filed the false report is entitled to an administrative hearing under chapter 120 before the imposition of the fine becomes final. The person must request an administrative hearing within 60 days after receipt of the notice of intent by filing a request with the department. Failure to request an administrative hearing within 60 days after receipt of the notice of intent constitutes a waiver of the right to a hearing, making the administrative fine final.

(5) At the hearing, the department must prove by clear and convincing evidence that the person knowingly and willfully filed a false report with the central abuse registry and tracking system. The person has the right to be represented by legal counsel at the hearing.

(6) In determining the amount of fine to be imposed, if any, the following factors must be considered:

(a) The gravity of the violation, including the probability that serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the nature of the false allegation.

(b) Actions taken by the false reporter to retract the false report as an element of mitigation, or, in contrast, to encourage an investigation on the basis of false information.

(c) Any previous false reports filed by the same individual.

(7) A decision by the department, following the administrative hearing, to impose an administrative fine for filing a false report constitutes final agency action within the meaning of chapter 120. Notice of the imposition of the administrative fine must be served upon the person and upon the person's legal counsel, by certified mail, return receipt requested, and must state that the person may seek judicial review of the administrative fine under s. 120.68.

(8) All amounts collected under this section must be deposited into the Operation and Maintenance Trust Fund within the Aging and Adult Services Program Office of the department.

(9) A person who is determined to have filed a false report of abuse or neglect is not entitled to confidentiality. Subsequent to the conclusion of all administrative or other judicial proceedings concerning the filing of a false report, the name of the false reporter and the nature of the false report must be made public, pursuant to s. 119.01(1). Such information is admissible in any civil or criminal proceeding.

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

Section 70. Section 415.113, Florida Statutes, is amended to read:

415.113 Statutory construction; *treatment by spiritual means.*— Nothing in ss. 415.101-415.112 shall be construed to mean a person is abused, neglected, or in need of emergency or protective services for the sole reason *that the person* ~~he~~ relies upon and is, therefore, being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall anything in such sections be construed to authorize, permit, or require any medical care or treatment in contravention of the stated or implied objection of such person. Such construction does not:

(1) Eliminate the requirement that such a case be reported to the department;

(2) Prevent the department from investigating such a case; or

(3) Preclude a court from ordering, when the health of the individual requires it, the provision of medical services by a licensed physician or

treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

Section 71. Section 415.114, Florida Statutes, is transferred and renumbered as section 415.1115, Florida Statutes.

Section 72. Paragraphs (b), (c), and (d) of subsection (2) of section 39.001, Florida Statutes, 1994 Supplement, are amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(b) The Department of Juvenile Justice and the Department of Health and Rehabilitative Services shall establish minimum standards for good moral character, based on screening, for personnel in programs for children or youths. Such minimum standards shall ensure that no personnel have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following sections of the Florida Statutes or under a similar statute of another jurisdiction:

1. Section 782.04, relating to murder.

2. Section 782.07, relating to manslaughter.

3. Section 782.071, relating to vehicular homicide.

4. Section 782.09, relating to killing an unborn child by injury to the mother.

5. Section 784.011, relating to assault, if the victim of the offense was a minor.

6. Section 784.021, relating to aggravated assault.

7. Section 784.03, relating to battery, if the victim of the offense was a minor.

8. Section 784.045, relating to aggravated battery.

9. Section 787.01, relating to kidnapping.

10. Section 787.02, relating to false imprisonment.

11. Section 787.04, relating to removing minors from the state or concealing minors contrary to state agency or court order.

12. Section 794.011, relating to sexual battery.

13. Chapter 796, relating to prostitution.

14. Section 798.02, relating to lewd and lascivious behavior.

15. Chapter 800, relating to lewdness and indecent exposure.

16. Section 806.01, relating to arson.

17. Section 812.13, relating to robbery.

18. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.

19. Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person.

20. Section 825.103, relating to exploitation of a disabled adult or an elderly person.

21. ~~18.~~ Section 826.04, relating to incest.

22. ~~19.~~ Section 827.03, relating to aggravated child abuse.

23. ~~20.~~ Section 827.04, relating to child abuse.

24. ~~21.~~ Section 827.05, relating to negligent treatment of children.

25. ~~22.~~ Section 827.071, relating to sexual performance by a child.

~~23. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

26. ~~24.~~ Chapter 847, relating to obscene literature.

27. ~~25.~~ Chapter 893, relating to drug abuse prevention and control, if the offense was a felony or if any other person involved in the offense was a minor.

~~26. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.~~

For the purposes of this section, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, or a similar statute of another jurisdiction for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.

(c) Standards for screening *must* ~~shall~~ also ensure that the person:

1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);

2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or s. 415.503(6) which has been uncontested or has been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

3. Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

4. ~~3.~~ Has not committed an act *that* ~~which~~ constitutes domestic violence as defined in s. 741.28.

(d) The Department of Juvenile Justice or the Department of Health and Rehabilitative Services may grant to any person who has been convicted of one of the following offenses an exemption from disqualification from working with children:

1. A felony prohibited under any section of the Florida Statutes cited in paragraph (b) or paragraph (c) or under a similar statute of another jurisdiction;

2. Misdemeanors prohibited under any section of the Florida Statutes cited in this section or under a similar statute of another jurisdiction;

3. Offenses *that* ~~which~~ were a felony when committed but *that* are now a misdemeanor;

4. Findings of delinquency as specified in this section;

5. Judicial determinations of abuse or neglect under this chapter;

6. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

7. Commission of domestic violence.

Section 73. Paragraph (e) of subsection (7) of section 39.045, Florida Statutes, 1994 Supplement, is amended to read:

39.045 Oaths; records; confidential information.—

(7) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 39.076, 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, and 409.176, and for proof in a chapter 120 proceeding pursuant to ss. *415.1075* ~~415.103~~ and 415.504.

Section 74. Subsections (3), (4), and (5) of section 39.076, Florida Statutes, 1994 Supplement, are amended to read:

39.076 Departmental contracting powers; personnel standards and screening.—

(3) The department shall establish minimum standards for good moral character, based on screening, for personnel in delinquency facilities, services, and programs. Such minimum standards shall ensure that no personnel have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under similar laws of other jurisdictions:

(a) Section 782.04, relating to murder.

(b) Section 782.07, relating to manslaughter.

(c) Section 782.071, relating to vehicular homicide.

(d) Section 782.09, relating to killing of an unborn child by injury to the mother.

(e) Section 784.011, relating to assault, if the victim of the offense was a minor.

(f) Section 784.021, relating to aggravated assault.

(g) Section 784.03, relating to battery, if the victim of the offense was a minor.

(h) Section 784.045, relating to aggravated battery.

(i) Section 787.01, relating to kidnapping.

(j) Section 787.02, relating to false imprisonment.

(k) Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

(l) Section 794.011, relating to sexual battery.

(m) Chapter 796, relating to prostitution.

(n) Section 798.02, relating to lewd and lascivious behavior.

(o) Chapter 800, relating to lewdness and indecent exposure.

(p) Section 806.01, relating to arson.

(q) Section 812.13, relating to robbery.

(r) Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.

(s) Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person.

(t) Section 825.103, relating to exploitation of a disabled adult or an elderly person.

(u)~~(r)~~ Section 826.04, relating to incest.

(v)~~(s)~~ Section 827.03, relating to aggravated child abuse.

(w)~~(t)~~ Section 827.04, relating to child abuse.

(x)~~(u)~~ Section 827.05, relating to negligent treatment of children.

(y)~~(v)~~ Section 827.071, relating to sexual performance by a child.

~~(w) Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

(z)~~(x)~~ Chapter 847, relating to obscene literature.

(aa)~~(y)~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a child.

~~(z) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

For the purposes of this section, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to this chapter, or any similar law of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.

(4) Standards for screening *must* ~~shall~~ also ensure that the person:

(a) Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01;

(b) Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ which has been uncontested or has been upheld pursuant to s. 415.504(4)(d);

(c) Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or s. 415.503(6) which has been uncontested or has been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

(d) Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

(e)~~(d)~~ Has not committed an act *that* ~~which~~ constitutes domestic violence as defined in s. 741.28.

(5) For the following, the department may grant to any person an exemption from disqualification from working with children:

(a) Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in this section, or any similar law of another jurisdiction, committed more than 3 years previously. For the purposes of this section, "specified felony" means those felonies enumerated in paragraphs (3)(a), (b), (d), (l), (m), (o), (r), (s), (t), *(u),* (v), *(w)* ~~(x)~~, (y), ~~and~~ (z), *and (aa),* and under similar laws of other jurisdictions;

(b) Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this section or under similar laws of other jurisdictions;

(c) Offenses which were a felony when committed but are now a misdemeanor;

(d) Findings of delinquency as specified in this section;

(e) Judicial determinations of abuse or neglect under this chapter;

(f) Confirmed reports of abuse, neglect, or exploitation under chapter 415; or

(g) Commission of domestic violence.

Section 75. Paragraph (d) of subsection (6) of section 39.411, Florida Statutes, is amended to read:

39.411 Oaths, records, and confidential information.—

(6) No court record of proceedings under this chapter shall be admissible in evidence in any other civil or criminal proceeding, except that:

(d) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 39.076, 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, and 409.176 and for proof in a chapter 120 proceeding pursuant to ss. *415.1075* ~~415.103~~ and 415.504.

Section 76. Paragraphs (a) and (b) of subsection (3) and subsection (4) of section 110.1127, Florida Statutes, 1994 Supplement, are amended to read:

110.1127 Employee security checks.—

(3)(a) Within the Department of Health and Rehabilitative Services *and the Department of Elderly Affairs,* all positions in programs providing care to children, ~~or~~ the developmentally disabled, *or disabled adults, or elderly persons* for 15 hours or more per week are deemed to be positions of special trust or responsibility, and a person shall be disqualified for employment in any such position by reason of:

1. Having been found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

a. Section 782.04, relating to murder.

b. Section 782.07, relating to manslaughter.

c. Section 782.071, relating to vehicular homicide.

d. Section 782.09, relating to killing of an unborn child by injury to the mother.

e. Section 784.011, relating to assault, if the victim of the offense was a minor.

f. Section 784.021, relating to aggravated assault.

g. Section 784.03, relating to battery, if the victim of the offense was a minor.

h. Section 784.045, relating to aggravated battery.

i. Section 787.01, relating to kidnapping.

j. Section 787.02, relating to false imprisonment.

k. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

l. Section 794.011, relating to sexual battery.

m. Chapter 796, relating to prostitution.

n. Section 798.02, relating to lewd and lascivious behavior.

o. Chapter 800, relating to lewdness and indecent exposure.

p. Section 806.01, relating to arson.

q. Section 812.13, relating to robbery.

r. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.

s. Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person.

t. Section 825.103, relating to exploitation of a disabled adult or an elderly person.

u. ~~r.~~ Section 826.04, relating to incest.

v. ~~s.~~ Section 827.03, relating to aggravated child abuse.

w. ~~t.~~ Section 827.04, relating to child abuse.

x. ~~u.~~ Section 827.05, relating to negligent treatment of children.

y. ~~v.~~ Section 827.071, relating to sexual performance by a child.

~~w. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

z. ~~x.~~ Chapter 847, relating to obscene literature.

aa. ~~y.~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor*; or*.

~~z. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony; or~~

2. Having had a finding of delinquency or having entered a plea of nolo contendere or a plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or similar statutes of other jurisdictions, for any of the foregoing acts, regardless of adjudication or disposition. For the purposes of this subsection, such a finding or plea has the same effect as a finding of guilt; ~~or~~

3. Having been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01; ~~or~~

4. Having a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

5. Having a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

6. ~~5.~~ Having committed an act *that* ~~which~~ constitutes domestic violence as defined in s. 741.28.

(b)1. For the following, the department may grant to any person an exemption from disqualification from working with children, ~~or~~ the developmentally disabled, *disabled adults, or elderly persons*:

a. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in paragraph (a) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in sub-subparagraphs (a)1.a., b., d., l., m., o., r., s., t., *u.*, v., *w.* ~~x.~~, y., ~~and~~ z., *and aa.*,, or under any similar statute of another jurisdiction;

b. Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this subsection or under similar statutes of another jurisdiction;

c. Offenses which were a felony when committed but are now a misdemeanor;

d. Findings of delinquency as specified in this subsection;

e. Judicial determinations of abuse or neglect under chapter 39;

f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

g. Commissions of domestic violence.

2. In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of such good character as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances as indicate that the person will not present a danger to the safety or well-being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.

(4) Within the Department of Health and Rehabilitative Services, all permanent or temporary employees in the central abuse registry and tracking system and all persons working under contract who have access to abuse records shall be screened for recorded reports of abuse, neglect, or exploitation pursuant to ss. 415.101-415.113 and ss. 415.501-415.514. Such employees shall be rescreened annually. A confirmed report shall disqualify an applicant or an employee from employment. The presence of indicated reports prior to July 1, 1987, shall be processed as provided in ss. *415.1095* ~~415.107(5)(a)~~ and 415.51(4). The exemption procedures provided in subparagraph (3)(b)2. shall be available to persons covered under this subsection.

Section 77. Subsection (7) of section 119.07, Florida Statutes, 1994 Supplement, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(7)(a) Notwithstanding the provisions of paragraph (3)(a), any person or organization, including the Department of Health and Rehabilitative Services, may petition the court for an order making public the records of the Department of Health and Rehabilitative Services that pertain to investigations of alleged ~~vulnerable adult or child~~ abuse, neglect, abandonment, or exploitation *of a child, a disabled adult, or an elderly person*. The court shall determine if good cause exists for public access to the records sought or a portion thereof. In making this determination, the court shall balance the best interest of the *disabled adult, elderly person,* ~~vulnerable adult~~ or child who is the focus of the investigation, and in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. The public interest in access to such records is reflected in s. 119.01(1), and includes the need for citizens to know of and adequately evaluate the actions of the Department of Health and Rehabilitative Services and the court system in providing *disabled adults, elderly persons,* ~~vulnerable adults~~ and children of this state with the protections enumerated in ss. 415.101 and 415.502. However, nothing in this subsection shall contravene the provisions of *ss. 415.51 and 415.107* ~~s. 415.51(9)~~, which protect the name of any person reporting *the* ~~vulnerable adult or child~~ abuse, neglect, or exploitation *of a child, a disabled adult, or an elderly person.*

(b)1. In cases involving the death of a *disabled* ~~vulnerable~~ adult *or an elderly person* as the result of abuse, neglect, or exploitation, there shall be a presumption that the best interest of the *disabled* ~~vulnerable~~ adult *or elderly person* and the public interest will be served by full public disclosure of the circumstances of the investigation of the death and any other investigation concerning the *disabled* ~~vulnerable~~ adult *or elderly person.*

2. In cases involving the death of a child as the result of abuse, neglect, or abandonment, there shall be a presumption that the best interest of the child and the child's siblings and the public interest will be served by full public disclosure of the circumstances of the investigation of the death of the child and any other investigation concerning the child and the child's siblings.

(c) In cases involving serious bodily injury to a child, *a disabled* ~~or vulnerable~~ adult *or an elderly person*, the Department of Health and Rehabilitative Services may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child, *disabled* ~~or vulnerable~~ adult, *or elderly person* who suffered serious

bodily injury. The petition must be personally served upon the child, *disabled* ~~or vulnerable~~ adult, *or elderly person,* the child's parents or guardian, the legal guardian of *that person* ~~the vulnerable adult~~, if any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, from the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:

1. A confirmation that an investigation has been conducted concerning the alleged victim.

2. The dates and brief description of procedural activities undertaken during the department's investigation.

3. The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

The summary information may not include the name of, or other identifying information with respect to, any person identified in any investigation. In making a determination to release confidential information, the court shall balance the best interests of the *disabled* ~~vulnerable~~ adult *or elderly person* or child who is the focus of the investigation and, in the case of the child, the interests of that child's siblings, together with the privacy rights of other persons identified in the reports against the public interest for access to public records. However, nothing in this paragraph shall contravene the provisions of *ss. 415.51 and 415.107* ~~s. 415.51(9)~~, which protect the name of any person reporting ~~vulnerable adult or child~~ abuse, neglect, or exploitation *of a child, a disabled adult, or an elderly person.*

(d) In cases involving the death of a child or *a disabled* ~~vulnerable~~ adult *or an elderly person,* the Department of Health and Rehabilitative Services may petition the court for an order for the immediate public release of records of the department which pertain to the investigation of abuse, neglect, abandonment, or exploitation of the child*; disabled* ~~or vulnerable~~ adult, *or elderly person* who died. The department must personally serve the petition upon the child's parents or guardian, the legal guardian of the *disabled* ~~vulnerable~~ adult *or elderly person,* if any, and any person named as an alleged perpetrator in the report of abuse, neglect, abandonment, or exploitation. The court must determine if good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, from the date the department filed the petition with the court. If the court has neither granted nor denied the petition within the 24-hour time period, the department may release to the public summary information including:

1. A confirmation that an investigation has been conducted concerning the alleged victim.

2. The dates and brief description of procedural activities undertaken during the department's investigation.

3. The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the ruling of the court.

In making a determination to release confidential information, the court shall balance the best interests of the *disabled* ~~vulnerable~~ adult *or elderly person* or child who is the focus of the investigation and, in the case of the child, the interest of that child's siblings, together with the privacy right of other persons identified in the reports against the public interest. However, nothing in this paragraph shall contravene the provisions of *ss. 415.51 and 415.107* ~~s. 415.51(9)~~, which protect the name of any person reporting ~~vulnerable adult or child~~ abuse, neglect, or exploitation *of a child, a disabled adult, or an elderly person.*

(e) When the court determines that good cause for public access exists, the court shall direct that the department redact the name of and other identifying information with respect to any person identified in any unfounded report or proposed confirmed report or report closed without classification, or in any report *that* ~~which~~ has not yet been classified pursuant to *s. 415.1045(7)* ~~s. 415.103(3)~~ or s. 415.504(4), until such time as the court finds that there is probable cause to believe that the person identified committed an act of alleged abuse, neglect, or abandonment.

Section 78. Paragraphs (a) and (b) of subsection (3) of section 242.335, Florida Statutes, 1994 Supplement, are amended to read:

242.335 Personnel screening; Florida School for the Deaf and the Blind.—

(3)(a) An employee or applicant for a position in a program providing care to enrolled students may be terminated from or disqualified for employment in any such position by reason of:

1. Having been found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

a. Section 782.04, relating to murder.

b. Section 782.07, relating to manslaughter.

c. Section 782.071, relating to vehicular homicide.

d. Section 782.09, relating to killing of an unborn child by injury to the mother.

e. Section 784.011, relating to assault, if the victim of the offense was a minor.

f. Section 784.021, relating to aggravated assault.

g. Section 784.03, relating to battery, if the victim of the offense was a minor.

h. Section 784.045, relating to aggravated battery.

i. Section 787.01, relating to kidnapping.

j. Section 787.02, relating to false imprisonment.

k. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

l. Section 794.011, relating to sexual battery.

m. Chapter 796, relating to prostitution.

n. Section 798.02, relating to lewd and lascivious behavior.

o. Chapter 800, relating to lewdness and indecent exposure.

p. Section 806.01, relating to arson.

q. Section 812.13, relating to robbery.

r. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.

s. Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person

t. Section 825 103, relating to exploitation of a disabled adult or an elderly person

u.~~r.~~ Section 826.04, relating to incest.

v.~~s.~~ Section 827.03, relating to aggravated child abuse.

w.~~t.~~ Section 827.04, relating to child abuse.

x.~~u.~~ Section 827.05, relating to negligent treatment of children.

y.~~v.~~ Section 827.071, relating to sexual performance by a child.

~~w. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

z.~~x.~~ Chapter 847, relating to obscene literature.

aa.~~y.~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor;~~.~~

~~z. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony;~~

2. Having had a finding of delinquency or having entered a plea of nolo contendere or a plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II of chapter 39, or similar statutes of other jurisdictions, for any of the acts set forth in subparagraph 1., regardless of adjudication or disposition. For the purposes of this subparagraph, such a finding or plea has the same effect as a finding of guilt;

3. Having been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);

4. Having a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

5. Having a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

6. ~~5.~~ Having committed an act which constitutes domestic violence as defined in s. 741.28.

(b)1. The Florida School for the Deaf and the Blind may grant to any employee or applicant for a position in a program providing care to enrolled students an exemption from disqualification for the following:

a. Felonies cited in paragraph (3)(a) of this section or prohibited under similar statutes of other jurisdictions, committed more than 3 years previously;

b. Misdemeanors prohibited under this subsection or under similar statutes of another jurisdiction;

c. Offenses which were a felony when committed but are now a misdemeanor;

d. Findings of delinquency as specified in this subsection;

e. Judicial determinations of abuse or neglect under chapter 39;

f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

g. Commissions of domestic violence.

2. In order to grant an exemption to a person, the Florida School for the Deaf and the Blind must have clear and convincing evidence to support a reasonable belief that the person is of such good character as to justify an exemption. In considering the request for such an exemption, the school shall conduct, if requested by the applicant or employee, an informal hearing at which the applicant or employee or his representative may present evidence of good moral character and rehabilitation. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances that shall indicate that the person will not present a danger to the safety or well-being of children. The decision of the Florida School for the Deaf and the Blind regarding an exemption may be contested through the hearing procedures set forth in chapter 120.

Section 79. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 393.0655, Florida Statutes, 1994 Supplement, are amended to read:

393.0655 Screening of direct service providers.—

(1) MINIMUM STANDARDS.—The department shall establish minimum standards as to good moral character, based on screening, for direct service providers who are unrelated to their clients. Such minimum standards for screening shall ensure that no direct service provider unrelated to his client has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section 782.04, relating to murder.

(b) Section 782.07, relating to manslaughter.

(c) Section 782.071, relating to vehicular homicide.

(d) Section 782.09, relating to killing of an unborn child by injury to the mother.

(e) Section 784.021, relating to aggravated assault.

(f) Section 784.045, relating to aggravated battery.

(g) Section 787.01, relating to kidnapping.

(h) Section 787.02, relating to false imprisonment.

(i) Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

(j) Section 794.011, relating to sexual battery.

(k) Chapter 796, relating to prostitution.

(l) Section 798.02, relating to lewd and lascivious behavior.

(m) Chapter 800, relating to lewdness and indecent exposure.

(n) Section 806.01, relating to arson.

(o) Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.

(p) Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person.

(q) Section 825.103, relating to exploitation of a disabled adult or an elderly person.

(r) ~~(o)~~ Section 812.13, relating to robbery.

(s) ~~(p)~~ Section 826.04, relating to incest.

(t) ~~(q)~~ Section 827.03, relating to aggravated child abuse.

(u) ~~(r)~~ Section 827.04, relating to child abuse.

(v) ~~(s)~~ Section 827.05, relating to negligent treatment of children.

(w) ~~(t)~~ Section 827.071, relating to sexual performance by a child.

~~(u) Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

(x) ~~(v)~~ Chapter 847, relating to obscene literature.

(y) ~~(w)~~ Section 784.011, relating to assault, if the victim of the offense was a minor.

(z) ~~(x)~~ Section 784.03, relating to battery, if the victim of the offense was a minor.

(aa) ~~(y)~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

~~(z) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

For the purposes of this section, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or a similar statute of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.

(2) SCREENING STANDARDS.—Standards for screening *must* ~~shall~~ also ensure that the person:

(a) Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);

(b) Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

(c) Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

(d) ~~(c)~~ Has not committed an act which constitutes domestic violence as defined in s. 741.28.

(3) EXEMPTIONS FROM DISQUALIFICATION.—

(a) For the following, the department may grant to any person an exemption from disqualification from working with children or the developmentally disabled:

1. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in subsection (1) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this subparagraph, "specified felony" means those felonies in the Florida Statutes, enumerated in paragraphs (1)(a), (b), (d), (j), (k), (m), *(o)*, (p), (q), *(s)* ~~(r)~~, (t), *(u)* ~~(v)~~, *(w)*, *(x)* ~~(y)~~, and *(aa)* ~~(z)~~, or under any similar statute of another jurisdiction;

2. Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this section or under similar statutes of other jurisdictions;

3. Offenses which were a felony when committed but are now a misdemeanor;

4. Findings of delinquency as specified in this section;

5. Judicial determinations of abuse or neglect under chapter 39;

6. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

7. Commissions of domestic violence.

Section 80. Paragraphs (a), (b), and (c) of subsection (6) of section 394.457, Florida Statutes, 1994 Supplement, are amended to read:

394.457 Operation and administration.—

(6) SCREENING OF MENTAL HEALTH PERSONNEL.—

(a) The department shall establish minimum standards as to good moral character, based on screening, for mental health personnel. Such minimum standards for screening shall ensure that no mental health personnel have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

1. Section 782.04, relating to murder.

2. Section 782.07, relating to manslaughter.

3. Section 782.071, relating to vehicular homicide.

4. Section 782.09, relating to killing of an unborn child by injury to the mother.

5. Section 784.021, relating to aggravated assault.

6. Section 784.045, relating to aggravated battery.

7. Section 787.01, relating to kidnapping.

8. Section 787.02, relating to false imprisonment.

9. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

10. Section 794.011, relating to sexual battery.

11. Chapter 796, relating to prostitution.

12. Section 798.02, relating to lewd and lascivious behavior.

13. Chapter 800, relating to lewdness and indecent exposure.

14. Section 806.01, relating to arson.

15. Section 812.13, relating to robbery.

16. Section 825 102, relating to abuse or neglect of a disabled adult or an elderly person

17. Section 825.103, relating to exploitation of a disabled adult or an elderly person.

18.~~16.~~ Section 826.04, relating to incest.

19.~~17.~~ Section 827.03, relating to aggravated child abuse.

20.~~18.~~ Section 827.04, relating to child abuse.

21.~~19.~~ Section 827.05, relating to negligent treatment of children.

22.~~20.~~ Section 827.071, relating to sexual performance by a child.

~~21. Section 415.11, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

23.~~22.~~ Chapter 847, relating to obscene literature.

24.~~23.~~ Section 784.011, relating to assault, if the victim of the offense was a minor.

25.~~24.~~ Section 784.03, relating to battery, if the victim of the offense was a minor.

26.~~25.~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

27 ~~26.~~ Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

For the purposes of this subsection, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or similar statutes of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.

(b) Standards for screening shall also ensure that the person:

1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); or

2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures of *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

3. Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

4.~~3.~~ Has not committed an act *that* ~~which~~ constitutes domestic violence as defined in s. 741.28.

(c)1. For the following, the department may grant to any person an exemption from disqualification from working with children or the developmentally disabled:

a. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in paragraph (a) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in subparagraphs (a)1., 2., 4., 10., 11., 13., 16., 17., 18., *19.*, 20., 22., *23.* ~~25.~~, ~~and~~ 26., *and 27.*, or under any similar statute of another jurisdiction;

b. Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this subsection or under similar statutes of other jurisdictions;

c. Offenses which were a felony when committed but are now a misdemeanor;

d. Findings of delinquency as specified in this subsection;

e. Judicial determinations of abuse or neglect under chapter 39;

f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

g. Commissions of domestic violence.

2. In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of children. The decision of the department regarding an exemption may be contested through a hearing under chapter 120.

Section 81. Subsection (4) of section 395.3025, Florida Statutes, 1994 Supplement, is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(4) Patient records *are* ~~shall be~~ confidential and *must* ~~shall~~ not be disclosed without the consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:

(a) Licensed facility personnel and attending physicians for use in connection with the treatment of the patient.

(b) Licensed facility personnel only for administrative purposes or risk management and quality assurance functions.

(c) The agency, for purposes of health care cost containment.

(d) In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice by the party seeking such records to the patient or his legal representative.

(e) The agency or the Department of Business and Professional Regulation upon subpoena issued pursuant to s. 455.223, but the records obtained thereby *must* ~~shall~~ be used solely for the purpose of the agency or the Department of Business and Professional Regulation and the appropriate professional board in its investigation, prosecution, and appeal of disciplinary proceedings. If the agency or the Department of Business and Professional Regulation requests copies of *the* ~~such~~ records, the facility shall charge no more than its actual copying costs, including reasonable staff time. The records *must* ~~shall~~ be sealed and *must* ~~shall~~ not be available to the public pursuant to s. 119.07(1) or any other statute providing access to records, nor *may* ~~shall~~ they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency, the Department of Business and Professional Regulation, or the appropriate regulatory board. However, the agency or the Department of Business and Professional Regulation *must* ~~shall~~ make available, upon written request by a practitioner against whom probable cause has been found, any such records *that* ~~which~~ form the basis of the determination of probable cause.

(f) The department or its agent, for the purpose of establishing and maintaining a trauma registry and for the purpose of ensuring that hospitals and trauma centers are in compliance with the standards and rules established under ss. 395.401, 395.4015, 395.4025, 395.404, 395.4045, and 395.405, and for the purpose of monitoring patient outcome at hospitals and trauma centers that provide trauma care services.

(g) The Department of Health and Rehabilitative Services or its agent, for the purpose of investigations of cases of abuse, neglect, or exploitation of children~~, aged persons,~~ or disabled adults *or elderly persons*.

Section 82. Subsection (3) and paragraph (a) of subsection (8) of section 397.451, Florida Statutes, 1994 Supplement, are amended to read:

397.451 Background checks of service provider personnel who have direct contact with unmarried minor clients or clients who are developmentally disabled.—

(3) MINIMUM BACKGROUND CHECK STANDARDS.—

(a) The department shall establish minimum standards for background checks of service provider personnel who have direct contact with unmarried clients under the age of 18 years or with clients who are developmentally disabled, which standards ensure that such personnel have not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under similar provisions of statutes of other jurisdictions:

1. Section 782.04, relating to murder.

2. Section 782.07, relating to manslaughter.

3. Section 782.071, relating to vehicular homicide.

4. Section 782.09, relating to killing of an unborn child by injury to the mother.

5. Section 784.011, relating to assault, if the victim was a minor.

6.~~5.~~ Section 784.021, relating to aggravated assault.

7. Section 784.03, relating to battery, if the victim was a minor.

8.~~6.~~ Section 784.045, relating to aggravated battery.

9.~~7.~~ Section 787.01, relating to kidnapping.

10.~~8.~~ Section 787.02, relating to false imprisonment.

11.~~9.~~ Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

12.~~10.~~ Section 794.011, relating to sexual battery.

13.~~11.~~ Section 794.041, relating to prohibited acts of persons in familial or custodial authority.

14.~~12.~~ Chapter 796, relating to prostitution.

15.~~13.~~ Section 798.02, relating to lewd and lascivious behavior.

16.~~14.~~ Chapter 800, relating to lewdness and indecent exposure.

17.~~15.~~ Section 806.01, relating to arson.

18.~~16.~~ Section 812.13, relating to robbery.

19. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.

20 Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person.

21. Section 825.103, relating to exploitation of a disabled adult or an elderly person.

22.~~17.~~ Section 826.04, relating to incest.

23.~~18.~~ Section 827.03, relating to aggravated child abuse.

24.~~19.~~ Section 827.04, relating to child abuse.

25.~~20.~~ Section 827.05, relating to negligent treatment of children.

26.~~21.~~ Section 827.071, relating to sexual performance by a child.

~~22. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

27.~~23.~~ Chapter 847, relating to obscene literature.

~~24. Section 784.011, relating to assault, if the victim was a minor.~~

~~25. Section 784.03, relating to battery, if the victim was a minor.~~

28.~~26.~~ Chapter 893, relating to drug abuse prevention and control, if the offense was a felony or if any other person involved in the offense was a minor.

~~27. Section 817.563, relating to fraudulent sale of controlled substances, if the offense was a felony.~~

For purposes of this paragraph, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II of chapter 39, or similar statutes of other jurisdictions, for any of the foregoing acts, has the same effect as a finding of guilt, regardless of adjudication or disposition.

(b) Standards for background checks must also ensure that the personnel:

1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);

2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6), which has been uncontested or upheld pursuant to the procedures of *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

3. Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

4.~~3.~~ Has not committed an act that constitutes domestic violence defined in s. 741.28.

(8) EXEMPTIONS FROM DISQUALIFICATION.—

(a) The department may grant to any service provider personnel an exemption from disqualification from working with children or the developmentally disabled for:

1. Felonies, other than specified felonies, prohibited under any of the Florida Statutes cited in this section or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in subparagraphs (3)(a)1., 2., 4., ~~10., 11.,~~ 12., *13.*, 14., *16.* ~~17., 18.,~~ 19., *20.*, 21., *22.*, 23., *24.*, 26., ~~and~~ 27., *and 28.*, or under any similar statute of another jurisdiction;

2. Misdemeanors prohibited under any of the Florida Statutes cited in this section or under similar statutes of other jurisdictions;

3. Offenses that were felonies when committed but are now misdemeanors;

4. Findings of delinquency as specified in this subsection;

5. Judicial determinations of abuse or neglect under chapter 39;

6. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or which have been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

7. Commissions of domestic violence.

Section 83. Section 400.211, Florida Statutes, 1994 Supplement, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement*; background screening.*—

(1) A person must *meet the requirements of and* be certified pursuant to this section, except a registered nurse or practical nurse licensed in accordance with the provisions of chapter 464 or an applicant for such licensure who is permitted to practice nursing in accordance with rules promulgated by the Board of Nursing pursuant to chapter 464, to serve as a nursing assistant in any nursing home. The *agency* ~~Department of Business and Professional Regulation~~ shall issue a certificate to any person who:

(a) Has successfully completed a nursing assistant program in a ~~state-approved~~ school *approved by the Department of Education* and has achieved a minimum score, *to be established by the agency by rule, on the competency evaluation which shall consist of a written portion and skills demonstration portion approved by the agency* ~~of 75 percent on the written portion of the Florida Nursing Assistant Certification Test approved by the Department of Business and Professional Regulation~~ and administered by state-approved test site personnel;

(b) Has achieved a minimum score, *to be established by the agency by rule, on the competency evaluation which shall consist of a written portion and skills demonstration portion approved by the agency* ~~of 75 percent on the written and performance portions of the Florida Nursing Assistant Certification Test approved by the Department of Business and Professional Regulation~~ and administered by state-approved test site personnel; or

(c) Is currently certified in another state, is on that state's registry, *and* has no findings of abuse *in that state. If another state reports a finding of abuse, neglect, or misappropriation of property against a patient or resident of a nursing facility, adult congregate living facility, hospital, home health agency, or other health care provider, the agency shall deny or revoke the Florida certification of any person to serve as a nursing assistant pursuant to this section*~~, and has achieved a minimum score of 75 percent on the written portion of the Florida Nursing Assistant Certification Test approved by the Department of Business and Professional Regulation and administered by state-approved test site personnel~~.

An oral examination shall be administered upon request.

(2) The agency shall add the name of every certified nursing assistant, and other information required by federal law, including, but not limited to, information regarding the abuse of a resident in a facility, to the certified nursing assistant registry. This information may be provided to employers for employment screening purposes upon written request.

(3)~~(2)~~ The *agency* ~~Department of Business and Professional Regulation~~ may deny, suspend, or revoke the certification of any person to serve as a nursing assistant in a nursing home, based upon written notification from a court of competent jurisdiction, law enforcement agency, or administrative agency of *any finding of guilt, regardless of adjudication,* ~~an adjudication of guilt~~ or a plea of nolo contendere *or guilty to, or any confirmed report of, any offense provided for in s. 400.512(1) or (2)* ~~to: homicide, mayhem, animal abuse, child abuse, abuse of the elderly or developmentally disabled, aggravated battery, felonious assault, any felony involving a firearm, or any confirmed report of abuse or neglect of an aged person, a developmentally disabled person, or a child~~.

(4) The agency shall revoke the certification of any nursing assistant who has been found guilty of, regardless of adjudication, or pled nolo contendere or guilty to, abusing, neglecting, or mistreating, or misappropriating the property of, a patient or resident in a nursing facility, adult congregate living facility, hospital, or other health care provider, or who has had a finding entered into the department's central abuse registry and tracking system concerning the abuse, neglect, or mistreatment, or the misappropriation of property, of any such patient or resident.

(5) Persons who are enrolled in a state-approved nursing assistant program may be employed by a licensed nursing facility for a period of 4 months. The certification requirement must be met within 4 months of such initial employment as a nursing assistant.

~~(3) The following categories of persons who are not certified as nursing assistants under this part may be employed by a nursing facility for a period of 4 months:~~

~~(a) Persons who are enrolled in a state-approved nursing assistant program; or~~

~~(b) Persons who have been positively verified by a state-approved test site as certified and on the registry in another state with no findings of abuse, but who have not completed the written examination required under this section.~~

~~The certification requirement must be met within 4 months of initial employment as a nursing assistant in a licensed nursing facility.~~

(6)~~(4)~~ A person certified under this section ~~on or after September 30, 1990,~~ who has not worked for pay as a nursing assistant in a nursing-related occupation for *at least 8 hours* ~~a period of time~~ during a consecutive 24-month period must be recertified under this section to be eligible to work *as a certified nursing assistant* in a nursing facility.

~~(5) Every certified nursing assistant, hired by a nursing home facility on or after October 1, 1993, must, within 5 working days after starting employment at a nursing home facility, submit to the facility a complete set of information necessary to conduct a records check through the central abuse registry under chapter 415 and a statewide criminal records correspondence check through the Department of Law Enforcement. The facility shall submit the information provided by the employee, within 48 hours, to the Department of Health and Rehabilitative Services' central abuse registry and to the Department of Law Enforcement, which shall conduct a screening according to the provisions of s. 400.497(2).~~

(7)~~(6)~~ Nursing homes shall require persons seeking employment as a certified nursing assistant to submit an employment history to the facility. The facility shall verify the employment history unless, through diligent efforts, such verification is not possible. *The facility may not employ a person as a certified nursing assistant until the facility has verified the current certification of the person through the certified nursing assistant registry, to determine that certification has not been denied or revoked by the agency. If it appears from a review of the prospective employee's application, or verification of employment, that the person seeking employment as a certified nursing assistant has not been employed in a nursing-related capacity for at least 8 hours during a consecutive 24-month period, the facility shall notify the certified nursing assistant registry.* There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a former employer who reasonably and in good faith communicates his honest opinion about a former employee's job performance.

(8) The agency may perform or provide, contract for, or grant approval for others to perform or provide examination services as provided in this section. An examination provider shall pay to the agency all reasonable costs and expenses incurred by the agency in the evaluation of the provider's application, the examination services, and the provider's performance during the delivery of the examination services. For purposes of this section, examination services shall include development and administration of the examination.

(9) Providers approved by the agency to provide examination services shall charge no more than the maximum allowable under the Medicaid program for the competency evaluation.

(10)~~(7)~~ If the requirements pursuant to the Omnibus Budget Reconciliation Act of 1987, as amended, for the certification of nursing assistants are in conflict with this section, the federal requirements shall prevail for those facilities certified to provide care under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security Act.

(11) If a duplicate certificate is required or requested by a certified nursing assistant, the agency may charge a fee as determined by rule, not to exceed $25, for issuance of the duplicate certificate.

(12) The agency shall establish minimum standards for good moral character as provided for in s. 400.512(1) and (2) for certified nursing assistants and persons enrolled in a nursing assistant program approved by the Department of Education, who are employed in a licensed nursing home.

(13) Each certified nursing assistant and each person enrolled in a nursing assistant program approved by the Department of Education must be screened through the department's central abuse registry and tracking system prior to beginning employment in a nursing home as a certified nursing assistant or nursing assistant student. Certified nursing assistants, and persons enrolled in a nursing assistant program approved by the Department of Education, who are employed by a nursing home after October 1, 1993, must also be screened through the Department of Law Enforcement prior to beginning employment. The person being screened must submit to the facility a complete set of information necessary to conduct a screening under this section. The person must sign an affidavit stating whether the person meets the minimum standards for good moral character provided in s. 400.512(1) and (2). The nursing home shall submit the information to the department's central abuse registry and tracking system and to the Department of Law Enforcement, for processing. If disposition information is missing on a criminal record, or if information regarding an incident of abuse, neglect, or exploitation is missing, it is the responsibility of the person being screened to obtain and supply within 30 days the missing information. Failure to supply the missing information or to show reasonable efforts to obtain such information will result in automatic disqualification for employment.

(a) A nursing home facility shall not hire any certified nursing assistant applicant, or any person enrolled in a nursing assistant program approved by the Department of Education, until it is determined that the applicant meets the minimum standards for good moral character as provided for in s. 400.512(1) and (2) or has obtained an exemption pursuant to s. 400.512(3).

(b) The administrator of each nursing home must sign an affidavit annually, under penalty of perjury, stating that all certified nursing assistants, and all employees enrolled in a nursing assistant program approved by the Department of Education, have been screened as required by this section.

(14) Proof of a person's compliance with the screening requirements of s. 39.076, s. 110.1127, s. 393.0655, s. 397.451, s. 394.457, s. 400.512, s. 402.305, s. 402.313, s. 409.175, or s. 464.008 shall be accepted in lieu of the requirements of this section, provided that such person has been continuously employed in the same type of occupation for which the person is seeking employment without a breach in service that exceeds 180 days and that the proof of compliance is no more than 2 years old and that the person has been screened through both the department's central abuse registry and tracking system and the Department of Law Enforcement. Proof of compliance shall be provided directly from one employer or contractor to another, and no potential employer or contractor shall accept any proof of compliance directly from the person being screened. Proof of compliance with the screening requirements of this section shall be provided upon request to the person being screened by the nursing home.

(15) There is no monetary liability on the part of, and no cause of action for damages arises against a nursing home that, upon notice of a disqualifying offense listed under s. 400.512 or a confirmed report of abuse, neglect, or exploitation or an act of domestic violence under s. 400.512(2), terminates the employee against whom the report was issued, whether or not the employee has filed for an exemption with the agency under s. 400.512(3) and whether or not the time for filing has expired.

(16) The costs of processing the statewide criminal records checks and the search of the department's central abuse registry and tracking system must be borne by the nursing home.

(17) The agency and the nursing home may not use the criminal records, juvenile records, or central abuse registry and tracking system information of a person for any purpose other than determining whether that person meets minimum standards of good moral character under s. 400.512.

(18)(a) It is a misdemeanor of the first degree, punishable under s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be an employee of a nursing home;

2. Use information from the criminal records or central abuse registry and tracking system obtained under s. 400.512 for any purpose other than screening that person for employment as specified in s. 400.512 and maintenance of the certified nursing assistant registry pursuant to this section; or to release such information to any other person for any purpose other than screening for employment under s. 400.512 and maintenance of the certified nursing assistant registry pursuant to this section.

(b) It is a felony of the third degree, punishable under s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of a person obtained under this section for any purpose other than screening for employment under s. 400.512 and maintenance of the certified nursing assistant registry pursuant to this section.

(19)(a) The agency may grant to any person an exemption from disqualification from employment under s. 400.512(3).

(b) The agency shall not grant an exemption to any person who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to: abusing, neglecting, or mistreating, or misappropriating the property of, a patient or resident of a nursing facility, hospital, home health agency, nurse registry, or other health care provider, or sitter, companion, or homemaker service registered under s. 400.509; or who has had a finding entered into the department's central abuse registry and tracking system concerning the abuse, neglect, or mistreatment, or the misappropriation of property, of any such resident or patient.

(20) The disqualification from employment provided in s. 400.512(1) may not be removed from any person found guilty of, regardless of adjudication, any felony covered by s. 400.512(1) solely by reason of any pardon, executive clemency, or restoration of civil rights.

(21) ~~(12)~~ The *agency* ~~Department of Business and Professional Regulation~~ may adopt such rules as are necessary to carry out this section.

Section 84. Subsections (1) and (2), paragraph (a) of subsection (3), and subsection (7) of section 400.512, Florida Statutes, 1994 Supplement, are amended to read:

400.512 Screening of home health agency personnel, nurse registry personnel, and sitters, companions, and homemakers.—The Agency for Health Care Administration shall establish minimum standards of good moral character for home health agency personnel, persons referred for employment by nurse registries, and persons employed by sitter, companion, or homemaker services registered under s. 400.509.

(1) The minimum standards must ensure that all persons who, at any time, enter the home of a patient in the capacity of their employment have not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

~~(a) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.~~

(a)~~(b)~~ Section 782.04, relating to murder.

(b)~~(c)~~ Section 782.07, relating to manslaughter.

(c)~~(d)~~ Section 782.071, relating to vehicular homicide.

(d)~~(e)~~ Section 782.09, relating to killing of an unborn child by injury to the mother.

(e)~~(f)~~ Section 784.011, relating to assault, if the victim of the offense was a minor.

(f)~~(g)~~ Section 784.021, relating to aggravated assault.

(g)~~(h)~~ Section 784.03, relating to battery, if the victim of the offense was a minor.

(h)~~(i)~~ Section 784.045, relating to aggravated battery.

(i)~~(j)~~ Section 787.01, relating to kidnapping.

(j)~~(k)~~ Section 787.02, relating to false imprisonment.

(k)~~(l)~~ Section 794.011, relating to sexual battery.

(l)~~(m)~~ Section 794.041, relating to prohibited acts of persons in familial or custodial authority.

(m)~~(n)~~ Chapter 796, relating to prostitution.

(n)~~(o)~~ Section 798.02, relating to lewd and lascivious behavior.

(o)~~(p)~~ Chapter 800, relating to lewdness and indecent exposure.

(p)~~(q)~~ Section 806.01, relating to arson.

(q)~~(r)~~ Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.

(r)~~(s)~~ Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.

(s) Section 825 102, relating to abuse or neglect of a disabled adult or an elderly person.

(t) Section 825.103, relating to exploitation of a disabled adult or an elderly person.

(u)~~(t)~~ Section 826.04, relating to incest.

(v)~~(u)~~ Section 827.03, relating to aggravated child abuse.

(w)~~(v)~~ Section 827.04, relating to child abuse.

(x)~~(w)~~ Section 827.05, relating to negligent treatment of children.

(y)~~(x)~~ Section 827.071, relating to sexual performance by a child.

(z)~~(y)~~ Chapter 847, relating to obscene literature.

(aa)~~(z)~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

(2) Standards must also ensure that the person:

(a) Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37).

(b) Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~, or abuse or neglect as defined in s. 415.503(6), which has been uncontested or upheld under *s. 415.1075* ~~s. 415.103~~ or s. 415.504.

(c) Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c).

(d)~~(c)~~ Has not committed an act that constitutes domestic violence as defined in s. 741.28.

(3)(a) The Agency for Health Care Administration may grant to any person an exemption from disqualification from employment under this section for:

1. A felony prohibited under any of the statutes cited in subsection (1) or under similar statutes of other jurisdictions;

2. Misdemeanors prohibited or referenced under any of the statutes cited in this section;

3. Offenses that were felonies when committed;

4. Judicial determinations of abuse or neglect under chapter 39;

5. Confirmed reports of abuse, neglect, or exploitation under chapter 415 that have been uncontested or have been upheld under the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

6. Commissions of domestic violence.

(7) Proof of compliance with the screening requirements of s. 39.076, s. 110.1127, s. 393.0655, s. 394.457, *s. 397.451* ~~s. 396.0425, s. 397.0715~~, s. 402.305, s. 402.313, ~~or~~ s. 409.175, *or s. 464.008* or this part shall be accepted in lieu of the requirements of this section *if the* ~~provided that such~~ person has been continuously employed in the same type of occupation for which he is seeking employment ~~with the nurse registry~~ without a breach in service that exceeds 180 days, *the proof of compliance is not more than 2 years old, and the person has been screened through the central abuse registry and tracking system of the department and by the Department of Law Enforcement. An employer or contractor shall directly provide proof of compliance to another employer or contractor and a potential employer or contractor may not accept any proof of compliance directly from the person requiring screening.* Proof of compliance with the screening requirements of this section shall be provided upon request to the person screened by the home health agencies, nurse registries, or sitter, companion, or homemaker services registered under s. 400.509.

Section 85. Subsection (5) of section 400.464, Florida Statutes, is amended to read:

400.464 Home health agencies to be licensed; expiration of license; exemptions; unlawful acts; penalties.—

(5)(a) It is unlawful for any person to offer or advertise home health services to the public unless he has a valid license under this part. It is unlawful for any holder of a license issued under this part to advertise or indicate to the public that it holds a home health agency license other than the one it has been issued.

(b) A person *who* ~~that~~ violates paragraph (a) is subject to an injunctive proceeding under s. 400.515. *A violation of paragraph (a) is a deceptive and unfair trade practice and constitutes a violation of the Florida Unfair and Deceptive Trade Practices Act.*

(c) A person who violates paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Each day of continuing violation constitutes a separate offense.

Section 86. Subsection (11) of section 400.619, Florida Statutes, is amended to read:

400.619 Licensure requirements.—

(11) The department may deny, suspend, or revoke a license for any of the following reasons:

(a) A confirmed report, obtained under *s. 415.1075* ~~s. 415.107(5)(b)~~, of abuse, neglect, or exploitation, or conviction of a crime related to abuse, neglect, or exploitation.

(b) A proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c).

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

(d)~~(c)~~ A violation of ss. 400.616-400.629 or rules adopted under ss. 400.616-400.629, including the failure to comply with any restrictions specified in the license.

(e)~~(d)~~ Submission of fraudulent or inaccurate information to the department.

(f)~~(e)~~ Conviction of a felony involving violence to a person.

(g)~~(f)~~ Failure to pay a civil penalty assessed under this part.

Section 87. Paragraphs (a), (b), and (c) of subsection (2) of section 402.305, Florida Statutes, 1994 Supplement, are amended to read:

402.305 Licensing standards; child care facilities.—

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(a) Good moral character based upon screening. Such minimum standards for screening shall ensure that no child care personnel at a child care facility or other child care program have been found guilty of,

regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under a similar statute of another jurisdiction:

1. Section 782.04, relating to murder.

2. Section 782.07, relating to manslaughter.

3. Section 782.071, relating to vehicular homicide.

4. Section 782.09, relating to killing of an unborn child by injury to the mother.

5. Section 784.001, relating to assault, if the victim of the offense was a minor.

6. ~~5.~~ Section 784.021, relating to aggravated assault.

7. Section 784.03, relating to battery, if the victim of the offense was a minor.

8. ~~6.~~ Section 784.045, relating to aggravated battery.

9. ~~7.~~ Section 787.01, relating to kidnapping.

10. ~~8.~~ Section 787.02, relating to false imprisonment.

11. ~~9.~~ Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

12. ~~10.~~ Section 794.011, relating to sexual battery.

13. ~~11.~~ Chapter 796, relating to prostitution.

14. ~~12.~~ Section 798.02, relating to lewd and lascivious behavior.

15. ~~13.~~ Chapter 800, relating to lewdness and indecent exposure.

16. ~~14.~~ Section 806.01, relating to arson.

17. ~~15.~~ Section 812.13, relating to robbery.

18. Section 817.563, relating to the fraudulent sale of controlled substances, if the offense was a felony.

19. Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person.

20. Section 825.103, relating to exploitation of a disabled adult or an elderly person.

21. ~~16.~~ Section 826.04, relating to incest.

22. ~~17.~~ Section 827.03, relating to aggravated child abuse.

23. ~~18.~~ Section 827.04, relating to child abuse.

24. ~~19.~~ Section 827.05, relating to negligent treatment of children.

25. ~~20.~~ Section 827.071, relating to sexual performance by a child.

~~21. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

26. ~~22.~~ Chapter 847, relating to obscene literature.

~~23. Section 784.011, relating to assault, if the victim of the offense was a minor.~~

~~24. Section 784.03, relating to battery, if the victim of the offense was a minor.~~

27. ~~25.~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

~~26. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

For purposes of this subsection, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II of chapter 39 or similar statutes of other jurisdictions, for any of the foregoing acts, has the same effect as a finding of guilt, regardless of adjudication or disposition.

(b) Standards for screening *must* ~~shall~~ also ensure that the person:

1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); or

2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures of *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

3. Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

4. ~~3.~~ Has not committed an act which constitutes domestic violence as defined in s. 741.28.

(c)1. For the following, the department may grant to any person an exemption from disqualification from working with children or the developmentally disabled:

a. Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in paragraph (a) or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in subparagraphs (a)1., 2., 4., *12.* ~~10., 11.,~~ 13., *15.* ~~16., 17.,~~ 18., *19.*, 20., *21.*, 22., *23.*, 25., ~~and~~ 26., *and 27.*, or under any similar statute of another jurisdiction;

b. Misdemeanors prohibited under any of the Florida Statutes cited in this subsection or under similar statutes of other jurisdictions;

c. Offenses which were a felony when committed but are now a misdemeanor;

d. Findings of delinquency as specified in this subsection;

e. Judicial determinations of abuse or neglect under chapter 39;

f. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

g. Commissions of domestic violence.

2. In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident, or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120. The decision of the local licensing board may be contested through the hearing procedures in s. 402.3055.

Section 88. Paragraph (a) of subsection (4) of section 409.175, Florida Statutes, 1994 Supplement, is amended to read:

409.175 Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.—

(4)(a) The department shall adopt and amend licensing rules for family foster homes, residential child-caring agencies, and child-placing agencies. The department may also adopt rules relating to the screening requirements for summer day camps and summer 24-hour camps. The requirements for licensure and operation of family foster homes, residential child-caring agencies, and child-placing agencies shall include:

1. The operation, conduct, and maintenance of these homes and agencies and the responsibility which they assume for children served and the evidence of need for that service.

2. The provision of food, clothing, educational opportunities, services, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of the children served.

3. The appropriateness, safety, cleanliness, and general adequacy of the premises, including fire prevention and health standards, to provide for the physical comfort, care, and well-being of the children served.

4. The ratio of staff to children required to provide adequate care and supervision of the children served and, in the case of foster homes, the maximum number of children in the home.

5. The education, training, and experience requirements of persons responsible for the care and well-being of the children served.

6. The good moral character based upon screening, education, training, and experience requirements for personnel. At a minimum, screening shall ensure that no personnel at a child-placing agency, family foster home, residential child-caring agency, summer day camp, or summer 24-hour camp providing care for children have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

a. Section 782.04, relating to murder.

b. Section 782.07, relating to manslaughter.

c. Section 782.071, relating to vehicular homicide.

d. Section 782.09, relating to killing of an unborn child by injury to the mother.

e. Section 784.011, relating to assault, if the victim of the offense was a minor.

f. Section 784.021, relating to aggravated assault.

g. Section 784.03, relating to battery, if the victim of the offense was a minor.

h. Section 784.045, relating to aggravated battery.

i. Section 787.01, relating to kidnapping.

j. Section 787.02, relating to false imprisonment.

k. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order.

l. Section 794.011, relating to sexual battery.

m. Chapter 796, relating to prostitution.

n. Section 798.02, relating to lewd and lascivious behavior.

o. Chapter 800, relating to lewdness and indecent exposure.

p. Section 806.01, relating to arson.

q. Section 812 13, relating to robbery.

r. Section 817 563, relating to fraudulent sale of controlled substances, if the offense was a felony.

s. Section 825.102, relating to abuse or neglect of a disabled adult or an elderly person.

t. Section 825.103, relating to exploitation of a disabled adult or an elderly person.

u.~~r.~~ Section 826.04, relating to incest.

v.~~s.~~ Section 827.03, relating to aggravated child abuse.

w.~~t.~~ Section 827.04, relating to child abuse.

x.~~u.~~ Section 827.05, relating to negligent treatment of children.

y.~~v.~~ Section 827.071, relating to sexual performance by a child.

~~w. Section 415.111, relating to abuse, neglect, or exploitation of aged or disabled persons.~~

z.~~x.~~ Chapter 847, relating to obscene literature.

aa.~~y.~~ Chapter 893, relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

~~z. Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.~~

For the purposes of this subparagraph, a finding of delinquency or a plea of nolo contendere or other plea amounting to an admission of guilt to a petition alleging delinquency pursuant to part II, chapter 39, or a similar statute of another jurisdiction, for any of the foregoing acts has the same effect as a finding of guilt, regardless of adjudication or disposition.

7. Standards for screening shall also ensure that the person:

a. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); ~~or~~

b. Does not have a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld pursuant to the procedures of *s. 415.1075* ~~s. 415.103~~ or s. 415.504; ~~or~~

c. Does not have a proposed confirmed report that remains unserved and is maintained in the central abuse registry and tracking system pursuant to s. 415.1065(2)(c); or

d.~~e.~~ Has not committed an act which constitutes domestic violence as defined in s. 741.28.

8.a. For the following, the department may grant to any person an exemption from disqualification from working with children or the developmentally disabled:

(I) Felonies, other than specified felonies, prohibited under any of the foregoing Florida Statutes cited in subparagraph 6. or under similar statutes of other jurisdictions, committed more than 3 years previously. For the purposes of this sub-sub-subparagraph, "specified felony" means those felonies in the Florida Statutes enumerated in sub-subparagraphs 6.a., b., d., l., m., o., r., s., t., *u.*, v., *w.* ~~x.~~, y., ~~and~~ z., *and aa.*, or under similar statutes of another jurisdiction;

(II) Misdemeanors prohibited under any of the foregoing Florida Statutes cited in this paragraph or under similar statutes of other jurisdictions;

(III) Offenses which were a felony when committed but are now a misdemeanor;

(IV) Findings of delinquency as specified in this subsection;

(V) Judicial determinations of abuse or neglect under chapter 39;

(VI) Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld pursuant to the procedures provided in *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or

(VII) Commissions of domestic violence.

b. In order to grant an exemption to a person, the department shall have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of children. The decision of the department regarding an exemption may be contested through the hearing procedures set forth in chapter 120.

c. The disqualification from employment provided in subparagraph 6. shall not be removed from any person found guilty of, regardless of adjudication, or having entered a plea of nolo contendere or guilty to, any felony covered by subparagraph 6. solely by reason of any pardon, executive clemency, or restoration of civil rights.

9. The provision of preservice and inservice training for all foster parents and agency staff.

10. Satisfactory evidence of financial ability to provide care for the children in compliance with licensing requirements.

11. The maintenance by the agency of records pertaining to admission, progress, health, and discharge of children served, including written case plans and reports to the department.

12. The provision for parental involvement to encourage preservation and strengthening of a child's relationship with his family.

13. The transportation safety of children served.

14. The provisions for safeguarding the cultural, religious, and ethnic values of a child.

15. Provisions to safeguard the legal rights of children served.

Section 89. Paragraph (d) of subsection (4) of section 415.504, Florida Statutes, 1994 Supplement, is amended to read:

415.504 Mandatory reports of child abuse or neglect; mandatory reports of death; central abuse registry and tracking system.—

(4)

(d)1. The contents of the notice of classification of reports shall be as follows:

a. In the case of unfounded reports, notice shall be provided to the persons specified in sub-subparagraph (c)2.a., may be sent by regular mail, and shall advise the recipient that the report will be expunged in 30 days.

b. In the case of a proposed confirmed report, notice shall be provided to the persons specified in sub-subparagraph (c)2.b. and, in the case of the alleged perpetrator, shall be sent by certified mail with return receipt requested. The notice shall state the facts that are alleged to support the proposed confirmed classification, the nature of the alleged abuse, neglect, or exploitation, and that an alleged perpetrator of a confirmed report may be disqualified from working with children, the developmentally disabled, disabled adults, or *elderly* ~~aged~~ persons. The notice shall further advise the recipient of his right to request a copy of the report, to submit a written statement of explanation or rebuttal with respect to the report, and to request amendment or expunction of the report. The notice shall clearly advise the person that failure to make such a request within 60 days after receipt of the notice, as evidenced by the date on the return receipt, means that the person agrees not to contest the classification of the report, and shall prevent further proceedings in the matter. If the alleged perpetrator of a proposed confirmed report asks for amendment or expunction, the secretary may amend or expunge the record. If the secretary refuses or does not act within 30 days after receiving such a request, the alleged perpetrator of a proposed confirmed report shall have the right to an administrative hearing pursuant to chapter 120 to contest whether the record of the report should be amended or expunged. A request for an administrative hearing must be submitted in writing to the department within 30 days after notification of the secretary's decision to deny the requested amendment or expunction, or, if the secretary fails to act on the request, within 30 days after the expiration of the 30-day time period within which the secretary may act under the provisions of this sub-subparagraph. The alleged perpetrator may, within 1 year after the classification of the report as confirmed, request the department to set aside a confirmed report where it can be shown that the failure to ask for amendment or expunction was due to excusable neglect or fraud. The standard for excusable neglect or fraud shall be as provided in the Florida Rules of Civil Procedure.

2. The schedule for requesting reports, submitting written comments, and requesting amendment or expunction of reports shall be as follows:

a. A person entitled to request a copy of an investigative report shall do so within 15 days after receipt of the notice as provided in this paragraph. In the case of an unfounded report, the 15 days shall be counted from the date of mailing of the notice. In the case of a proposed confirmed report, the 15 days shall be counted from the date of delivery of the original notice as evidenced by the return receipt.

b. A person entitled to submit a written statement of explanation or rebuttal and to request amendment or expunction of the report pursuant to sub-subparagraph 1.b. shall submit the statement or make such a request within 60 days after receipt of the original notice as evidenced by the return receipt. The failure to make a timely request for amendment or expunction of the report means the person agrees not to contest the classification of the report.

3. At a hearing conducted pursuant to the provisions of chapter 120, the department shall prove by a preponderance of the evidence that the alleged perpetrator committed the abuse, neglect, or exploitation. The department's investigative report shall be considered competent evidence at the hearing, and the technical rules of evidence shall not exclude such report. If the department's classification as proposed confirmed is upheld, the report shall become a confirmed report.

4. The confidentiality of the abuse or neglect report shall, to the extent possible, be maintained during the administrative hearing process. The administrative hearing shall be closed, the administrative files shall be confidential and exempt from the provisions of s. 119.07(1), and any identifying information in the recommended or final order shall be depleted prior to publishing pursuant to chapter 120. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 90. Subsection (1) of section 447.208, Florida Statutes, is amended to read:

447.208 Procedure with respect to certain appeals under s. 447.207.—

(1) Any person filing an appeal pursuant to subsection (8) or subsection (9) of s. 447.207 shall be entitled to a hearing pursuant to subsections (4) and (5) of s. 447.503 and in accordance with chapter 120; however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is granted by the commission for good cause or unless the basis for the appeal is an allegation of abuse or neglect under *s. 415.1075* ~~s. 415.103~~ or s. 415.504, in which case the hearing by the Public Employees Relations Commission may not be held until the confirmed report of abuse or neglect has been upheld pursuant to the procedures for appeal in ss. *415.1075* ~~415.103~~ and 415.504. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

Section 91. Section 447.401, Florida Statutes, is amended to read:

447.401 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties; however, when the issue under appeal is an allegation of abuse or neglect by an employee under *s. 415.1075* ~~s. 415.103~~ or s. 415.504, the grievance may not be decided until the confirmed report of abuse or neglect has been upheld pursuant to the procedures for appeal in ss. *415.1075* ~~415.103~~ and 415.504. However, an arbiter or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure administered without regard to membership or nonmembership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure, an unfair labor practice procedure, or a grievance procedure established under this section, but such employee is precluded from availing himself to more than one of these procedures.

Section 92. Paragraph (e) of subsection (1) of section 464.018, Florida Statutes, 1994 Supplement, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts shall be grounds for disciplinary action set forth in this section:

(e) Having been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37); or having a confirmed report of abuse, neglect, or exploitation as defined in *s. 415.102(6)* ~~s. 415.102(5)~~ or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld under the procedures of *s. 415.1075* ~~s. 415.103~~ or s. 415.504; or having committed an act which constitutes domestic violence as defined in s. 741.28.

Section 93. Paragraph (a) of subsection (2) of section 509.032, Florida Statutes, 1994 Supplement, is amended to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(a) The division has responsibility and jurisdiction for all inspections required by this chapter. The division has responsibility for quality assurance. Each licensed establishment shall be inspected at least biannually and at such other times as the division determines is necessary to ensure the public's health, safety, and welfare. The division shall estab-

lish a system to determine inspection frequency. Public lodging units classified as resort condominiums or resort dwellings are not subject to this requirement, but shall be made available to the division upon request. If, during the inspection of a public lodging establishment classified for renting to transient or nontransient tenants, an inspector identifies ~~elder or~~ disabled *adults or elderly persons* ~~individuals~~ who appear to be victims of neglect, as defined in s. 415.102~~(12)~~, or, in the case of a building that is not equipped with automatic sprinkler systems, tenants or clients who may be unable to self-preserve in an emergency, the division shall convene meetings with the following agencies as appropriate to the individual situation: the Department of Health and Rehabilitative Services, the Department of Elderly Affairs, the area agency on aging, the local fire marshal, the landlord and affected tenants and clients, and other relevant organizations, to develop a plan which improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II or part III of chapter 400.

Section 94. Subsection (12) of section 744.474, Florida Statutes, is amended to read:

744.474 Reasons for removal of guardian.—A guardian may be removed for any of the following reasons, and the removal shall be in addition to any other penalties prescribed by law:

(12) A *confirmed report pursuant to a protective investigation* ~~finding of probable cause,~~ made by the Department of Health and Rehabilitative Services, *which has been uncontested or has been upheld,* in accordance with *s. 415.1075* ~~s. 415.104~~, that the guardian has abused, neglected, or exploited the ward.

Section 95. Paragraphs (g) and (h) of subsection (2) of section 775.15, Florida Statutes, are amended to read:

775.15 Time limitations.—

(2) Except as otherwise provided in this section, prosecutions for other offenses are subject to the following periods of limitation:

(g) A prosecution for a felony violation of *s. 825.102* ~~s. 415.111(3)~~ must be commenced within 4 years after it is committed.

~~(h) A prosecution for a misdemeanor violation of s. 415.111(4) must be commenced within 3 years after it is committed.~~

Section 96. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, 1994 Supplement, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. However, a criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the events covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Health and Rehabilitative Services or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 39.076, s. 110.1127(3), s. 393.063(14), s. 394.455(20), s. 397.451, s. 402.302(8), s. 402.313(3), s. 409.175(2)(h), s. 415.102(4), *s. 415.1075(4)* ~~s. 415.103~~, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 57, line 6, after the semicolon (;) insert: amending s. 415.101, F.S.; revising legislative intent with respect to adult protective services; providing for care and protection of all disabled adults and elderly persons; amending s. 415.102, F.S.; revising definitions; amending s. 415.103, F.S.; revising the operation of the central abuse registry and tracking system; creating s. 415.1034, F.S.; prescribing requirements for mandatory reporting of abuse, neglect, exploitation, or death; creating ss. 415.1035, 415.1036, F.S.; prescribing provisions relating to a facility's duty to inform residents of the right to make reports and relating to immunity for those who make reports; creating s. 415.1045, F.S.; providing requirements for protective investigations and transmittal of records to state attorneys; providing for use of photographs and videotapes; providing for abrogation of privileged communications; providing for confidential records and documents; providing for classification or closure of records; amending s. 415.105, F.S.; revising requirements for provision of protective services with consent or when consent is withdrawn; deleting provisions relating to protective services for disabled adults and elderly persons who lack capacity to consent, or whose caregivers refuse services, or in an emergency; creating s. 415.1051, F.S.; prescribing requirements for the provision of protective services when capacity to consent is lacking; providing for nonemergency and emergency interventions; providing for notice and hearings; providing for protective services with caregiver or guardian present; providing for protective services orders; specifying limitations; creating s. 415.1052, F.S.; prescribing procedures relating to interference with an investigation or the provision of protective services; creating s. 415.1055, F.S.; providing for notification to administrative entities and other persons and notification to law enforcement and state attorneys; amending s. 415.106, F.S.; revising requirements for cooperation between the Department of Health and Rehabilitative Services and criminal justice and other agencies; creating s. 415.1065, F.S.; requiring certain records management; amending s. 415.107, F.S.; revising provisions relating to confidentiality of reports and records; creating s. 415.1075, F.S.; providing for administrative remedies; providing for amendment or expunction of reports; providing for appeals; providing for

request to set aside a report due to excusable neglect or fraud; creating s. 415.1099, F.S.; providing for waiver of certain filing fees; amending s. 415.1102, F.S.; revising provisions relating to adult protection teams and services provided thereby; creating s. 415.1105, F.S.; providing for training programs for adult protective services staff and persons required to report abuse, neglect, or exploitation; amending s. 415.111, F.S.; revising and eliminating criminal penalties; specifying criminal penalties for a person who commits an assault or battery on a protective investigator; creating s. 415.1111, F.S.; providing civil penalties; providing for a private right of action for abuse, neglect, or exploitation of a disabled adult or elderly person; creating s. 415.1113, F.S.; providing for administrative fines for false reporting; providing for allegations; providing for notice and hearing; amending s. 415.113, F.S., relating to statutory construction; transferring and renumbering s. 415.114, F.S., relating to a motion for a speedy trial for persons over a specified age; amending ss. 39.001, 39.045, 39.076, 39.411, 110.1127, 119.07, 242.335, 393.0655, 394.457, 395.3025, 397.451, 400.211, 400.414, 400.512, 400.619, 402.305, 409.175, 415.504, 447.208, 447.401, 464.018, 509.032, 744.474, 775.15, 943.0585, F.S.; revising requirements for certification of nursing assistants; requiring certain information to be added to the certified nursing assistant registry; expanding authority of the Agency for Health Care Administration to deny, suspend, or revoke certification; revising circumstances which require recertification; requiring nursing homes to verify certification prior to employment of a nursing assistant; requiring notice to the registry of certain lapse of employment; authorizing the agency to contract for examination services; providing a cost limitation; providing a fee for issuance of a duplicate certificate; providing screening requirements for certified nursing assistants and nursing assistant students employed in a nursing home; requiring nursing home administrators to annually confirm screening of all such employees; providing requirements for proof of previous compliance with screening requirements; providing conditions for termination of certain employees; providing for the costs of records checks; limiting the use of certain records; providing penalties; providing exemptions from disqualification from employment; providing a limitation; revising standards for screening to conform to the act; conforming terminology and correcting cross-references; providing for screening of personnel of certain programs of the Department of Elderly Affairs; amending s. 90.803, F.S.; amending s. 400.464, F.S.; providing that offering or advertising home health services without a license or misrepresenting the nature of the license held is a violation of the Florida Deceptive and Unfair Trade Practices Act; providing criminal penalties for such practice; specifying conditions for admissibility of certain hearsay evidence; creating s. 825.101, F.S.; providing definitions; creating s. 825.102, F.S.; providing penalties for abuse or neglect of a disabled adult or elderly person; creating s. 825.103, F.S.; providing penalties for the exploitation of such persons; creating s. 825.104, F.S.; prohibiting a certain defense to prosecution; creating s. 825.105, F.S.; providing immunity from liability for certain good-faith assistance; creating s. 825.106, F.S.; providing for speedy trial in certain proceedings; amending s. 914.16, F.S.; amending a cross-reference; amending s. 921.0012, F.S.; amending sentencing guidelines; repealing ss. 415.104, 415.1085, 415.109, 415.111(3), (4), (5), F.S., relating to protective services investigations, use of photographs, medical examinations, and X rays, abrogation of privileged communications in cases of abuse, neglect, or exploitation of an elderly person or disabled adult, and penalties for abuse, neglect, or exploitation of an elderly person or disabled adult;

Amendment 1B (with Title Amendment)—On page 52, line 31, insert:

Section 49. Section 410.021, Florida Statutes, is renumbered as section 430.201, Florida Statutes, and amended to read:

430.201 ~~410.021~~ Short title.—Sections *430.201-430.207* ~~410.021-410.029~~ may be cited as ~~"~~the "Community Care for the Elderly Act."

Section 50. Section 410.022, Florida Statutes, is renumbered as section 430.202, Florida Statutes, and amended to read:

430.202 ~~410.022~~ *Community care for the elderly;* legislative intent.—The purpose of *ss. 430.201-430.207* ~~this act~~ is to assist functionally impaired elderly persons in living dignified and reasonably independent lives in their own homes or in the homes of relatives or ~~"~~caregivers" through the development, expansion, reorganization, and coordination of various community-based services. The Legislature intends that a continuum of care be established so that functionally impaired elderly persons age 60 and older may be assured the least restrictive environment suitable to their needs. The development of innovative approaches to program management, staff training, and service delivery *which* ~~that~~ have an impact on cost-avoidance, cost-effectiveness, and program efficiency *is* ~~shall be~~ encouraged.

Section 51. Section 410.023, Florida Statutes, is renumbered as section 430.203, Florida Statutes, and amended to read:

430.203 ~~410.023~~ *Community care for the elderly;* definitions.—As used in *ss. 430.201-430.207, the term* ~~this act~~:

(1) "Area agency on aging" means a public or nonprofit private agency or office designated by the department to coordinate and administer the department's programs and to provide, through contracting agencies, services within a planning and service area. An area agency on aging serves as both the advocate and the visible focal point in its planning and service area to foster the development of comprehensive and coordinated service systems to serve older individuals.

(2) "Community care service area" means a service area within a planning and service area.

(3)~~(1)~~ "Community care service system" means a service network *comprising* ~~comprised of~~ a variety of home-delivered services, day care services, and other basic services, hereinafter referred to as "core services," for functionally impaired elderly persons *which* ~~that~~ are provided by several agencies under the direction of a single lead agency. Its purpose is to provide a continuum of care encompassing a full range of preventive, maintenance, and restorative services for functionally impaired elderly persons.

(4) "Contracting agency" means an area agency on aging, a lead agency, or any other agency contracting to provide program administration or to provide services.

(5) "Core services" means a variety of home-delivered services, day care services, and other basic services that may be provided by several entities. Core services are those services that are most needed to prevent unnecessary institutionalization. The area agency on aging shall not directly provide core services.

(6)~~(2)~~ "Department" means the Department of *Elderly Affairs* ~~Health and Rehabilitative Services~~.

~~(3) "District" means a specified, geographic service area, as defined in s. 20.19, in which the programs of the department are administered and services are delivered.~~

(7)~~(4)~~ "Functionally impaired elderly person" means any person, 60 years of age or older, *having* ~~with~~ physical or mental limitations *that* ~~which~~ restrict individual ability to perform the normal activities of daily living and *that* ~~which~~ impede individual capacity to live independently without the provision of core services. Functional impairment shall be determined through a functional assessment administered to each applicant for community-care-for-the-elderly core services. The functional assessment shall be developed by the department.

(8)~~(5)~~ "Health maintenance services" means those routine health services *that are* necessary to help maintain the health of a functionally impaired elderly person, but *that are* ~~shall be~~ limited to medical therapeutic services, nonmedical prevention services, personal care services, home health aide services, home nursing services, and emergency response systems.

(9)~~(6)~~ "Lead agency" means an agency designated *at least once every 3 years by an area agency on aging as the result of a request for proposal process to be in place no later than the state fiscal year 1996-1997. The guidelines for the request for proposal must be developed by the department in consultation with the area agencies on aging.* In each community care service system *the lead agency must be given* ~~which shall have~~ the authority and responsibility to coordinate *some or all of the* services, *either directly or through subcontracts,* for functionally impaired elderly persons. *These services must include case management and may include homemaker and chore services, respite care, adult day care, personal care services, home-delivered meals, counseling, information and referral, and emergency home repair services. The lead agency must compile community care statistics and monitor, when applicable, subcontracts with agencies providing core services.* ~~; to provide case management, except when the department agrees to provide case management directly through its own service workers; to provide, or subcontract for the provision of, no fewer than four core services; to compile community care statistics; and to monitor subcontracts with agencies providing core services.~~

(10)~~(7)~~ "Multiservice senior center" means a facility *that serves* ~~which is acquired, altered, or renovated for the purpose of serving~~ as the focal point for housing and delivering services to persons 60 years of age or older.

(11) "Personal care services" means services to assist with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating, supervision of self-administered medications, and assistance in securing health care from appropriate sources. Personal care services does not include medical services.

(12) "Planning and service area" means a geographic service area established by the department, in which the programs of the department are administered and services are delivered.

(13)~~(8)~~ "State Plan on Aging" means the service plan developed by the department which evaluates service needs of the elderly, identifies priority services and target client groups, provides for periodic evaluation of activities and services funded under the plan, and provides for administration of funds available through the *federal* Older Americans Act. *The state plan on aging must be based upon area plans on aging developed by the area agencies on aging in order that the priorities and conditions of local communities are taken into consideration.*

Section 52. Section 410.024, Florida Statutes, is renumbered as section 430.204, Florida Statutes, and amended to read:

430.204 ~~410.024~~ Community-care-for-the-elderly core services; *departmental* powers and duties ~~of the department.~~—

(1) The department shall fund, ~~directly or~~ through *each area* ~~a contracting~~ agency *on aging,* ~~in each district, and in each subdistrict where practicable~~, at least one community care service system *the* ~~which shall have as its~~ primary purpose *of which is* the prevention of unnecessary institutionalization of functionally impaired elderly persons through the provision of community-based core services. ~~Whenever feasible, an area agency on aging shall be the contracting agency of preference to engage only in the planning and funding of community care for the elderly core services for functionally impaired elderly persons.~~

(2) All existing community resources available to functionally impaired elderly persons shall be coordinated into a community care service system to provide a continuum of care to such persons as their needs change. Additional services may be *provided* ~~incorporated into the system~~, but *may* ~~shall~~ not be funded from the community-care-for-the-elderly core service funds. *Agencies contracting with the department* ~~The lead agency~~ shall ensure that all other funding sources available have been used prior to utilizing community-care-for-the-elderly funds. The department *and agencies contracting with the department may,* ~~area agencies on aging, and core service provider agencies are authorized to~~ accept gifts and grants in order to *provide services within* ~~carry out~~ a community care service *area* ~~system~~.

(3) The use of volunteers shall be maximized to provide a range of services for the functionally impaired elderly person. The department shall provide or arrange for the provision of training and supervision of volunteers to ensure the delivery of quality services. The department or contracting agency may provide appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer assignments under a community care service *area* ~~system~~. The coverage may also include excess automobile liability protection.

(4) The department or contracting agency shall contract for the provision of the core services required by a community care service *area* ~~system. However, the department may provide core services when such services cannot otherwise be purchased. Such purchase of service contracts must be entered whenever the services so provided are more cost-efficient than those provided by the department.~~

(5) Entities contracting to provide core services under *ss. 430.201-430.207 must* ~~this act shall~~ provide a minimum of 10 percent of the funding necessary for the support of project operations. In-kind contributions, whether materials, commodities, transportation, office space, other types of facilities, or personal services, and contributions of money or services from functionally impaired ~~elderly~~ persons may be evaluated and counted as part or all of *the* ~~this~~ required local funding.

(6) When possible, services shall be obtained under:

~~(a) The Florida Comprehensive Annual Services Program Plan under Title XX of the Social Security Act;~~

(a)~~(b)~~ The Florida Plan for Medical Assistance under Title XIX of the Social Security Act;

(b)~~(c)~~ The State Plan on Aging under the Older Americans Act; or

(c)~~(d)~~ The Florida Financial Assistance for Community Services Act of 1974.

(7) Funds appropriated for community care for the elderly *must* ~~shall~~ be used only for the provision of community-care-for-the-elderly core services, case management, and directly related expenditures. The department *may* ~~shall have the authority to~~ provide advance funding for *the community-care-for-the-elderly program* ~~community care for the elderly~~.

(8) Provider agencies *are* ~~shall be~~ responsible for the collection of *fees* ~~contributions~~ for services in accordance with rules *adopted* ~~promulgated~~ by the department. Provider agencies *shall* ~~are authorized to~~ assess *fees* ~~contributions~~ for services rendered in accordance with those rules. To help pay for services received from community care for the elderly, a functionally impaired elderly person shall *be assessed a fee* ~~contribute an amount of money~~ based on an overall ability to pay. The *fee* ~~amount of money~~ to be *assessed* ~~contributed~~ shall be fixed according to a schedule established by the department *in cooperation with area agencies, lead agencies, and service providers.* ~~Services of specified value may be accepted in lieu of a monetary contribution. This contribution schedule shall be developed by January 1, 1981, and shall be in effect on July 1, 1981. This subsection does not apply to programs utilizing federal funds when regulations prohibit a means test and fees or require contributions to revert to the original funding source.~~

(9) The department shall evaluate the *delivery of services within* ~~progress of~~ community care service *areas* ~~systems~~. Accurate analysis of the costs and benefits associated with the establishment and operation of the programs as determined through a uniform cost accounting and reporting system shall be maintained to provide an assessment of the ability of these programs to:

(a) Reduce the rate of inappropriate entry and placement of functionally impaired elderly persons in institutions;

(b) Reduce the use of institutional services and facilities; and

(c) Recommend legislative and administrative action ~~as set forth in s. 410.016~~.

Section 53. Section 410.0241, Florida Statutes, is renumbered as section 430.205, Florida Statutes, and amended to read:

430.205 ~~410.0241~~ Community care service system.—

(1) The department, *through the area* ~~or contracting~~ agency *on aging,* shall fund in each *planning and service area* ~~district, and in each subdistrict where practicable,~~ at least one community care service system *that provides* ~~which shall provide~~ case management and *other in-home and community services as needed to help the older person maintain independence and prevent or delay more costly institutional care* ~~no fewer than four core services to functionally impaired elderly persons. Core services are those services which are most needed to prevent unnecessary institutionalization. Core services shall be limited to homemaker and chore services, respite care, adult day care, medical transportation, mini day care, home-delivered meals, counseling, information and referral, emergency home repair services, and health maintenance services. Lead agencies providing directly the health maintenance service called "personal care" shall be exempt from the home health agency licensure provisions of part IV of chapter 400, but shall at a minimum, retain the services of a nurse licensed under chapter 464 for the initial assessment of clients referred for personal care services and for the development and periodic monitoring of client care plans involving personal care. For purposes of this subsection, "personal care services" shall be defined as services to assist with bathing, dressing, ambulation, housekeeping, supervision, emotional security, and eating, supervision of self-administered medications, and assistance in securing health care from appropriate sources. Personal care services shall not include medical services. Nothing herein shall be construed to exempt community care for the elderly lead agencies from the requirements of part IV, chapter 400 in their direct or indirect provision of any home health services regulated under chapter 400, other than "personal care" services as defined herein. Services other than the community care for the elderly core services may be incorporated into a community care service system, but shall not be funded with funds designated for community care for the elderly. Case management services shall be provided to each community care core service recipient to ensure that arrangements are made for appropriate services. If independent living is no longer possible for a functionally impaired elderly person, the case manager shall assist the person in locating the most appropriate, least restrictive, and most cost-beneficial alternate living arrangement.~~

(2) Core services and other support services may be furnished by public or private agencies or organizations. Each community care service system *must* ~~shall~~ be under the direction of a lead agency *that coordinates* ~~which shall coordinate~~ the activities of individual contracting agencies providing community-care-for-the-elderly services. When practicable, the *activities of a* community care service *area must* ~~system shall~~ be *directed from* ~~located in~~ a multiservice senior center and coordinated with other services offered therein. ~~Nothing in~~ This subsection *does not* ~~shall~~ require programs in existence prior to the effective date of this act to be relocated.

~~(3) Services shall be coordinated into the community care service system and shall include:~~

~~(a) Community care core services.~~

~~(b) Older Americans Act services.~~

~~(c) Title XX services.~~

~~(d) Senior center services.~~

~~(e) Protective services.~~

~~(f) Hospice services.~~

~~(g) Financial assistance services, including, but not limited to, food stamps, Medicaid, Medicare, and supplemental security income.~~

~~(h) Other community services.~~

(3)~~(4)~~ The department shall define each core service *that is to be provided or coordinated within a community care service area* ~~pursuant to subsection (1)~~ and establish *rules and* minimum standards for the delivery of core services. *The department*~~, and~~ may conduct or contract for demonstration projects to determine the desirability of new concepts of organization, administration, or service delivery designed to prevent the institutionalization of functionally impaired elderly persons. Evaluations shall be made of the cost-avoidance of such demonstration projects, the ability of the projects to reduce the rate of placement of functionally impaired elderly persons in institutions, and the impact of projects on the use of institutional services and facilities. *The department may authorize a variance from the required core services within a community care service system, based on the specific needs of the community. Criteria for such authorizations must be provided by rule.*

(4)~~(5)~~ A preservice and inservice training program for community-care-for-the-elderly service providers and staff may be designed and implemented to help assure the delivery of quality services. *The department shall specify in rules the training standards and requirements for the community-care-for-the-elderly service providers and staff. Training must be sufficient to ensure that quality services are provided to clients and that appropriate skills are developed to conduct the program.* ~~Community care for the elderly service providers and staff shall participate in inservice training at least once a year. Training that is currently provided may be used to satisfy this requirement. Training programs may be offered to volunteers to fulfill the requirements of s. 410.024(3). Training shall be funded through the Older Americans Act, Title XX of the Social Security Act, and other available sources.~~

(5)~~(6)~~ Any person who has been classified as a functionally impaired elderly person *is*~~, as defined in s. 410.023(4), shall be~~ eligible to receive community-care-for-the-elderly core services. Those elderly persons who are determined by the functional assessment to be at risk of institutionalization *and victims of abuse, neglect, or exploitation who are referred by adult protective services* shall be given primary consideration *for receiving community-care-for-the-elderly services.*

Section 54. Section 410.026, Florida Statutes, is renumbered as section 430.206, Florida Statutes, and amended to read:

430.206 ~~410.026~~ Multiservice senior center.—

(1) *If* ~~When~~ practicable, multiservice senior center services shall be available to functionally impaired elderly persons.

(2) *If* ~~When~~ feasible, a multiservice senior center *must* ~~shall~~ be centrally located and easily accessible to public transportation. Provision may be made for transporting persons to the center. A center shall be designed to provide ease of access and use, considering the infirmities of ~~frail and handicapped~~ elderly persons.

Section 55. Section 410.0295, Florida Statutes, is renumbered as section 430.207, Florida Statutes, and amended to read:

430.207 ~~410.0295~~ Confidentiality of information.—Information about functionally impaired elderly *persons* ~~adults~~ who receive services under *ss. 430.201-430.206* ~~ss. 410.021-410.029~~ which is received through files, reports, inspections, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to functionally impaired elderly *persons* ~~adults~~ under *ss. 430.201-430.206* ~~ss. 410.021-410.029~~ through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a functionally impaired elderly *person* ~~adult~~, unless *that* ~~such~~ person or his legal guardian provides written consent. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 56. Section 410.401, Florida Statutes, as amended by chapter 93-120, Laws of Florida, is renumbered as section 430.501, Florida Statutes, and amended to read:

430.501 ~~410.401~~ Alzheimer's Disease Advisory Committee; research grants~~; trust fund~~.—

(1) It is the finding of the Legislature that Alzheimer's disease and similar major memory disorders affect an alarmingly high percentage of citizens, primarily those over 65 years of age, and yet little is known of the cause, prevention, or treatment of this disease.

(2) There is created an Alzheimer's Disease Advisory Committee, composed of *10* ~~seven~~ members to be selected by the Governor, which shall advise the Department of *Elderly Affairs* ~~Health and Rehabilitative Services~~ in the performance of its duties under this act. *All* members *must* ~~shall~~ be residents of the state ~~who are experts in Alzheimer's disease~~. *The committee shall advise the department regarding legislative, programmatic, and administrative matters that relate to Alzheimer's disease victims and their caretakers.*

(3)(a) The committee membership shall be representative as follows:

1. At least *4* ~~four~~ of the *10* ~~seven~~ members must be licensed pursuant to chapter 458 or chapter 459 or hold a Ph.D. degree and be currently involved in the research of Alzheimer's disease.

2. The *10* ~~seven~~ members *must* ~~shall~~ include *at least four* ~~two~~ persons who *have been caregivers of* ~~are related to~~ victims of Alzheimer's disease. ~~and have been their primary caretakers and,~~

3. Whenever possible, *the 10 members shall include* one each of the following professionals: a gerontologist, a geriatric psychiatrist, a geriatrician, a neurologist, ~~and~~ a social worker, *and a registered nurse.*

(b)1. The Governor shall appoint members from a broad cross-section of public, private, and volunteer sectors. All nominations shall be forwarded to the Governor by the Secretary of Elderly Affairs in accordance with this subsection.

2. Members shall be appointed to 4-year staggered terms in accordance with s. 20.052.

3. The Secretary of Elderly Affairs shall serve as an ex officio member of the committee.

4. The committee shall elect one of its members to serve as chairman for a term of 1 year.

5. The committee may establish subcommittees as necessary to carry out the functions of the committee.

6. The committee shall meet quarterly, or as frequently as needed.

7. The Department of Elderly Affairs shall provide staff support to assist the committee in the performance of its duties.

8. Members of the committee and subcommittees shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.

(4)~~(3)~~ *If* ~~In the event~~ funds are available *through gifts, grants, or other sources, the Department of Elderly Affairs shall deposit such funds into its administrative trust fund and* ~~in the trust fund created in subsection (4), the Department of Health and Rehabilitative Services~~

shall award research grants to qualified profit or nonprofit associations and institutions or governmental agencies in order to plan, establish, or conduct programs in Alzheimer's disease control or prevention, education and training, and research. The department may adopt rules necessary to carry out *these* ~~its~~ duties.

Section 57. Section 410.402, Florida Statutes, is renumbered as section 430.502, Florida Statutes, and amended to read:

430.502 ~~410.402~~ Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(1) *Unless otherwise provided in the General Appropriations Act or in other provisions of law, funds appropriated for memory disorder clinics shall be provided for a clinic* ~~The Legislature shall fund a memory disorder clinic~~ at each of the three medical schools in this state*; at,* a major private nonprofit research-oriented teaching hospital *or*~~, and/or~~ any *one* of the other affiliated teaching hospitals~~,~~ at a memory disorder center operated by *the East Central Florida Memory Disorder Clinic at the joint Center for Advanced Therapeutics and Biomedical Research of the Florida Institute of Technology and Holmes Regional Medical Center, Inc.;* ~~a nonprofit regional hospital and the Claude Pepper Institute for Aging and Therapeutic Research and~~ at a memory disorder center located in a public hospital which is operated by an independent special hospital taxing district *that* ~~which~~ governs multiple hospitals and is located in a county *having* ~~with~~ a population greater than 800,000 persons*; at the Mayo Clinic in Jacksonville; and at the West Florida Regional Medical Center,* for the purpose of conducting research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. *However, memory disorder clinics funded as of June 30, 1995, shall not receive decreased funding due solely to subsequent additions of memory disorder clinics in this subsection.*

(2) It is the intent of the Legislature that research conducted by a memory disorder clinic and supported by state funds pursuant to subsection (1) be applied research, ~~and~~ be service-related, *and be selected in conjunction with the department. The Alzheimer's Disease Advisory Committee may approve the use of not more than 1 percent of the Alzheimer's disease initiative appropriation for evaluation purposes.* Such research may address, but is not limited to, diagnostic technique, therapeutic interventions, and supportive services for persons suffering from Alzheimer's disease and related memory disorders and their caregivers. A memory disorder clinic shall conduct such research in accordance with a research plan developed by the clinic which establishes research objectives that are in accordance with this legislative intent. A memory disorder clinic shall also complete and submit to the department a report of the findings, conclusions, and recommendations of completed research. This subsection does not apply to those memory disorder clinics at the three medical schools in the state *or*~~,~~ at *the* ~~a~~ major private nonprofit research-oriented teaching hospital~~,~~ or ~~at any of the~~ other affiliated teaching *hospital* ~~hospitals~~.

(3) Pursuant to the provisions of s. 287.057, the Department of *Elderly Affairs* ~~Health and Rehabilitative Services~~ shall contract for the provision of three specialized model day care programs in conjunction with each memory disorder clinic. The purpose of each model day care program *must* ~~shall~~ be *to provide* service delivery to persons suffering from Alzheimer's disease or a related memory disorder and training *for* ~~of~~ health care and social service personnel in the care of persons *having* ~~with~~ Alzheimer's disease *or* ~~and~~ related memory disorders.

(4) Pursuant to s. 287.057, the Department of *Elderly Affairs* ~~Health and Rehabilitative Services~~ shall contract for the provision of respite care. All funds appropriated for the provision of respite care shall be distributed annually by the department *to each funded county* ~~of Health and Rehabilitative Services to selected districts~~ according to an allocation formula. In developing the formula, the department shall consider the number and proportion of the *county* ~~district~~ population of *individuals who are* ~~persons~~ 75 years of age and older~~, the number and proportion of the district population of couples 75 years of age and older, and the number and proportion of the district households in which at least one member is 75 years of age and older~~. Each respite care program shall be used as a resource for research and statistical data by the *memory disorder clinics established in this part* ~~state's three medical schools and/or teaching hospitals~~. In consultation with the *memory disorder clinics* ~~medical schools and teaching hospitals~~, the department shall specify the information to be provided by the respite care programs for research purposes.

(5) Each contract entered into pursuant to this section *must* ~~shall~~ contain a requirement for a research component to be completed and reported on in writing to the department according to specifications and within a timeframe provided by the department.

Section 58. Section 430.503, Florida Statutes, is created to read:

430.503 Alzheimer's Disease Initiative; fees and administrative expense.—

(1) Sections 430.501-430.504 may be cited as the "Alzheimer's Disease Initiative."

(2) Provider agencies are responsible for the collection of fees for services in accordance with rules adopted by the department. Provider agencies shall assess fees for services rendered in accordance with those rules. To help pay for services received pursuant to the Alzheimer's Disease Initiative, a functionally impaired elderly person shall be assessed a fee based on an overall ability to pay. The fee to be assessed shall be fixed according to a schedule to be established by the department. Services of specified value may be accepted in lieu of a fee. The fee schedule shall be developed in cooperation with the Alzheimer's Disease Advisory Committee, area agencies on aging, and service providers.

Section 59. Section 410.403, Florida Statutes, is renumbered as section 430.504, Florida Statutes, and amended to read:

430.504 ~~410.403~~ Confidentiality of information.—Information about clients of programs created or funded under *s. 430.501 or s. 430.503* ~~ss. 410.401 and 410.402~~ which is received through files, reports, inspections, or otherwise, by the department or by authorized departmental employees, by persons who volunteer services, or by persons who provide services to clients of programs created or funded under *s. 430.501 or s. 430.503* ~~ss. 410.401 and 410.402~~ through contracts with the department is confidential and exempt from the provisions of s. 119.07(1). Such information may not be disclosed publicly in such a manner as to identify a person who receives services under *s. 430.501 or s. 430.503* ~~ss. 410.401 and 410.402~~, unless *that* ~~such~~ person or *that person's* ~~his~~ legal guardian provides written consent. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 60. Subsection (1) of section 110.501, Florida Statutes, is amended to read:

110.501 Definitions.—As used in this act:

(1) "Volunteer" means any person who, of his own free will, provides goods or services to any state department or agency, with no monetary or material compensation. A person registered and serving in Older American Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. No. 93-113) shall also be defined as a volunteer and eligible for payment of volunteer benefits as specified in Pub. L. No. 93-113, this section, and s. *430.204* ~~410.024~~.

Section 61. Subsection (3) of section 400.464, Florida Statutes, is amended to read:

400.464 Home health agencies to be licensed; expiration of license; exemptions; unlawful acts; penalties.—

(3) The furnishing of only home dialysis services, supplies, or equipment, or personal care services as provided by a community-care-for-the-elderly lead agency under *s. 430.205* ~~s. 410.0241~~, or personal care services provided through a community-care-for-disabled-adults program under s. 410.604, is exempt from this part. The personal care services exemptions apply only to community-care-for-the-elderly lead agencies and community-care-for-disabled-adults programs that directly provide only personal care services to their clients and do not provide other home health services.

Section 62. Subsection (10) of section 402.33, Florida Statutes, is amended to read:

402.33 Department authority to charge fees for services provided.—

~~(10) The provisions of this section do not apply to contributions or fees described in s. 410.024(8).~~

Section 63. Paragraph (c) of subsection (3) of section 420.36, Florida Statutes, is amended to read:

420.36 Low-income Emergency Home Repair Program.—There is established within the Department of Community Affairs the Low-

income Emergency Home Repair Program to assist low-income persons, especially the elderly and physically disabled, in making emergency repairs which directly affect their health and safety.

(3)

(c) Each grantee shall be required to provide an in-kind or cash match of at least 20 percent of the funds granted. Grantees and subgrantees shall be encouraged to use community resources to provide such match, including family, church, and neighborhood volunteers and materials provided by local groups and businesses. Grantees shall coordinate with local governments through their community development block grant entitlement programs and other housing programs, local housing partnerships, and agencies under contract to a lead agency for the provisions of services under the Community Care for the Elderly Act, *ss. 430.201-430.207* ~~ss. 410.021-410.029~~.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 57, line 6, after the semicolon, insert: amending and renumbering ss. 410.021, 410.022, 410.023, 410.024, 410.0241, 410.026, and 410.0295, F.S., relating to the community-care-for-the-elderly program; revising definitions; transferring responsibilities to the Department of Elderly Affairs; revising powers and duties; providing for collection of fees; limiting administrative expenses; revising program services; providing for training standards and requirements for service providers and staff; amending and renumbering s. 410.401, F.S.; transferring responsibility for the Alzheimer's Disease Advisory Committee to the department; providing additional duties; increasing membership; revising appointment procedures; providing for per diem and travel expenses; amending and renumbering s. 410.402, F.S.; revising provisions relating to funding of memory disorder research clinics and centers; providing department responsibilities; limiting administrative expenses; revising provisions relating to day care and respite care programs; creating s. 430.503, F.S.; providing for collection of fees for services under the "Alzheimer's Disease Initiative"; limiting administrative expenses; amending and renumbering s. 410.403, F.S., and amending ss. 110.501, 400.464, 402.33, 420.36, F.S.; conforming cross-references;

Amendment 1C (with Title Amendment)—On page 52, line 31, insert:

Section 49. Subsections (4), (5), (6), (7), (8), and (9) of section 400.141, Florida Statutes, are amended to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(4) *If the facility is rated superior or standard, be encouraged by the agency* ~~Encourage superior-rated and standard-rated facilities~~ to provide services, including, but not limited to, respite and adult day services, which enable individuals to move in and out of the facility. A facility is not subject to any additional licensure requirements for providing these services. Respite care may be offered to persons in need of short-term or temporary nursing home services. Respite care must be provided in accordance with this part *and* ~~or~~ rules adopted by the agency. However, the agency shall, by rule, adopt modified requirements for resident assessment, resident care plans, resident contracts, physician orders, and other provisions, as appropriate, for short-term or temporary nursing home services. The agency shall allow for shared programming and staff in a facility which *meets* ~~exceeds~~ minimum ~~staffing~~ standards and offers services pursuant to this subsection, but, *if the facility is cited for deficiencies in patient care,* may require additional staff and programs appropriate to the needs of service recipients. A person who receives respite care may not be counted as a resident of the facility for purposes of the facility's licensed capacity unless that person receives 24-hour respite care. *A person receiving either respite care for 24 hours or longer or adult day services must be included when calculating minimum staffing for the facility.* Any costs and revenues generated by a nursing home facility from nonresidential programs or services shall be excluded from the calculations of Medicaid per diems for nursing home institutional care reimbursement.

(5) If the facility is rated superior or standard, exceeds minimum staffing standards, and is part of a retirement community that offers other services pursuant to part III, part IV, or part V of this chapter, be allowed to share programming and staff. At the time of relicensure, a retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were exceeded.

(6)~~(5)~~ Maintain the facility premises and equipment and conduct its operations in a safe and sanitary manner.

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

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

(9)~~(8)~~ Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this part.

(10)~~(9)~~ Furnish copies of personnel records for employees affiliated with such facility, to any other facility licensed by this state requesting this information pursuant to this part. Such information contained in the records may include, but is not limited to, disciplinary matters and any reason for termination. Any facility releasing such records pursuant to this part shall be considered to be acting in good faith and may not be held liable for information contained in such records, absent a showing that the facility maliciously falsified such records.

Section 50. Subsections (5) and (11) of section 400.402, Florida Statutes, are amended to read:

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

(5) "Aging in place" or "age in place" means the process by which a person chooses to remain in a *residential* ~~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.

(11) "Extended congregate care" means acts beyond those authorized in subsection (16) 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 *in a residential environment* despite mental or physical limitations that might otherwise disqualify them from ~~continued~~ residency in a facility licensed under this part.

Section 51. Paragraph (b) of subsection (3) of section 400.407, Florida Statutes, is amended to read:

400.407 License required; fee, display.—

(3) Any license granted by the agency 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 agency. 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.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including acts performed pursuant to chapter 464 by persons licensed thereunder, and supportive services which may be defined by rule to persons who otherwise would be disqualified from continued residence in a facility licensed under this part.

1. In order for extended congregate care services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically

designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of a facility. Such designation may be made at the time of initial licensure or biennial relicensure, or upon request 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 extended congregate care services shall have maintained a standard license and shall not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations which were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards resulting in a requirement to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium on admissions or initiation of injunctive proceedings.

2. Facilities which are licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit such facilities at least three times a year to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with applicable provisions of this part and with related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that biennially inspects such facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the biennial inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. Before such decision is made, the agency shall consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency shall not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

3. Facilities which are licensed to provide extended congregate care services shall:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment which promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency, as necessary.

d. Adopt and follow policies and procedures which maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place to the extent possible, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of personal choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, either directly or through contract, the services of a person licensed pursuant to chapter 464.

h. In addition to the training mandated in s. 400.452, provide specialized training as defined by rule for facility staff.

4. Facilities licensed to provide extended congregate care services shall be exempt from the criteria for continued residency as set forth in rule pursuant to s. 400.441(1)(h). Facilities so licensed shall adopt their own requirements within guidelines for continued residency set forth by the department in rule. However, such facilities shall not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services shall provide each resident with a written copy of facility policies governing admission and retention.

5. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility and either:

a. Transfers from a facility with a standard license; or

b. Transfers from another facility licensed to provide extended congregate care services.

6. Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination as provided in s. 400.426(4) and the facility must develop a preliminary service plan for the individual.

~~7.5.~~ When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 400.428(1)(k).

~~8.6.~~ Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

~~9.7.~~ No later than January 1 of *each year* ~~1993 and 1994~~, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairmen of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The *status* report *must* ~~shall~~ include, but *need* not be limited to, the following information:

a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.

b. The number and characteristics of residents receiving such services.

c. The types of services rendered that could not be provided through a standard license.

d. An analysis of deficiencies cited during biennial inspections.

e. *The number of residents who required extended congregate care services at admission and the source of admission.* ~~The impact of extended congregate care services, if any, on nursing home admissions and costs.~~

f. Recommendations for statutory or regulatory changes.

~~g. The impact of an extended congregate care license, if any, on the cost of workers' compensation insurance, liability insurance, and health care insurance.~~

g.~~h.~~ The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.

h.~~i.~~ *Such* other information as ~~deemed appropriate by~~ the department *considers appropriate.*

Section 52. Section 400.4176, Florida Statutes, is amended to read:

400.4176 Notice of change of administrator.—If, during the period for which a license is issued, the owner changes administrators, the owner *must* ~~shall~~ notify the agency of the change within 45 days thereof *and must provide documentation that the new administrator has completed the applicable core educational requirements under s. 400.452.*

Section 53. Subsection (5) of section 400.426, Florida Statutes, is amended to read:

400.426 Appropriateness of placements; examinations of residents.—

(5) *Except as provided in s. 400.407,* if a medical examination has not been completed within 60 days before the admission of the resident to the facility, a licensed physician or licensed nurse practitioner shall examine the resident and complete a medical examination form provided by the agency within 30 days following the admission to the facility to enable the facility owner or administrator to determine the appropriateness of the admission. The medical examination form shall become a permanent part of the record of the resident at the facility and shall be made available to the agency during inspection by the agency or upon request.

Section 54. Section 400.452, Florida Statutes, is amended to read:

400.452 Staff training and educational programs; core educational requirement.—

(1) The department shall provide, or cause to be provided, training and educational programs for the administrators and such other facility staff as are defined by the department to better enable them to appropriately respond to the needs of residents and to meet licensure requirements.

(2) The department shall also establish a core educational requirement to be used in these programs. *Successful completion of the core educational requirement must include successful completion of a competency test.* Programs shall be provided by the department or by a provider approved by the department at least annually. The core educational requirement shall cover at least the following topic areas:

(a) State law and rules on adult congregate living facilities, *including life-safety requirements and procedures.*

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

(c) Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities *and how to meet those needs.*

(d) Nutrition and food service, including acceptable sanitation practices for preparing, storing, and serving food.

(e) Proper techniques for assisting residents with self-administered medication, including recordkeeping.

(3)~~(2)~~ Such *a* program *must* ~~shall~~ be available at least *quarterly in each district of the Department of Health and Rehabilitative Services* annually. *The competency test must be developed by the department in conjunction with the agency and providers and must be available for use by January 1, 1997. Beginning July 1, 1997, a new* facility *administrator must* ~~administrators and such staff shall~~ complete *the* ~~a~~ core educational requirement within *3 months after being employed as an administrator* ~~a reasonable time period determined by the department~~. Failure to complete a core educational requirement within the time *specified in this subsection* ~~set by the department~~ is a violation of this part and subjects the violator to a penalty as prescribed in s. 400.419. Administrators licensed in accordance with chapter 468, part II, are exempt from this requirement. Other licensed professionals may be exempt, as determined by the department by rule. Persons responsible for managing the facility's food service who successfully complete the core training on or after October 1, 1991, are exempt from the certification requirements mandated by s. 381.061(9).

(4) Administrators shall participate in continuing education for a minimum of 12 contact hours every 2 years as specified by the department by rule.

(5) Administrators and staff of facilities more than 10 percent of whose residents are mental health residents shall participate in training in the care and supervision of such residents as specified by the department by rule.

(6) Other facility staff shall participate in training relevant to their job duties as specified by the department by rule.

(7)~~(3)~~ Any facility *more than 90 percent of whose residents receive* ~~which has at least one resident who receives~~ monthly optional supplementation payments is not required to pay for the training and education programs provided under this section. *A facility that has one or more such residents shall pay a reduced fee that is proportional to the percentage of such residents in the facility.* A facility *that* ~~which~~ does not have any residents who receive monthly optional supplementation payments must pay a reasonable fee, as established by the department, for such training and education programs.

(8)~~(4)~~ If the *agency* ~~department~~ determines that there are problems in a facility that could be reduced through specific staff training or education beyond that already required under this section, the *agency* ~~department~~ may require~~, and provide, or cause to be provided,~~ the training or education of any ~~personal care~~ staff in the facility. *Upon request, the department shall assist a facility in locating free or reduced-cost training, but the facility is responsible for any costs associated with training required under this subsection.*

Section 55. Subsection (25) is added to section 641.31, Florida Statutes, to read:

641 31 Health maintenance contracts.—

(25) If a subscriber is a resident of a continuing care facility certified under chapter 651 or a retirement facility consisting of a nursing home and residential apartments, the subscriber's primary-care physician must refer the subscriber to that facility's skilled nursing unit if the primary-care physician finds that it is in the best interest of the patient to do so; if the facility agrees to be reimbursed at the health maintenance organization's contract rate negotiated with similar providers for the same services and supplies; and if the facility meets all guidelines established by the health maintenance organization related to quality of care, utilization, referral authorization, risk assumption, use of the health maintenance organization's network, and other criteria applicable to providers under contract for the same services and supplies.

Section 56. There is created a 2-year pilot project to be conducted in facilities licensed as of July 1, 1995, to provide extended congregate care services. Adult congregate living facility extended congregate care services allow residents the option of remaining in a familiar setting as they become more impaired and otherwise would be disqualified from continued residency in a facility they regard as home. The purpose of this pilot project is to determine the effects of allowing for direct admission of individuals to an adult congregate living facility extended congregate care program from other adult congregate living facilities, hospitals, nursing homes, and the community. Facilities participating in the pilot project must adhere to the following guidelines:

(1) The facility must have been a licensed adult congregate living facility for at least 2 years and have had no survey deficiencies or have corrected all deficiencies within the time set by the Agency for Health Care Administration.

(2) An individual qualifying for direct admission must be determined appropriate for the facility.

(a) The individual must be determined appropriate for admission through an assessment conducted by the Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program; and

(b) A preadmission assessment must be completed by the facility for each individual to ensure that the appropriate services and care can be provided by the facility.

(3) In order to maintain a residential environment, the total number of residents requiring extended congregate care services at any one time shall not exceed 35 percent of the total licensed capacity of the facility. However, residents who did not need extended congregate care services at the time of admission to the facility shall not be displaced as their needs change if the facility can provide or arrange for the required services and the resident meets the facility's criteria for continued residency.

(4) The facility is exempt from the reporting requirement pursuant to section 400.407(3)(b), Florida Statutes, for the duration of the pilot project.

(5) The Office of Program Policy Analysis and Government Accountability within the Office of the Auditor General shall conduct a comprehensive evaluation of the pilot project created pursuant to this section. The evaluation criteria shall be developed by the office with input from the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, providers, and the appropriate legislative committees. The office shall submit interim status reports on the pilot project to the Legislature by January 1, 1996, and January 1, 1997. A final evaluation report must be submitted to the Legislature no later than December 31, 1997.

(6) The facility must participate to the fullest extent possible in the required reporting, as specified in the evaluation criteria developed by the office pursuant to subsection (5).

(7) This section shall take effect upon becoming a law.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 57, line 6, following the semicolon (;) insert: amending s. 400.141, F.S.; revising the requirements for nursing home facilities pertaining to respite care and adult day services; authorizing certain nursing home facilities to share programs and staff; amending s. 400.402, F.S.; amending definitions; amending s. 400.407, F.S.; amending criteria for who may be admitted, or may remain, as a resident in a licensed facility; amending provisions relating to the annual status report; amending s. 400.4176, F.S.; amending notice requirements that apply when a facility changes administrators during a license period; amending s. 400.426, F.S.; providing an exception to requirements concerning a medical examination of a newly admitted resident; amending s. 400.452, F.S.; amending staff training and education requirements; providing periodic continuing education requirements for administrators; requiring training in specified job duties for administrators and other staff members; amending provisions relating to the responsibility for paying for educational courses; reassigning certain duties from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 641.31, F.S.; requiring subscribers who are residents of certain continuing care facilities or retirement facilities to be transferred to the facilities' skilled nursing units under certain circumstances; providing for a pilot project for direct admission of individuals to adult congregate living facility extended congregate care programs; providing guidelines; requiring evaluations and reports;

Amendment 1D (with Title Amendment)—On page 52, line 31, insert:

Section 49. Subsections (2), (15), and (20) of section 400.402, Florida Statutes, are amended to read:

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

(2) "Administrator" means an individual who has general administrative charge of an adult congregate living facility *and has successfully completed the core educational requirements.*

(15) "Mental health resident" means an individual who:

~~(a) Receives or is eligible to receive optional state supplementation;~~

(a) Is a member of a specified population group having priority for district alcohol, drug abuse, and mental health services as provided in s. 394.75(4); and

(b) Has been determined to be in need of primary care services as provided in s. 394.675(1)(a).

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

~~(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.~~

(20) "Service plan" means a written plan, developed and agreed upon by the resident and, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact, 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 *or mental health 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.

Section 50. Paragraph (d) of subsection (3) and paragraph (a) of subsection (4) of section 400.407, Florida Statutes, are amended to read:

400.407 License required; fee, display.—

(3) Any license granted by the agency 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 agency. 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.

~~(d) A limited mental health license shall be issued to facilities which provide mental health services as specified in this paragraph to residents who meet the criteria of s. 400.402(15).~~

~~1. In order for limited mental health services to be provided in a facility licensed under this part, the agency 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 shall have maintained a standard license and 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. 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 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. 400.428(1)(k).~~

(4)(a) The biennial license fee required of a facility *is* ~~shall be~~ $240 per license, with an additional fee of $30 per resident based on the total licensed resident capacity of the facility, except that *no additional fee will* ~~a reduced additional fee of $10 per resident shall~~ be assessed for beds designated for recipients of optional state supplementation payments provided for in s. 409.212. The total fee shall not exceed $10,000, no part of which shall be returned to the facility.

Section 51. Section 400.4075, Florida Statutes, is created to read:

400.4075 Limited mental health license.—A limited mental health license shall be issued to facilities that provide services to mental health residents who meet the criteria of s. 400.402(15).

(1) In order for services to be provided to mental health residents in a facility licensed under this part, the agency shall first determine that all requirements established in law and rule are met and shall specifically designate, on the facility's license, that services may be provided to mental health residents, and shall designate the number of such residents who may receive 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 services to such residents shall meet the licensing standards in this section and 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.

(2) Facilities licensed to provide services to mental health residents shall provide appropriate supervision and staffing, as defined by rule, to provide for the health, safety, and welfare of such residents.

(3) In addition to the training as provided in s. 400.452, staff in facilities that are authorized to provide services to mental health residents shall receive training, as defined by rule, on the special needs of such residents.

(4) Facilities designated to provide services to mental health residents may not have more than the maximum resident capacity for the facility.

(5) A mental health resident who receives services under this part 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. 400.428(1)(k).

(6) An adult congregate living facility serving mental health residents under this part shall have on file for each mental health resident, a written mental health plan. The plan shall be open and available for inspection by the resident, the resident's legal guardian, if any, the resident's health care surrogate, if any, and all other entities or individuals having lawful access to such records. The department shall establish standards regarding the format and content of such plans.

(7) Facilities licensed to provide services to mental health residents under this part shall be required to have a written agreement with the nearest publicly funded community mental health agency as defined in s. 394.455(7) or a licensed mental health professional designated by the district alcohol, drug abuse and mental health office. The agreement shall specify the manner in which the clinical mental health services that are included in residents' mental health plans shall be accessed and delivered.

Section 52. Subsection (1) of section 400.408, Florida Statutes, is amended to read:

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

(1) It is unlawful to knowingly refer a person for residency to an unlicensed facility that provides services that may only be provided by an adult congregate living facility; to an adult congregate living facility the license of which is under denial or has been suspended or revoked; or to a facility that has ~~had~~ a moratorium placed on admissions. Any person who violates this subsection is guilty of a noncriminal violation, punishable by a fine not exceeding $500 as provided in s. 775.083.

(a) Any employee of the agency or department who knowingly refers a person for residency to an unlicensed facility; to a facility the license of which is under denial or has been suspended or revoked; or to a facility that has ~~had~~ a moratorium placed on admissions is subject to disciplinary action by the agency or department.

(b) The employer of any person who is under contract with the agency or department and who knowingly refers a person for residency to an unlicensed facility; to a facility the license of which is under denial or has been suspended or revoked; or to a facility that has ~~had~~ a moratorium imposed on admissions shall be fined and required to prepare a corrective action plan designed to prevent such referrals.

Section 53. Section 400.411, Florida Statutes, is amended to read:

400.411 Initial application for license; provisional license.—

(1) Application for license *must* ~~shall~~ be made to the agency on forms furnished by it and *must* ~~shall~~ be accompanied by the appropriate license fee. The application *must* ~~shall~~ contain sufficient information, as required by rules of the department, to establish that the applicant can provide adequate care.

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

(a) The name, address, date of birth, and social security number of the applicant and the name by which the facility is to be known. Pursuant thereto:

1. If the applicant is a firm, partnership, or association, the application *must* ~~shall~~ contain the name, address, date of birth, and social security number of every member thereof.

2. If the applicant is a corporation, the application *must* ~~shall~~ contain its name and address, the name, address, date of birth, and social security number of each of its directors and officers, and the name and address of each person having at least a 10-percent interest in the corporation.

(b) The name and address of any professional service, firm, association, partnership, or corporation that is to provide goods, leases, or services to the facility for which the application is made, if a 10-percent or greater interest in the service, firm, association, partnership, or corporation is owned by a person whose name must be listed on the application under paragraph (a).

(c) Information that provides a source to establish the suitable character, financial stability, and competency of the applicant and of each person specified in the application under subparagraph (a)1. or subparagraph (a)2. who has at least a 10-percent interest in the firm, partnership, association, or corporation and, if applicable, of the administrator, including the name and address of any long-term care facility with which the applicant or administrator has been affiliated through ownership or employment within 5 years of the date of the application for a license; and a signed affidavit disclosing any financial or ownership interest that the applicant, or any principal, partner, or shareholder thereof, holds or has held within the last 5 years in any other facility licensed under this part, or in any other entity licensed by the state or another state to provide health or residential care, which facility or entity closed or ceased to operate as a result of financial problems.

(d) The names and addresses of other persons of whom the agency may inquire as to the character and reputation of the applicant and, if applicable, of the administrator.

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

(f) The names and addresses of other persons of whom the agency may inquire as to the financial responsibility of the applicant.

(g) Identification of all other homes or facilities, including the addresses and the license or licenses under which they operate, if applicable, which are operated by the applicant and which provide housing, meals, and personal services to adults.

(h) Such other reasonable information as may be required by the agency to evaluate the ability of the applicant to meet the responsibilities entailed under this part.

(i) The location of the facility for which a license is sought and documentation, signed by the appropriate local government official, which states that the applicant has met local zoning requirements.

(j) The name, address, date of birth, social security number, education, and experience of the administrator.

(3) The applicant *must* ~~shall~~ furnish satisfactory proof of financial ability to operate and conduct the facility in accordance with the requirements of this part. An applicant applying for an initial license *must* ~~shall~~ submit a balance sheet setting forth the assets and liabilities of the owner and a statement projecting revenues, expenses, taxes, extraordinary items, and other credits or charges for the first 12 months of operation of the facility.

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

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

(6) Chapter 419 applies to single-family or multi-family-zoned community residential homes licensed under this part.

(7) The applicant must provide the agency with proof of his legal right to occupy the property. Proof may include, but is not limited to, copies of recorded warranty deeds, lease or rental agreements, contracts for purchase, or quit claim deeds.

(8) The applicant must furnish proof that the facility has received a satisfactory firesafety inspection. The local fire marshal or authority having jurisdiction must conduct the inspection within 30 days after the written request by the applicant. If an authority having jurisdiction does not have a certified firesafety inspector, the state Fire Marshal must conduct the inspection.

(9)~~(6)~~ A provisional license may be issued to an applicant making initial application for licensure or making application for a change of ownership. A provisional license *is* ~~shall be~~ limited in duration to a specific period of time not to exceed 6 months, as determined by the agency.

(10)~~(7)~~ *A* ~~No~~ county or municipality *may not* ~~shall~~ issue an occupational license *that* ~~which~~ is being obtained for the purpose of operating a facility regulated under this part without first ascertaining that the applicant has been licensed to operate such facility at the specified location or locations by the agency. The agency shall furnish to local agencies responsible for issuing occupational licenses sufficient instruction for making *these* ~~the above required~~ determinations.

Section 54. 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 *must apply* ~~shall make application~~ to the agency for a new license at least 60 days before the date of transfer of ownership. *The application must comply with the provisions of s. 400.411.*

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

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

(3) The transferor *remains* ~~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.

(b) Any ~~and all~~ penalties imposed against the facility for violations occurring before the date of transfer of ownership unless the penalty imposed is a moratorium on admissions or denial of licensure. The moratorium on admissions or denial of licensure remains in effect after the transfer of ownership, unless the agency has approved the transferee's corrective action plan or the conditions *that* ~~which~~ created the moratorium or denial have been corrected, and *constitutes* ~~may be~~ 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 *remains* ~~shall remain~~ liable for the outstanding liability.

(4) The transferor of a facility the license of which is denied pending an administrative hearing *must* ~~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 at least 7 days before the transfer of ownership and that failure to correct the condition *that* ~~which~~ resulted in the moratorium on admissions or denial of licensure is grounds for denial of the transferee's license.

(5) The transferee must provide the agency with *proof of his legal right to occupy the property* ~~a copy of the recorded warranty deed or lease agreement~~ before a license may be issued. *Proof may include, but is not limited to, recorded warranty deeds, lease or rental agreements, contracts for purchase, or quit claim deeds.*

Section 55. Section 400.414, Florida Statutes, 1994 Supplement, is amended to read:

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

(1) The agency may deny, revoke, or suspend a license issued under this part or impose an administrative fine in the manner provided in chapter 120. At the ~~chapter 120~~ hearing, the agency *must* ~~shall~~ prove by a preponderance of the evidence that its actions are warranted.

(2) Any of the following actions by a facility or its employee *constitutes* ~~shall be~~ grounds for action by the agency 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 agency that the facility owner or administrator is not of suitable character or 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) Misappropriation or conversion of the property of a resident of the facility.

(d) Five or more repeated or recurring identical or similar class III violations of this part which were identified by the agency during the last biennial inspection, monitoring visit, or complaint investigation and which, in the aggregate, affect the health, safety, or welfare of the facility residents.

(e) A confirmed report of adult abuse, neglect, or exploitation, as defined in s. 415.102, or child abuse or neglect, as defined in s. 415.503, which has been upheld following a ~~chapter 120~~ hearing or a waiver of such proceedings 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. 400.512* ~~s. 415.107(5)(b)~~. ~~No~~ Administrative action may *not* be taken against the facility if the perpetrator is granted an exemption.

(f) Violation of a moratorium.

(g) Failure of the licensee during relicensure, or failure of a licensee that holds an initial or change of ownership license, to meet minimum license standards or the requirements of rules adopted under this part.

(h) A fraudulent statement on an application for a license or any other document required by the agency that is signed and notarized.

(i) An intentional or negligent life-threatening act in violation of uniform firesafety standards established by the State Fire Marshal which act threatens the health, safety, or welfare of a resident of a facility, as communicated to the agency by the State Fire Marshal, a local fire marshal, or other authority having jurisdiction.

(3) The hearing officer, in proceedings brought under paragraphs (2)(a), (c), and (d), shall consider the licensee's history, record of prior complaints and their disposition, and current operations.

(4)~~(3)~~ The agency may deny a license to an applicant who owns 25 percent or more of, or operates, a facility which, during the 5 years prior to the application for a license, has had a license denied, suspended, or revoked pursuant to subsection (2), or, during the 2 years prior to the application for a license, has had a moratorium imposed on admissions, has had an injunctive proceeding initiated against it, has had a receiver appointed, was closed due to financial inability to operate, or has an outstanding fine assessed under this part.

(5) Upon notification by the State Fire Marshal, local fire marshal, or other authority having jurisdiction, the agency may deny or revoke a license to a facility that fails to comply with firesafety orders issued by the State Fire Marshal, the local fire marshal, or the authority having jurisdiction, that affect the health, safety, and welfare of a resident of a facility.

(6)~~(4)~~ An action taken by the agency 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 of the Department of *Management Services* ~~Administration~~ within 120 days after the request for a hearing, unless that time period is waived by both parties. *The hearing officer must render a decision within 30 days after the hearing.*

(7)~~(5)~~ The agency shall provide to the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, ~~on a~~ monthly ~~basis~~, a list of those facilities *that* ~~which~~ have had their licenses denied, suspended, or revoked or *that* ~~which~~ are involved in an appellate proceeding *under* ~~pursuant to~~ s. 120.60 related to the denial, suspension, or revocation of a license.

Section 56. Subsection (1) of section 400.417, Florida Statutes, is amended to read:

400.417 Expiration of license; renewal; conditional license.—

(1) Biennial licenses issued for the operation of a facility, unless sooner suspended or revoked, ~~shall~~ expire automatically 2 years from the date of issuance. The agency *must* ~~shall~~ notify the facility by certified mail 120 days *before* ~~prior to~~ the expiration of the license that relicensure is necessary to continue operation. Ninety days *before* ~~prior to~~ the expiration date, an application for renewal *must* ~~shall~~ be submitted to the agency. A license shall be renewed upon the filing of an application on forms furnished by the agency if the applicant has first met the requirements established under this part and all rules *adopted* ~~promulgated~~ under this part. The failure to file a timely application shall result in a late fee charged to the facility in an amount equal to 50 percent of the fee in effect on the last preceding regular renewal date. Late fees *must* ~~shall~~ be deposited into the Health Care Trust Fund as provided in s. 400.418. The facility *must* ~~shall~~ file with the application satisfactory proof of ability to operate and conduct the facility in accordance with the requirements of this part. *An applicant for renewal of a license must furnish proof that the facility has received a satisfactory firesafety inspection, conducted by the local fire marshal or the authority having jurisdiction, within the preceding 12 months.* An applicant for renewal of a license who has complied on the initial license application with the provisions of s. 400.411 with respect to proof of financial ability to operate *is* ~~shall~~ not ~~be~~ required to provide proof of financial ability on renewal applications unless the facility or any other facility owned or operated in whole or in part by the same person or business entity has demonstrated financial instability as evidenced by bad checks, delinquent accounts, or nonpayment of withholding taxes, utility expenses, or other essential services or unless the agency suspects that the facility is not financially stable as a result of the annual survey or complaints from the public or a report from the State Long-Term Care Ombudsman Council. Each facility shall report to the agency any adverse court action concerning the facility's financial viability, within 7 days after its occurrence. The agency *must be given* ~~shall have~~ access to books, records, and any other financial documents maintained by the facility to the extent necessary to carry out the purpose of this section. A license for the operation of a facility *may* ~~shall~~ not be renewed if the licensee has any outstanding fines assessed pursuant to this part which are in final order status.

Section 57. Section 400.4176, Florida Statutes, is amended to read:

400.4176 Notice of change of administrator.—If, during the period for which a license is issued, the owner changes administrators, the owner *must* ~~shall~~ notify the agency of the change within 45 days thereof. *Background screening must be completed on all new administrators to establish that each is of suitable character and competency as specified in s. 400.456.*

Section 58. Subsection (3) of section 400.428, Florida Statutes, is amended to read:

400.428 Resident bill of rights.—

(3) In order to determine whether the facility is adequately protecting residents' rights, the biennial inspection of the facility shall include private informal conversations with a sample of residents and consultation with the ombudsman council in the planning and service area, as defined in part II, in which the facility is located to discuss residents' experiences within the facility with respect to rights specified in this section and general compliance with standards. *The agency must conduct an inspection to determine general compliance with standards and compliance with residents' rights as a prerequisite to initial or renewal licensure.* During any calendar year in which no inspection is conducted, the agency shall conduct at least one monitoring visit of each facility cited in the previous year for a class I or class II violation, or more than three uncorrected class III violations, that led to a conditional license or a moratorium on admissions. *The agency may conduct periodic follow-up inspections as necessary to monitor the compliance of facilities that have a history of any class I, class II, or class III violations that threaten the health, safety, or security of residents. The agency may conduct complaint investigations as warranted to investigate any allegations of noncompliance with requirements under this part or rules adopted hereunder.*

Section 59 Section 400.418, Florida Statutes, is amended to read:

400.418 Disposition of fees and administrative fines.—

(1) Income from license fees, late fees, and administrative fines generated pursuant to ss. 400.407, 400.417, 400.419, and 400.431 shall be deposited in the Health Care Trust Fund administered by the agency. Such funds shall be directed to and used by the agency for the following purposes:

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

(b) An amount of $5,000 of the trust funds accrued each year under this part shall be allocated to pay for inspection-related physical and mental health examinations requested by the agency pursuant to s. 400.426 for residents who are either recipients of supplemental security income or have monthly incomes not in excess of the maximum combined federal and state cash subsidies available to supplemental security income recipients, as provided for in s. 409.212. Such funds shall only be used where the resident is ineligible for Medicaid.

(c) *Any trust funds accrued each year under this part and not used for the purposes specified in paragraphs (a) and (b)* ~~The balance of trust funds accrued each year under this part~~ shall be used to offset the costs of the licensure program, including the costs of conducting background investigations, verifying information submitted, defraying the costs of processing the names of applicants, and conducting inspections and monitoring visits pursuant to this part.

(2) Income from fees generated pursuant to s. 400.441(5) shall be deposited in the Health Care Trust Fund and used to offset the costs of printing and postage.

Section 60. Subsection (1) of section 400.441, Florida Statutes, is amended to read:

400.441 Rules establishing standards.—

(1) *In order* ~~Pursuant to the intention of the Legislature~~ to provide safe and sanitary facilities *and the highest quality of resident care accommodating the needs and preferences of residents,* the department, in consultation with the agency and the Department of Elderly Affairs, shall *adopt* ~~promulgate, publish, and enforce~~ rules to *administer* ~~implement the provisions of~~ this part, which *must* ~~shall~~ include reasonable and fair minimum standards in relation to:

(a) The maintenance of facilities, not in conflict with the provisions of chapter 553, relating to plumbing, heating, lighting, ventilation, and other housing conditions, which will ensure the health, safety, and comfort of residents and protection from fire hazard, including adequate provisions for fire alarm and other fire protection suitable to the size of the structure. Uniform firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the agency and the department.

1. Evacuation-capability determination.

a. The provisions of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, shall be used for determining the ability of the residents, with or without staff assistance, to relocate from or within a licensed facility to a point of safety as provided in the fire codes adopted herein. An evacuation capability evaluation for initial licensure shall be conducted within 6 months after the date of licensure. For existing licensed facilities that are not equipped with an automatic fire sprinkler system, the administrator shall evaluate the evacuation capability of residents at least annually. The evacuation-capability evaluation for each facility not equipped with an automatic fire sprinkler system shall be validated, without liability, by the State Fire Marshal by the local fire marshal, or by the local authority having jurisdic-

tion over fire safety before the license renewal date. If the State Fire Marshal, local fire marshal, or local authority having jurisdiction over fire safety has reason to believe that the evacuation capability of a facility as reported by the administrator may have changed, it may, with assistance from the facility administrator, reevaluate the evacuation capability through timed exiting drills. Translation of timed fire-exiting drills to evacuation capability may be determined as:

(I) Three minutes or less, prompt;

(II) More than 3 minutes but not more than 13 minutes, slow; and

(III) More than 13 minutes, impractical.

b. The State Fire Marshal's Office shall provide or cause the provision of training and education on the proper application of Chapter 5, NFPA 101A, 1995 edition, to its employees, to staff of the Agency for Health Care Administration who are responsible for regulating facilities under this part, and to local governmental inspectors. The State Fire Marshal's Office shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after the effective date of this act and as needed thereafter.

c. The State Fire Marshal's Office, in cooperation with provider associations, shall provide or cause the provision of a training program designed to inform facility operators on how to properly review bid documents relating to the installation of automatic fire sprinklers. The State Fire Marshal's Office shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after the effective date of this act and as needed thereafter.

d. The administrator of a licensed facility shall sign an affidavit verifying the number of residents occupying the facility at the time of the evacuation-capability evaluation.

2. Fire-safety requirements.—

a. Except for the special applications provided herein, effective January 1, 1996, the provisions of the National Fire Protection Association, Life Safety Code, NFPA 101, 1994 edition, Chapter 22 for new facilities and Chapter 23 for existing facilities shall be the uniform fire code applied by the State Fire Marshal for adult congregate living facilities, pursuant to s. 633.022.

b. Any new facility, regardless of size, that applies for a license on or after January 1, 1996, must be equipped with an automatic fire sprinkler system. The exceptions as provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply to any new facility housing eight or fewer residents. Upon the effective date of the act, local governmental entities responsible for the issuance of permits for construction shall inform, without liability, any facility whose permit for construction is obtained prior to January 1, 1996, of this automatic fire sprinkler requirement. As used in this part, the term "a new facility" does not mean an existing facility that has undergone change of ownership.

c. Notwithstanding any provision of s. 633.022 or of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, to the contrary, any existing facility housing eight or fewer residents is not required to install an automatic fire sprinkler system, nor to comply with any other requirement in Chapter 23 of NFPA 101, 1994 edition, that exceeds the fire safety requirements of NFPA 101, 1988 edition, that applies to this size facility, unless the facility has been classified as impractical to evacuate. Any existing facility housing eight or fewer residents that is classified as impractical to evacuate must install an automatic fire sprinkler system within the timeframes granted in this section.

d. Any existing facility that is required to install an automatic fire sprinkler system under this paragraph need not meet other fire-safety requirements of Chapter 23, NPFA 101, 1994 edition which exceed the provisions of NFPA 101, 1988 edition. The mandate contained in this paragraph which requires certain facilities to install an automatic fire sprinkler system supersedes any other requirement.

e. This paragraph does not supersede the exceptions granted in NFPA 101, 1988 edition or 1994 edition.

f. This paragraph does not exempt facilities from other fire-safety provisions adopted under s. 633.022 and local building code requirements in effect before July 1, 1995.

g. A local government may charge fees only in an amount not to exceed the actual expenses incurred by local government relating to the installation and maintenance of an automatic fire sprinkler system in an existing and properly licensed adult congregate living facility structure as of January 1, 1996.

h. If a licensed facility undergoes major reconstruction or addition to an existing building on or after January 1, 1996, the entire building must be equipped with an automatic fire sprinkler system. Major reconstruction of a building means repair or restoration that costs in excess of 50 percent of the value of the building as reported on the tax rolls, excluding land, before reconstruction. Multiple reconstruction projects within a 5-year period the total costs of which exceed 50 percent of the initial value of the building at the time the first reconstruction project was permitted are to be considered as major reconstruction. Application for a permit for an automatic fire sprinkler system is required upon application for a permit for a reconstruction project that creates costs that go over the 50-percent threshold.

i. Any facility licensed before January 1, 1996, that is required to install an automatic fire-sprinkler system shall ensure that the installation is completed within the following timeframes based upon evacuation capability of the facility as determined under subparagraph (a)1.:

(I) Impractical evacuation capability, 24 months.

(II) Slow evacuation capability, 48 months.

(III) Prompt evacuation capability, 60 months.

The beginning date from which the deadline for the automatic fire sprinkler installation requirement must be calculated is upon receipt of written notice from the local fire official that an automatic fire sprinkler system must be installed. The local fire official shall send a copy of the document indicating the requirement of a fire sprinkler system to the Agency for Health Care Administration.

j. It is recognized that the installation of an automatic fire sprinkler system may create financial hardship for some facilities. The appropriate local fire official shall, without liability, grant two 1-year extensions to the timeframes for installation established herein, if an automatic fire sprinkler installation cost estimate and proof of denial from two financial institutions for a construction loan to install the automatic fire sprinkler system are submitted. However, for any facility with a Class I or Class II, or a history of uncorrected Class III, fire-safety deficiencies, an extension must not be granted. The local fire official shall send a copy of the document granting the time extension to the Agency for Health Care Administration.

k. A facility owner whose facility is required to be equipped with an automatic fire sprinkler system under Chapter 23, NFPA 101, 1994 edition, adopted herein, must disclose to any potential buyer of the facility that an installation of an automatic fire sprinkler requirement exists. The sale of the facility does not alter the timeframe for the installation of the automatic fire sprinkler system.

l. Existing facilities required to install an automatic fire sprinkler system as a result of construction-type restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted herein, or evacuation-capability requirements shall be notified by the local fire official in writing of the automatic fire sprinkler requirement as well as the appropriate date for final compliance as provided in subparagraph (a)2. The local fire official shall send a copy of the document to the Agency for Health Care Administration.

m. Except in cases of life-threatening fire hazards, if an existing facility experiences a change in the evacuation capability, or if the local authority having jurisdiction identifies a construction-type restriction, such that an automatic fire sprinkler system is required shall be afforded time for installation as provided in subparagraph (a)2.

n. There is created a study-work group consisting of representatives of the State Fire Marshal's Office, Florida Fire Chiefs' Association, Florida Fire Marshals' Association, Florida Assisted Living Association, Florida Association of Homes for the Aging, Florida Health Care Association, Florida League of Cities, Florida Association of Counties, Florida State Firemen's Association, Building Officials' Association of Florida, HRS Aging and Adult Services, and the Agency for Health Care Administration. Each entity involved shall select its representative to the study-work group. The Florida Fire Chiefs' Association shall coordinate study-work group activities. The study-work group shall examine the

National Fire Protection Association, NFPA 101, Chapter 23, 1994 edition, and shall report to the Legislature by December 31, 1995, its recommendations for fire-safety standards that will provide a reasonable level of fire safety for the protection of adult congregate living facility residents without imposing unnecessary economic impact on facilities regulated under this part. Expenses incurred while participating in this study-work group activity shall be borne by the participants.

Facilities *that* ~~which~~ are fully sprinkled and in compliance with other firesafety standards *are* ~~shall~~ not ~~be~~ required to conduct more than one of the required fire drills between the hours of 11 p.m. and 7 a.m., per year. In lieu of the remaining drills, staff responsible for residents during such hours *may be required to* ~~shall~~ participate in a mock drill *that* ~~which~~ includes a review of evacuation procedures. ~~The agency shall not duplicate fire inspections performed by state or local fire marshals.~~ Such standards *must* ~~shall~~ be included or referenced in the rules *adopted* ~~promulgated~~ by the department after consultation with the State Fire Marshal. Pursuant to s. 633.022(1)(b), the State Fire Marshal *is* ~~shall be~~ the final administrative authority for firesafety standards established and enforced pursuant to this section. *All licensed facilities must have an annual fire inspection conducted by the local fire marshal or authority having jurisdiction.*

(b) The preparation and annual update of a comprehensive emergency management plan. Such standards must be included in the rules adopted by the department after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; communicating with families; and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(c) The number and qualifications of all personnel having responsibility for the care of residents. The rule *must* ~~shall~~ require adequate staff to provide for the safety of all residents. *Facilities licensed for 17 or more residents are required to maintain an alert staff for 24 hours per day.*

(d) All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of residents. The rules *must* ~~shall~~ clearly delineate the responsibilities of the agency's licensure staff and the responsibilities of the county public health units and ensure that inspections are not duplicative. The agency may collect fees for food service inspections conducted by the county public health units and transfer such fees to the department.

(e) The levying and enforcement of penalties and use of income from fees and fines.

(f) The enforcement of the resident bill of rights specified in s. 400.428.

(g) The care and maintenance of residents, which *must* ~~shall~~ include, but *is* not ~~be~~ limited to:

1. The provision of personal services;

2. The provision of, or arrangement for, social and leisure activities;

3. The arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents;

4. The provision of limited nursing services; and

5. The provision of extended congregate care services.

(h) The establishment of specific criteria to define appropriateness of admission and continued residency.

(i) The definition and use of physical or chemical restraints. The use of physical restraints is limited to half-bed rails as prescribed and documented by the resident's physician with the consent of the resident or, if applicable, the resident's representative or designee or the resident's surrogate, guardian, or attorney in fact. The use of chemical restraints is limited to prescribed dosages of medications authorized by the resident's physician and must be consistent with the resident's diagnosis. Residents who are receiving medications that can serve as chemical restraints must be evaluated by their physician at least annually to assess:

1. The continued need for the medication.

2. The level of the medication in the resident's blood.

3. The need for adjustments in the prescription.

Section 61. Section 400.444, Florida Statutes, is amended to read:

400.444 Construction and renovation; requirements.—The requirements for the construction and renovation of a facility *must* ~~shall~~ comply with the provisions of chapter 553 which pertain to building construction standards, including plumbing, electrical code, glass, manufactured buildings, accessibility for persons with disabilities; *with,* ~~and~~ the state minimum building code; *and with uniform firesafety standards under s. 633.022.*

Section 62. Section 400.452, Florida Statutes, is amended to read:

400.452 Staff training and educational programs; core educational requirement.—

(1) The department shall provide, or cause to be provided, training and educational programs for the administrators and such other facility staff as are defined by the department to better enable them to appropriately respond to the needs of residents and to meet licensure requirements. The department shall also establish a core educational requirement to be used in these programs. *The core educational requirement training* programs *must* ~~shall~~ be provided by the department or by a provider approved by the department at least *quarterly in each planning and service area of the state* ~~annually~~. The core educational requirement *must* ~~shall~~ cover at least the following *topics* ~~topic areas~~:

(a) State law and rules on adult congregate living facilities.

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

(c) Special needs of elderly persons, persons with mental illness, and persons with developmental disabilities.

(d) Nutrition and food service, including acceptable sanitation practices for preparing, storing, and serving food.

(e) Proper techniques for assisting residents with self-administered medication, including recordkeeping.

(f) Firesafety requirements, including fire evacuation drills.

(2) Such *a* program *must* ~~shall~~ be available at least *quarterly in each planning and service area of the Department of Elderly Affairs* ~~annually~~. *The competency test must be developed by the department in conjunction with the agency and providers and must be available for use by January 1, 1997. Beginning July 1, 1997, a new* facility *administrator must* ~~administrators and such staff shall~~ complete *the* ~~a~~ core educational requirement *including the competency test* within *3 months after being employed as an administrator* ~~a reasonable time period determined by the department~~. Failure to complete a core educational requirement ~~within the time set by the department~~ is a violation of this part and subjects the violator to a penalty as prescribed in s. 400.419. Administrators licensed in accordance with chapter 468, part II, are exempt from this requirement. Other licensed professionals may be *exempted* ~~exempt~~, as determined by the department by rule. Persons responsible for managing the facility's food service who successfully complete the core training on or after October 1, 1991, are exempt from the certification requirements mandated by s. 381.061(9).

(3) Any facility *more than 90 percent of whose total capacity of residents receive* ~~which has at least one resident who receives~~ monthly optional supplementation payments is not required to pay for the training and education programs provided under this section. *A facility that has one or more such residents shall pay a reduced fee that is proportional to the percentage of such residents in the facility.* A facility *that* ~~which~~ does not have any residents who receive monthly optional supplementation payments must pay a reasonable fee, as established by the department, for ~~such~~ training and education programs.

(4) Administrators are required to participate in continuing education for a minimum of 12 contact hours every 2 years as specified by rule of the department.

(5)~~(4)~~ If the *agency* ~~department~~ determines that there are problems in a facility that could be reduced through specific staff training or education beyond that already required under this section, the *agency* ~~department~~ may require~~, and provide, or cause to be provided,~~ the training or education of any ~~personal care~~ staff in the facility.

Section 63. Section 400.4415, Florida Statutes, is created to read:

400.4415 Adult congregate living facilities advisory committee.—

(1) There is created the adult congregate living facilities advisory committee, which shall assist the agency in developing and implementing a pilot rating system for facilities. The committee shall consist of nine members who are to be appointed by, and report directly to, the director of the agency. The membership is to include:

(a) One researcher from a university center on aging.

(b) One representative from the Florida Health Care Association.

(c) One representative from the Florida Assisted Living Association.

(d) One representative from the Florida Association of Homes for the Aging.

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

(f) One representative from the aging and adult services program of the Department of Health and Rehabilitative Services.

(g) One representative from the alcohol, drug abuse, and mental health program of the Department of Health and Rehabilitative Services.

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

(i) One consumer representative from a district long-term-care ombudsman council.

(2) The committee shall perform the following duties:

(a) Assist in developing a pilot adult-congregate-living-facilities rating system based on the rules developed under this part, and including the identification and specification of criteria to be used in determining a superior rating.

(b) Assist in developing surveyor guidelines and training to ensure the equitable application of the adult-congregate-living-facility rating system.

(c) Assist in developing a methodology for evaluation of the pilot rating system.

(3) The agency shall, over a 24-month period, implement a pilot rating system for facilities. The agency shall evaluate facilities within selected regions of the state and make a determination as to the degree of compliance by each licensee with the established rules adopted under this part as a basis for assigning a rating to that facility. In addition to compliance with regulatory rules, the rating shall be based upon the licensee's demonstration of enhanced initiatives to promote resident autonomy, resident independence, and a noninstitutional living environment. The agency shall base its evaluation on the most recent inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

(4) The agency shall assign one of the following ratings to each facility: standard, conditional, or superior. The agency shall adopt rules establishing uniform procedures for the rating of facilities, and specifying criteria for each rating category, which shall include consideration of the number and class of any facility violations with regulatory standards and corrective action taken by a facility to achieve required compliance. Further, the criteria for a superior rating shall include demonstrated programs and services that provide or promote enhanced opportunities for independent functioning, autonomy in decisionmaking and choices, and noninstitutional living, including at least two programs or initiatives developed to encompass at a minimum, but not limited to, the following areas:

(a) Dietary or nutritional services.

(b) Physical environment.

(c) Restorative therapies and self-help activities.

(d) Social services.

(5) In determining the rating and evaluating the overall quality of care and services, the agency 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, long-term-care ombudsman council members in the district in which the facility is located, guardians of residents, and staff of the facility.

(6) The current rating of each facility must be indicated in bold print on the face of the license. Correction of all deficiencies, within the period approved by the agency, shall result in termination of the conditional rating. Failure to correct the deficiencies within a reasonable period approved by the agency shall be grounds for the imposition of sanctions pursuant to this part.

(7) 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 section and with rules adopted by the department in consultation with the agency.

(8) A superior rating is not transferable to another license, except when an existing facility is being relicensed in the name of any entity related to the current licenseholder by common ownership or control and there will be no change in the management, operation, or programs at the facility as a result of relicensure.

(9) The pilot rating system shall be implemented for a period not to exceed 2 years. Within 1 year of the completion of the pilot, the agency shall prepare and submit to the Legislature a report on the effectiveness of the rating system in assisting consumers to make informed choices, the utilization of the rating system as a measure of quality of services and care provided by facilities, and the impact of the rating system upon the enhancement of services provided throughout Florida's adult congregate living facility industry.

Section 64. Adult Congregate Living Facility Fire Prevention Loan Program.—

(1) During fiscal year 1995-1996, the sum of $500,000 from the Insurance Commissioners Regulatory Trust Fund shall be set aside to created the Adult Congregate Living Facility Fire Prevention Loan Program. This program shall be administered by the Florida Fire Chiefs' Association. The association may use no more than $60,000 of the loan program sum for administrative purposes.

(2) The Department of Health and Rehabilitative Services, in conjunction with the Agency for Health Care Administration and the Department of Insurance, must develop criteria for the Florida Fire Chiefs' Association to follow in granting these loans to facilities.

(3) The criteria developed under subsection (2) must include, but need not be limited to, criteria for prioritizing those facilities eligible for this loan program which include preference to those facilities that house residents receiving optional state supplementation under section 409.212, Florida Statutes, and have an evaluation capability classified as impractical.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 57, line 6, after the semicolon (;) insert: amending s. 400.402, F.S.; modifying the definition of "administrator," "mental health resident," and "service plan"; amending s. 400.407, F.S.; deleting a limited mental health license; eliminating certain fees; creating s. 400.4075, F.S.; establishing requirements for a limited mental health license; amending s. 400.408, F.S.; providing that penalties for certain referrals apply only when an admissions moratorium is in effect; amending s. 400.411, F.S.; making ch. 419, F.S., applicable to part III, ch. 400, F.S.; requiring proof of legal right to occupy property; requiring proof of a firesafety inspection; amending s. 400.412, F.S.; requiring proof of legal right to occupy a property by a transferee; amending s. 400.414, F.S.; allowing the agency to take action against a facility for intentional or negligent acts pertaining to firesafety standards; requiring compliance with firesafety orders; specifying a time frame within which a hearing officer must render a decision with regard to an administrative hearing; amending s. 400.417, F.S.; requiring proof of a firesafety inspection for license renewal; amending s.

400.4176, F.S.; requiring background screening on all new administrators; amending s. 400.418, F.S.; providing for disposition of fees; amending s. 400.428, F.S.; providing for inspections and investigations; amending s. 400.441, F.S.; requiring the adoption of quality resident-care standards; providing for a determination of evacuation capability; providing fire-safety requirements; requiring the installation of automatic fire sprinkler systems within specified deadlines; creating a study-workgroup to study firesafety standards and report its recommendation to the Legislature; requiring an annual fire inspection by the local fire marshal; requiring certain facilities to be staffed 24 hours every day; amending s. 400.444, F.S.; requiring compliance with uniform firesafety standards when constructing or renovating a facility; amending s. 400.452, F.S.; adding a topic to the core educational requirement; requiring certain training; modifying the exemption from paying a training fee; eliminating a requirement that the department provide certain training; creating s. 400.4415, F.S.; creating an adult congregate living facility advisory committee; specifying membership and duties of the committee; creating a pilot rating system for adult congregate living facilities; requiring the agency to submit a report to the Legislature; creating an adult congregate living facility fire prevention loan program;

Senators Burt and Bankhead offered the following amendment to **Amendment 1** which was moved by Senator Bankhead and adopted:

Amendment 1E (with Title Amendment)—On page 52, line 31, insert:

Section 49. Paragraph (i) of subsection (7) of section 212.08, Florida Statutes, 1994 Supplement, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(i) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention. *Residents of a home for the aged are exempt from payment of taxes on meals provided through the facility. A home for the aged is defined as a facility that is licensed or certified in part or in whole under chapter 400 or chapter 651, or that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act, or other such similar facility designed and operated primarily for the care of the aged.*

And the title is amended as follows:

In title, on page 57, line 6, after the semicolon (;) insert: amending s. 212.08, F.S.; providing an exemption from payment of taxes for residents of certain homes for the aged,

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

Amendment 1F—On page 52, line 31, insert:

Section 49. Subsection (7) of section 651.118, Florida Statutes, is amended to read:

651.118 Agency for Health Care Administration; certificates of need; sheltered beds; community beds.—

(7) Notwithstanding the provisions of subsection (2), at the discretion of the continuing care provider, sheltered nursing home beds may be used for persons who are not residents of the facility and who are not parties to a continuing care contract for a period of up to 5 years after the date of issuance of the initial nursing home license. *However, a facility may continue to use the sheltered beds beyond the five-year limit to serve such persons for an additional three years if the occupancy rate of the sheltered nursing home beds by residents of the facility is less than 91 percent. After the three years, a facility may use up to 30 percent of its sheltered beds for persons who are not residents of the facility and are not parties to a continuing care contract until the occupancy rate of such beds by residents of the facility reaches 80 percent. For purposes of this section, a "resident" is defined as a person who, upon admission to the facility, resides in a part of the facility not licensed under part II of chapter 400.*

Amendment 1 as amended was adopted.

On motion by Senator Forman, by two-thirds vote **CS for HB's 1689 and 1219** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

CS for SB 1372—A bill to be entitled An act relating to justice system costs and revenues; creating s. 218.325, F.S.; providing for a uniform chart of accounts and financial reporting for court and justice system costs and revenues; providing criteria; creating the Uniform Chart of Accounts Development Committee; providing duties of the committee; providing for membership on the committee; providing for per diem and travel; providing for certain groups to assist the committee; requiring a report; providing an appropriation; requiring the Comptroller to adopt a rule implementing the Uniform Chart of Accounts; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for SB 1372** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

SB 290—A bill to be entitled An act relating to funding for criminal proceedings; amending ss. 27.38, 27.60, F.S.; revising the budget transfer authority of state attorneys and public defenders; providing an effective date.

—was read the second time by title.

The Committee on Criminal Justice recommended the following amendment which was moved by Senator Grant and failed:

Amendment 1 (with Title Amendment)—On page 1, lines 10-30; on page 2, lines 2-31; and on page 3, lines 2-11, strike all of said lines and insert.

Section 1. Subsection (1) of section 27.38, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

27.38 Budget transfer authority*; carryforward of unexpended funds*.—

(1) Notwithstanding the provisions of s. 216.292, each state attorney, whenever he deems it necessary by reason of changed conditions, may transfer appropriations funded from identical funds as prescribed in s. 215.32, except appropriations for fixed capital outlay, and transfer the amounts included within the total original approved budget and releases as furnished pursuant to ss. 216.181 and 216.192, as follows:

(a) Between categories of appropriations within a budget entity, if no category of appropriation is *changed* ~~increased or decreased~~ by more than *$100,000* ~~$25,000~~ plus 5 percent of the original approved budget by all action taken under this subsection.

(b) Additionally, between budget entities within identical categories of appropriations, if no category of appropriation is *changed* ~~increased or decreased~~ by more than *$100,000* ~~$25,000~~ plus 5 percent of the original approved budget by all action taken under this subsection.

Such authorized revisions, together with related changes, if any, in the plan for release of appropriations, shall be transmitted by the state attorney to the Comptroller for entry in his records in the manner and format prescribed by the Executive Office of the Governor in consultation with the Comptroller. A copy of such revision shall be furnished the Executive Office of the Governor, the chairmen of the legislative appropriations committees, and the Auditor General.

(4) Notwithstanding the provisions of s. 216.301, on July 1 of each year the Executive Office of the Governor shall certify forward all unexpended funds appropriated for each state attorney's office in accordance with the following provisions:

(a) Unexpended funds which are carried forward shall not exceed $100,000 or 2 percent of the total current year's budget of the state attorney's office, whichever is less, and shall be carried forward by the state attorney to whose office the funds were allocated.

(b) The unexpended funds carried forward shall be expended only for nonrecurring expenditures.

(c) A state attorney's office shall not be penalized in the allocation of subsequent funds as a result of unexpended funds being carried forward.

Section 2. Subsection (1) of section 27.60, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

27.60 Budget transfer authority; *carryforward of unexpended funds.*—

(1) Notwithstanding the provisions of s. 216.292, each public defender, whenever he deems it necessary by reason of changed conditions, may transfer appropriations funded from identical funds as prescribed in s. 215.32, except appropriations for fixed capital outlay, and transfer the amounts included within the total original approved budget and releases as furnished pursuant to ss. 216.181 and 216.192, as follows:

(a) Between categories of appropriations within a budget entity, if no category of appropriation is *changed* ~~increased or decreased~~ by more than *$100,000* ~~$25,000~~ plus 5 percent of the original approved budget by all action taken under this subsection.

(b) Additionally, between budget entities within identical categories of appropriations, if no category of appropriation is *changed* ~~increased or decreased~~ by more than *$100,000* ~~$25,000~~ plus 5 percent of the original approved budget by all action taken under this subsection.

Such authorized revisions, together with related changes, if any, in the plan for release of appropriations, shall be transmitted by the public defender to the Comptroller for entry in his records in the manner and format prescribed by the Executive Office of the Governor in consultation with the Comptroller. A copy of such revision shall be furnished the Executive Office of the Governor, the chairmen of the legislative appropriations committees, and the Auditor General.

(4) Notwithstanding the provisions of s. 216.301, on July 1 of each year the Executive Office of the Governor shall certify forward all unexpended funds appropriated for each public defender's office in accordance with the following provisions:

(a) Unexpended funds which are carried forward shall not exceed $100,000 or 2 percent of the total current year's budget of the public defender's office, whichever is less, and shall be carried forward by the public defender to whose office the funds were allocated.

(b) The unexpended funds carried forward shall be expended only for nonrecurring expenditures.

(c) A public defender's office shall not be penalized in the allocation of subsequent funds as a result of unexpended funds being carried forward.

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

And the title is amended as follows:

In title, on page 1, line 5, after the semicolon (;) insert: providing for carryforward of unexpended funds appropriated to state attorneys and public defenders; providing a limit on the amount carried forward; providing restrictions on the expenditure of such funds;

On motion by Senator Grant, by two-thirds vote **SB 290** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

SB 1972—A bill to be entitled An act relating to educational finance; amending s. 236.083, F.S.; revising the formula for funding public school student transportation; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendments which were moved by Senator Sullivan and adopted:

Amendment 1—On page 2, line 27, through page 5, line 8, strike all of said lines and insert: $T = B + EX$. The elements of this formula are defined as follows: T is the total dollar allocation for transportation. B is the base transportation dollar allocation prorated by an adjusted student membership count. The adjusted membership count shall be derived from a multiplicative index function in which the base student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. EX is the base transportation dollar allocation for disabled students prorated by an adjusted disabled student membership count. The base transportation dollar allocation for disabled students is the total state base disabled student membership count weighted for increased costs associated with transporting disabled students and multiplying it by the prior year's average per student cost for transportation. The adjusted disabled student membership count shall be derived from a multiplicative index function in which the weighted base disabled student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. Each adjustment factor shall be designed to affect the base allocation by no more or less than 10 percent. ~~Subject to~~

Amendment 2—On page 7, line 16, through page 8, line 4, strike all of said lines and insert: ~~(9)~~. If the funds appropriated for the purpose of implementing this section are not sufficient to pay the *base transportation allocation and the base transportation allocation for disabled students* ~~requirements in full~~, the Department of Education shall prorate the available funds on a percentage basis. *If the funds appropriated for the purpose of implementing this section exceed the sum of the base transportation allocation and the base transportation allocation for disabled students, the base transportation allocation for disabled students shall be limited to the amount calculated in subsection (2) and the remaining balance shall be added to the base transportation allocation.*

Amendment 3—On page 8, strike all of lines 22-26 and insert: ~~are transported by general purpose transportation.~~ The *allocation* ~~allowable cost~~ per student shall be equal to the round-trip fare charged by the general purpose transportation system or the *allocation* ~~allowable cost~~ per student riding a school bus, whichever is less.

Amendment 4—On page 9, strike all of lines 3-6

On motion by Senator Sullivan, by two-thirds vote **SB 1972** 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

SENATOR CRIST PRESIDING

MOTION

On motion by Senator Jennings, the rules were waived and time of recess was extended until 7:15 p.m.

Consideration of **CS for SB 1028** and **SB 1426** was deferred.

On motion by Senator McKay, by two-thirds vote **HB 1575** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator McKay—

HB 1575—A bill to be entitled An act relating to preschool education; requiring the State Board of Education to adopt rules establishing the ratio of adults to children in preschool classes for children who have disabilities; requiring certain training, subject to approval by the Department of Education and the Department of Health and Rehabilitative Services, for paraprofessional employees who teach preschool children who have disabilities; providing an effective date.

—a companion measure, was substituted for **SB 1452** and read the second time by title. On motion by Senator McKay, by two-thirds vote **HB 1575** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

Consideration of **SB 910** was deferred.

SENATOR DUDLEY PRESIDING

On motion by Senator Myers, by two-thirds vote **CS for HB 27** was withdrawn from the Committee on Transportation.

On motion by Senator Myers—

CS for HB 27—A bill to be entitled An act relating to road designations; designating a portion of U.S. 27 in Palm Beach County as the "Tom and Marian Lewis Highway"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—a companion measure, was substituted for **SB 642** and read the second time by title. On motion by Senator Myers, by two-thirds vote **CS for HB 27** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motion by Senator Crist, by two-thirds vote **HB 2123** was withdrawn from the Committees on Higher Education; and Governmental Reform and Oversight.

On motion by Senator Crist, the rules were waived and—

HB 2123—A bill to be entitled An act relating to building designation; designating the entranceway building of the University Center at Florida State University the "T. K. Wetherell Building"; providing for the erection of appropriate markers; designating the St. Lucie Regional Service Center as the Dr. Clem C. Benton Building; directing the Department of Management Services to erect suitable signs; providing an effective date.

—a companion measure, was substituted for **SB 1976** and read the second time by title. On motion by Senator Crist, by two-thirds vote **HB 2123** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **SB 2780** was deferred.

SB 774—A bill to be entitled An act relating to building designations; designating the new highway patrol station in DeLand the "Trooper Gerald Creston Thomas Highway Patrol Station" and directing the Department of Highway Safety and Motor Vehicles to erect appropriate markers; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **SB 774** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 824—A bill to be entitled An act relating to road designations; designating a portion of U.S. Highway 98 in Bay County as the "Panama City Beach Parkway"; designating a portion of State Road 392 in Bay County as "Hutchison Boulevard"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the second time by title. On motion by Senator Harden, by two-thirds vote **SB 824** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

RECONSIDERATION

On motion by Senator Harden, the Senate reconsidered the vote by which **SB 824** passed this day.

On motion by Senator Harden, by two-thirds vote **CS for HB 425** was withdrawn from the Committee on Transportation.

On motion by Senator Harden, the rules were waived and by two-thirds vote—

CS for HB 425—A bill to be entitled An act relating to road designations; designating a portion of U.S. Highway 98 in Bay County as the "Panama City Beach Parkway"; designating a portion of State Road 392 in Bay County as "Hutchison Boulevard"; directing the Department of Transportation to erect suitable markers; codesignating a portion of State Road 994 (Quail Roost Drive) in Dade County as "American Bankers Drive"; designation of Captains Padron, Perez and Sosa Way; authorizing the Department of Transportation to erect suitable markers; providing an effective date.

—a companion measure, was substituted for **SB 824** and read the second time by title. On motion by Senator Harden, by two-thirds vote **CS for HB 425** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

MOTION

On motion by Senator Jenne, the rules were waived and time of recess was extended until 7:30 p.m.

On motion by Senator Latvala, by two-thirds vote **CS for HB 435** was withdrawn from the Committee on Governmental Reform and Oversight.

On motion by Senator Latvala—

CS for HB 435—A bill to be entitled An act relating to building designations; designating the conference center building constructed for the Florida Public Service Commission the "Betty Easley Conference Center"; designating the office building constructed for the Florida Public Service Commission the "Gerald L. Gunter Building"; directing the Department of Management Services to erect suitable markers; providing an effective date.

—a companion measure, was substituted for **SB 2780** and read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for HB 435** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **SB 834** was deferred.

THE PRESIDENT PRESIDING

On motion by Senator Williams, by two-thirds vote **HB 2125** was withdrawn from the Committee on Agriculture.

On motion by Senator Williams—

HB 2125—A bill to be entitled An act relating to building designations; designating an agricultural inspection station in Suwannee County as the Wesley L. Silas Agricultural Inspection Station; providing for the erection of markers; amending s. 240.3031, F.S.; changing the name of North Florida Junior College; designating Interstate Highway 10 as the "Pearl Harbor Memorial Highway"; providing for the erection of suitable markers; providing an effective date.

—a companion measure, was substituted for **SB 974** and read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 2125** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 1024—A bill to be entitled An act relating to the designation of state buildings; designating the Physical Therapy Educational Building of the Health Science Center at the University of Florida as the Ruth K. and Shepard Broad Physical Therapy Educational Building; authorizing the University of Florida to erect appropriate markers; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. (1) The Physical Therapy Educational Building at the University of Florida Health Science Center is designated the "Ruth K. and Shepard Broad Physical Therapy Educational Building."

(2) The University of Florida may erect appropriate markers bearing the designation made by this act.

Section 2. (1) The eastbound agricultural inspection station in Suwannee County is designated the Wesley L. Silas Agricultural Inspection Station.

(2) The Department of Agriculture and Consumer Services shall erect appropriate markers to designate the Wesley L. Silas Agricultural Inspection Station.

Section 3. (1) The new Florida Public Service Commission building located in Tallahassee, Florida, is named the "Jerry W. Carter Building" in honor of Jerry W. Carter.

(2) The Florida Public Service Commission is directed to erect suitable markers designating the "Jerry W. Carter Building."

Section 4. Fernandina Harbor Marina, located in Fernandina Beach, at the westerly terminus of Centre Street, is designated the "Marine Welcome Station" for the state.

Section 5. Subsection (17) of section 240.3031, Florida Statutes, is amended to read:

240.3031 State Community College System defined.—The State Community College System shall consist of the following:

(17) North Florida *Community* ~~Junior~~ College.

Section 6. This act shall take effect July 1, 1995.

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 state designations; designating the Physical Therapy Educational Building of the Health Science Center at the University of Florida as the Ruth K. and Shepard Broad Physical Therapy Educational Building; authorizing the University of Florida to erect appropriate markers; designating an agricultural inspection station in Suwannee County as the Wesley L. Silas Agricultural Inspection Station; providing for the erection of markers; designating the new building constructed to house the Florida Public Service Commission as the "Jerry W. Carter Building"; directing the commission to erect suitable markers; designating the Fernandina Harbor Marina the "Marine Welcome Station" for the state; amending s. 240.3031, F.S.; changing the name of North Florida Junior College; providing an effective date.

WHEREAS, Shepard Broad, business leader, philanthropist, community activist, and longtime supporter of the University of Florida, distinguished himself in service to this state and to the State University System by providing tangible support to the University of Florida and other educational institutions in the State University System, and

WHEREAS, Shepard Broad wishes to honor his deceased wife, Ruth K. Broad, a community leader and philanthropist, and

WHEREAS, it is appropriate that Ruth K. and Shepard Broad be recognized for their contributions to the State University System, the University of Florida and its students, and the residents of this state, and

WHEREAS, Wesley L. Silas served honorably as an agricultural law enforcement officer in the Department of Agriculture and Consumer Services for 13 years before his death in the line of duty on March 1, 1994, during a routine truck inspection, and

WHEREAS, Wesley L. Silas is survived by his mother, Minnie Pearl Silas, his brother, Lamar Silas, and countless friends, and

WHEREAS, Wesley L. Silas devoted more than 20 years of volunteer service to the youth of Suwannee County, serving in various coaching and training capacities with high school and youth football and baseball teams, and

WHEREAS, Wesley L. Silas's enthusiasm, professionalism, and loyal devotion to duty touched all who were privileged to know him, and his tragic and untimely death has caused a void in the hearts and minds of all he touched, and

WHEREAS, the Department of Agriculture and Consumer Services has lost a valuable employee and friend, and Wesley L. Silas's family has suffered an even greater hardship, and

WHEREAS, Wesley L. Silas's life exemplified his love of family, his sense of duty, his conviction to uphold what is right and proper, and his commitment to always do his best, and

WHEREAS, his life is a beacon of dedication to public service,

WHEREAS, Jerry W. Carter was the longest serving Public Service Commissioner in Florida history, and

WHEREAS, Jerry W. Carter was an energetic youth who grew up living along the French Broad River, in Del Rio, Tennessee, where he learned at an early age to use humor as a persuader, and

WHEREAS, as a nine-year-old peddler, he would stop at a homestead and occupy the young children while the mother would look and select bobbins, cloth, or notions and, then, at the height of interest, he would recall a humorous story to the man of the house, who would laugh and then say, "Okay, Ma, if you think we need it . . .," and

WHEREAS, Jerry W. Carter, for the next 75 years used his common sense, intellect, and humor to gain the voters' attention, show them his qualifications, and clinch their vote with humor, and

WHEREAS, Jerry W. Carter became one of Florida's great political figures, having served as Governor Sidney J. Catts' campaign manager in 1916, and later being appointed by Governors Catts, Hardee, and Martin as a member of the Hotel Commission, which was the forerunner of the present Public Service Commission, and

WHEREAS, Jerry W. Carter served as Florida's Hotel Commissioner, Railroad and Public Utilities Commissioner, and Public Service Commissioner during a career that spanned 44 years, and

WHEREAS, Jerry W. Carter accomplished changes that helped bring Florida and the South from Reconstruction into the Age of Technology, and

WHEREAS, Jerry W. Carter spearheaded the movement that "broke the back" of the northern and eastern railroad and manufacturing lobbyists who had helped to "colonize" the South as an agrarian supplier to the rich northern industrialists, and

WHEREAS, Jerry W. Carter helped to break up the "Arbitrary Differential," which was a system that required a manufactured product shipped from the South to the North to pay more than 40 percent for shipping than a similar product that was shipped from the North to the South, and

WHEREAS, Jerry W. Carter led the fight to abolish this economic serfdom in Florida, the South, and Washington, D.C. during his distinguished career, and to overturn this bondage of the South by the North, thereby freeing the South economically and encouraging the growth of great economic cities such as Atlanta, Houston, and Miami, and

WHEREAS, Jerry W. Carter's collective memoirs are housed at the J. Manning Strozier Library on the campus of the Florida State University enabling all to see and read about his rich life, and

WHEREAS, Jerry W. Carter's service to the people of this state and his devotion to his beloved wife, Mary Frances Holifield, and their seven sons and grandchildren will be long remembered by those who knew and respected him, and

WHEREAS, Jerry W. Carter is remembered as "Mr. Democrat," a political humorist who brought integrity and common sense to Florida politics in deciding regulatory issues involving millions of dollars, balancing the people's interests against the providers' interests and always keeping the trust of the people, NOW, THEREFORE,

On motion by Senator Williams, further consideration of **SB 1024** with pending **Amendment 1** was deferred.

CS for SB 952—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; exempting newspaper and magazine subscriptions sold by certain nonprofit organizations or schools for fundraising purposes from the tax; providing an effective date.

—was read the second time by title. On motion by Senator Casas, by two-thirds vote **CS for SB 952** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—1

RECONSIDERATION

On motion by Senator Grant, the Senate reconsidered the vote by which—

CS for SB 1372—A bill to be entitled An act relating to justice system costs and revenues; creating s. 218.325, F.S.; providing for a uniform chart of accounts and financial reporting for court and justice system costs and revenues; providing criteria; creating the Uniform Chart of Accounts Development Committee; providing duties of the committee; providing for membership on the committee; providing for per diem and travel; providing for certain groups to assist the committee; requiring a report; providing an appropriation; requiring the Comptroller to adopt a rule implementing the Uniform Chart of Accounts; providing an effective date.

—passed this day.

Senator Dudley moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (with Title Amendment)—On page 2, strike lines 25 and 26 and insert: compensation.

And the title is amended as follows:

In title, on page 1, line 10, strike "providing for per diem and travel"

On motion by Senator Grant, **CS for SB 1372** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

MOTION

On motion by Senator Silver, the rules were waived and time of recess was extended until final action on **SB 834**.

SB 834—A bill to be entitled An act relating to road designation; designating the portion of State Road 990, known as Killian Drive, from U.S. 1 to State Road 874, a state historic highway; prohibiting state funds from being expended on certain alterations of the drive or adjacent structures; providing for the erection of suitable markers; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendment which was moved by Senator Gutman:

Amendment 1—On page 1, line 27, strike everything above the enacting clause and insert: An act relating to the designation of state historic highways; designating Killian Drive in Dade County as a state historic highway; providing a definition; providing restrictions on the removal of trees from said highway; restricting alterations to the physical dimensions or location of the highway; providing for a public meeting prior to the removal of trees under certain circumstances; providing for the replanting of trees on the right-of-way; providing for the erection of suitable markers; providing an effective date.

WHEREAS, Killian Drive was one of the earliest and most important East-West roads in South Dade County, and

WHEREAS, Mr. Daniel Killian operated one of the first Indian trading posts near Killian Drive between 1917 and 1950, and

WHEREAS, Mr. Daniel Killian served as a Dade County Commissioner from 1922 to 1926, and

WHEREAS, the cornerstone of the Dade County Courthouse bears the name of Mr. Daniel Killian, and

WHEREAS, Mr. Daniel Killian was responsible for the erection of the first street lights, railroad depot, county home, and hospital in the area of Killian Drive, and

WHEREAS, Killian Drive is named after Mr. Daniel Killian, and

WHEREAS, to this day, Killian Drive retains its original character and appearance, in great contrast to other more modern highways and roads in Dade County, providing a visible and tangible reminder of the heritage of Killian Drive and representing a link with the past of southern Florida which, once destroyed, could never be restored, and

WHEREAS, Killian Drive should be preserved in order that present and future residents of Florida may enjoy and learn from the beauty of this historic area, NOW, THEREFORE,

On motion by Senator Gutman, further consideration of **SB 834** with pending **Amendment 1** was deferred.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, May 4, 1995: CS for SB 3018, CS for SB 2706, SB 1656, CS for SB 2506, SB 1556, CS for SB 1812, SB 1010, SB 1420, CS for SB 798, SB 1310, SB 2186, SB 2434, HB 271, SB 2148, SB 932, CS for SB 940, SB 188, SB 2358, SB 852, CS for SB 1048, SB 2096, SB 2546, CS for SB 2282, SB 684, SB 1334, CS for SB 1336, SB 2336, CS for SB 2944, SB 876, SB 632, SB 1828, CS for SB 102, SB 1622, CS for SB 1400, CS for SB 494, SB 1514, CS for SB 840, CS for SB 2382, CS for SB 1330, SB 2384, CS for SB 2030, SB 2934, SB 290, CS for CS for SB 1866, SB 318, SB 1526, SB 888, CS for SB 1846, SB 2726, CS for SB 444, CS for SB 1946, SB 1972, CS for SB 1028, SB 1426, SB 1452, SB 910, SB 642, SB 1976, SB 2780, SB 774, SB 824, SB 834, SB 974, SB 1024, CS for SB 952, CS for SB 204, SB 1020, CS for SB 220, SB 980, SB 562, CS for SB 1658, SB 1348, SB 478, SB 1754, SB 1776, CS for SB 1308, SB 1934, SB 486, SB 2542, SB 456, CS for SB 254, CS for SB 2158, SB 2690, SB 1760, SB 1962, SB 312, SB 1014, SB 1830, CS for SB 2140, SB 2568, CS for SB 2540, SB 66, CS for SB 36, CS for SB 2642, SB 2406, SB 1350, SB 458, CS for SB 1044, SB 1732, CS for SB 326, CS for SB 314, SB 1340, CS for CS for SB 544, SB 2242, SB 1390, SB 1484, SB 1704, SB 1482, SB 1542, CS for SB 1772, SB 1590, CS for SB 1034, CS for SB 1404, SB 998, SB 334, CS for SB 196, SB 38, SB 862, SB 1080, SB 1858, CS for SB 2686, CS for SB 1714, CS for SB 786, SB 1696, SB 1800, CS for SB 2016, HB 811, HB 959, HB 967, HB 1039, HB 1051, HB 1053, HB 1055, CS for HB 1173, HB 2471

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Judiciary recommends the following pass: CS for HB 455 with 1 amendment, CS for HB 481, CS for HB 1397, SB 264 with 2 amendments, SB 352, SB 660, SB 1056, SB 1430 with 1 amendment, SB 1736 with 1 amendment, SB 2988 with 2 amendments

The Committee on Natural Resources recommends the following pass: SB 2578 with 1 amendment

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

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

SB 3074—Not referenced.

SB 3076—Not referenced.

SR 3078 was introduced out of order and adopted this day.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 355, CS for CS for HB 417, HB 437, CS for HB 835, CS for HB 1163, CS for HB 1223, CS for HB's 1537 and 2107, HB 1583, CS for HB's 1711 and 649, CS for CS for HB 1919, CS for HB 2117, HB 2167, CS for HB 2229, HB 2395, CS for HB 2421, CS for HB 2695, CS for HB 2697, HB 2719, HB 2723; has passed by the required Constitutional three-fifths vote of the membership HB 2689; has passed as amended CS for HB 21, CS for HB 25, CS for HB 67, HB 205, CS for HB 229, CS for HB 251, CS for HB 299, HB 343, CS for HB 393, HB 647, CS for HB 665, CS for HB 671, CS for HB 681, CS for HB 739, CS for HB 1149, CS for HB 1167, CS for CS for HB 1317, CS for HB 1373, HB 1441, CS for HB 1485, CS for HB 1507, CS for HB 1581, CS for HB 1629, CS for CS for HB 1639, CS for HB 1647, CS for HB's 1689 and 1219, HB 1743, CS for HB 1757, CS for HB 1961, CS for HB 2045, CS for HB 2317, CS for HB 2377, HB 2487, HB 2499, HB 2519, CS for HB 2535, HB 2541, CS for CS for CS for HB 2615, HB 2651, HB 2721, HB 2725, HB 2727; has adopted as amended HM 493 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Finance and Taxation; and Representative Ascherl and others—

CS for HB 355—A bill to be entitled An act relating to convention development taxes; amending s. 212.0305, F.S.; authorizing the use of charter county convention development tax revenues for certain public improvements; removing certain conditions with respect to other authorized uses of such tax revenues; revising the rate of the special district convention development tax, the special convention development tax, and the subcounty convention development tax; providing an effective date.

—was referred to the Committees on Community Affairs; and Ways and Means.

By the Committees on Appropriations and Governmental Operations and Representative Arnold—

CS for CS for HB 417—A bill to be entitled An act relating to education; exempting the Knott Data Center and Projects, Contracts, and Grants budget entities from requirements relating to legislative budget requests; providing funding restrictions; requiring district school boards and other educational institutions to make timely payment for hearing officer services; amending s. 236.081, F.S.; transferring responsibility for preparation of the Florida Price Level Index from the Executive Office of the Governor to the Commissioner of Education; amending s. 213.053, F.S.; authorizing the Department of Revenue to share information with the Department of Education for purposes of preparing the index; providing effective dates.

—was referred to the Committees on Education; and Ways and Means.

By Representative Stabins—

HB 437—A bill to be entitled An act relating to state property; directing the Board of Trustees of the Internal Improvement Trust Fund to reconvey to Hernando County a certain tract of real property in that county for a specified sum; providing a legal description of said property; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Transportation; and Ways and Means.

By the Committee on Transportation and Representative Villalobos and others—

CS for HB 835—A bill to be entitled An act relating to license plates; providing for the issuance of a Red Ribbon HIV-AIDS Awareness license plate; providing fees; providing for the use of such fees; requiring a minimum number of applications before the license plate may be developed; providing for the discontinuance of such license plates; providing an effective date.

—was referred to the Committees on Transportation; and Ways and Means.

By the Committee on Governmental Operations and Representative Klein—

CS for HB 1163—A bill to be entitled An act relating to public records; creating the public records mediation program within the Office of the Attorney General; providing duties of the office relating to public records dispute mediation, legislation, and training; requiring a report; amending s. 119.01, F.S.; revising provisions relating to state policy on public records; providing legislative intent with respect to electronic recordkeeping and access to such records; amending s. 119.011, F.S.; revising the definition of "public records"; amending s. 119.083, F.S.; defining "proprietary software"; providing requirements applicable to agencies that use proprietary software and that maintain public records in electronic systems; providing for fees; prohibiting agencies from entering into certain contracts for creation or maintenance of a public records database; amending s. 257.36, F.S.; providing that the Division of Library and Information Services shall institute a training program relating to access to public records; providing an effective date.

—was referred to the Committee on Governmental Reform and Oversight.

By the Committee on Natural Resources and Representative Horan and others—

CS for HB 1223—A bill to be entitled An act relating to public lands; amending s. 258.015, F.S.; providing for parks endowment partnerships; providing legislative findings; authorizing the Legislature to appropriate moneys from the Land Acquisition Trust Fund as matching funds for certain purposes; providing limitations; authorizing the Florida State Parks Citizens Support Organizations to receive private donations for certain purposes; authorizing the Department of Environmental Protection to honor private donors in certain specified ways; authorizing the department to adopt rules; amending s. 259.032, F.S.; directing the Department of Environmental Protection to establish certain goals relating to control and removal of certain plant species; specifying a level of funding; amending s. 259.035, F.S.; requiring the Land Acquisition Advisory Council to review certain projects for less than fee simple acquisition; amending s. 373.1401, F.S.; providing requirements for certain contracts for management of lands in water management districts; amending s. 373.59, F.S.; changing certain capital improvement allocations from the Water Management Lands Trust Fund for water management districts; amending s. 375.041, F.S.; requiring certain moneys in the Land Acquisition Trust Fund to be transferred to the State Park Trust Fund for certain purposes; providing an effective date.

—was referred to the Committees on Natural Resources; and Ways and Means.

By the Committee on Corrections and Representative Melvin and others—

CS for HB's 1537 and 2107—A bill to be entitled An act relating to corrections; creating the "Prisoner Reimbursement Act of 1995"; providing definitions; providing guidelines and procedures for reimbursements by a prisoner in a state correctional institution, county detention facility, or municipal detention facility for specified expenses incurred by the state, county, or municipality; prescribing powers and duties of the Department of Corrections and governing bodies of counties and municipalities relating to civil actions for prisoner reimbursement; providing for

credit or payment of the reimbursement moneys to specified funds; providing an effective date.

—was referred to the Committees on Community Affairs and Criminal Justice.

By Representative Dennis and others—

HB 1583—A bill to be entitled An act relating to education; amending ss. 228.041, 230.23, and 231.141, F.S.; changing the term "teacher aide" to "education paraprofessional"; creating s. 231.143, F.S.; authorizing school districts to adopt a program for the career development of education paraprofessionals; specifying career development levels; providing restrictions; providing for rules; amending ss. 231.15, 231.3605, 236.685, 240.604, and 121.091, F.S.; revising terminology to conform; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Governmental Operations and Representative Davis and others—

CS for HB's 1711 and 649—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.052, F.S.; clarifying benefit payment and calculation procedure; providing for dual calculation of benefits when a member of the Elected State and County Officers' Class has creditable service in that class, followed by service in another class of the Florida Retirement System, on or after January 1, 1997; providing for matters relative thereto; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By the Committees on Finance and Taxation; and Transportation; and Representative Mackey—

CS for CS for HB 1919—A bill to be entitled An act relating to the local option fuel tax for county transportation systems; amending s. 336.025, F.S.; revising provisions which authorize certain counties to use tax proceeds for infrastructure; authorizing such counties to use a portion of the proceeds to pay a court-ordered refund of special assessments; authorizing pledge of such proceeds for bonded indebtedness not exceeding 15 years to pay such refund; providing for severability; providing an effective date.

—was referred to the Committees on Transportation; Community Affairs; and Ways and Means.

By the Committee on Community Affairs and Representative Upchurch and others—

CS for HB 2117—A bill to be entitled An act relating to community development districts; amending s. 190.009, F.S.; revising the requirements pertaining to disclosure of public financing of such districts; amending s. 190.012, F.S.; expanding the powers of such districts; amending s. 190.013, F.S.; revising the method by which districts adopt water management and control plans; amending s. 190.033, F.S.; revising the requirements whereby districts obtain bids; providing an exemption for commodities and services available only from a single source under certain circumstances and for perishable items; amending s. 190.035, F.S.; revising requirements pertaining to fees, rentals, and other charges for recreational facilities; amending s. 190.048, F.S.; revising the disclosure statement provided to purchasers of real property; requiring recording of a notice of establishment of a district; requiring existing districts to record such notice; providing an effective date.

—was referred to the Committees on Community Affairs; Governmental Reform and Oversight; and Ways and Means.

By Representative Ball—

HB 2167—A bill to be entitled An act relating to cholesterol screening; repealing part III of chapter 483, F.S., relating to the Cholesterol Screening Center Licensure Act; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on Corrections and Representative Crady—

CS for HB 2229—A bill to be entitled An act relating to probation and community control; amending s. 948.01, F.S., relating to court determinations with respect to probation or community control; removing provision authorizing consultation by the court with the local offender advisory council; removing provision requiring certain notifications by the Department of Corrections with respect to placement of offender on community control; repealing s. 948.015, F.S., relating to presentence investigation reports; amending s. 948.03, F.S.; deleting obsolete language; repealing s. 948.10(4), (5), and (6), F.S., relating to implementation of community control programs, development of community control implementation manual and community control resource directory, and departmental notifications with respect to placement of offender on community control; repealing s. 948.90, F.S., relating to local offender advisory councils; providing an effective date.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By Representative Albright and others—

HB 2395—A bill to be entitled An act relating to the Florida Agriculture Center and Horse Park; repealing s. 570.952(7), F.S., relating to the expenditure of state funds; providing an effective date.

—was referred to the Committees on Agriculture; Commerce and Economic Opportunities; and Ways and Means.

By the Committees on Finance and Taxation; and Regulated Industries; and Representative King—

CS for HB 2421—A bill to be entitled An act relating to the regulation of alcoholic beverages; amending s. 20.165, F.S., relating to the powers and authority assigned to employees of the Division of Alcoholic Beverages and Tobacco; providing for the powers of division employees who are law enforcement officers; repealing s. 561.07, F.S., relating to the powers and authority assigned to law enforcement officers of the Division of Alcoholic Beverages and Tobacco; amending s. 561.14, F.S., relating to the authority of licensed beverage manufacturers; amending s. 561.17, F.S.; providing for the authority of the Department of Agriculture and Consumer Services with respect to certification of sanitary requirements of licensed premises; amending s. 561.181, F.S., relating to the issuance of temporary initial beverage licenses; providing for the period of validity; amending s. 561.19, F.S., relating to issuance of an inactive license when no location has been specified; deleting a provision with regard to the transfer of the notice of selection for a license; amending s. 561.27, F.S.; revising provisions relating to renewal of an expired license; amending s. 561.29, F.S.; revising provisions relating to violations providing cause for discipline of licensees, the effective date of orders of suspension or revocation, and the authority of the Department of Agriculture and Consumer Services with respect to certification of sanitary requirements of licensed premises; amending s. 561.32, F.S., relating to transfers of licenses; removing a time limitation on the right to transfer a license; waiving a transfer fee and delinquent penalties under certain circumstances; amending s. 561.331, F.S.; revising time periods for validity of temporary licensure upon application for transfer, change of location, or change of type or series; amending s. 561.65, F.S., relating to a mortgagee's interest in a license; providing fees; providing for expiration of lien or security interest; amending s. 563.06, F.S.; amending requirement for stamp on malt beverage containers; allowing submission of facsimile of imprint to division for approval; amending s. 565.02, F.S.; creating a special license classification for marine exhibition parks; providing an effective date.

—was referred to the Committees on Regulated Industries; and Ways and Means.

By the Committees on Rules and Calendar; and Tourism and Cultural Affairs; and Representative Bloom and others—

CS for HB 2695—A bill to be entitled An act relating to public records; amending s. 288.1226, F.S.; authorizing the Florida Tourism Marketing Corporation to undertake or commission certain research; exempt-

ing the identity of certain persons from disclosure under certain circumstances; exempting certain information of the corporation from the public records law; providing for future review and repeal; providing findings of public necessity; providing an effective date.

—was referred to the Committee on Commerce and Economic Opportunities.

By the Committees on Finance and Taxation; and Regulated Industries; and Representative Geller—

CS for HB 2697—A bill to be entitled An act relating to taxation on greyhound racing; creating s. 550.09514, F.S.; providing for greyhound taxes; providing for distribution of purses; providing for audit and documentation requirements; providing an effective date.

—was referred to the Committees on Regulated Industries; and Ways and Means.

By the Committee on Business and Professional Regulation; and Representative Tobin and others—

HB 2719—A bill to be entitled An act relating to the regulation of physicians; providing applicability of chapter 92-33, Laws of Florida, as amended, to terms used in the medical practice acts and other provisions of law relating to regulation of the medical professions; amending s. 455.206, F.S.; correcting a cross reference; amending s. 455.207, F.S.; authorizing the appointment of nonboard members to board committees; amending s. 455.214, F.S.; allowing limited licensees to work for certain agencies or institutions; amending s. 455.2224, F.S.; requiring certain procedures of the department and the appropriate professional medical boards to incorporate the recommendations of the State Health Officer with respect to health care practitioners infected with hepatitis B or the human immunodeficiency virus; amending s. 455.2281, F.S., relating to enforcement of regulation of professions and occupations; including reference to the agency; amending s. 455.25, F.S., relating to disclosure of financial interests; requiring physicians or other health care providers to disclose their financial interest in certain entities; eliminating entity disclosure of financial interest; amending s. 458.303, F.S.; eliminating physicians' trained assistants from a provision exempting certain other practitioners from regulation under specified provisions of chapter 458; amending s. 458.307, F.S., relating to the Board of Medicine; deleting a provision relating to probable cause panels; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a fellowship to partially satisfy the licensing requirements; requiring applicants to provide sufficient information and fingerprints; revising a restriction on the number of times an applicant may fail the examination to include remediation after a certain number; eliminating a provision relating to restricted licensure of certain foreign-trained physicians, which provision was repealed on October 1, 1993; authorizing such foreign-trained physicians to pursue licensure notwithstanding the repeal of such provision; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; correcting a cross reference; eliminating a provision authorizing licensure under a period of supervision; amending s. 458.3145, F.S.; revising requirements for issuance and renewal of medical faculty certificates; revising a provision relating to the maximum number of certificateholders authorized at specified institutions and facilities; providing for the rights and responsibilities of certificateholders; prohibiting discrimination against certificateholders in the granting of certain staff membership, clinical privileges, or other credentials; amending ss. 458.316 and 458.3165, F.S.; correcting cross references and terminology; amending s. 458.317, F.S., relating to limited licenses; requiring the payment of fees if a person receives monetary compensation for the practice of medicine; providing that an applicant need not provide a copy of the medical degree; revising circumstances under which supervision is required; allowing limited licensees to work for certain agencies or institutions; correcting cross references; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; amending s. 458.320, F.S.; requiring physicians not carrying medical malpractice insurance to post notice and provide a written statement thereof; amending s. 458.331, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 458.3312, F.S.; prohibiting physicians from falsely representing that they are board-certified specialists; providing for the adoption of rules; amending s. 458.346, F.S.; providing for meetings of the Public Sector Physician Advisory Committee at least once a year or upon the call of the chair; amending s. 458.347, F.S.; providing for certification under ch. 458, F.S., of physician assistants certified under ch. 459, F.S.; defining the term "continuing medical education"; allowing physician assistants to show by affidavit evidence of compliance with statutory academic requirements; clarifying a provision relating to the number of physician assistants a physician may supervise; clarifying reexamination restrictions; revising certain other requirements for certification; allowing certain foreign medical school graduates to reapply for certification and providing requirements and restrictions with respect to examination of such applicants; deleting provisions relating to reactivation of an inactive certificate as a physician assistant and to automatic expiration of the certificate; amending s. 459.007, F.S.; clarifying requirements for licensure as an osteopathic physician by endorsement; amending s. 459.011, F.S.; providing that it is state policy that physicians licensed under ch. 458, F.S., and osteopathic physicians licensed under ch. 459, F.S., be accorded equal professional status and privileges and providing requirements with respect thereto; amending s. 459.015, F.S.; revising and providing grounds for disciplinary action; providing penalties; creating s. 459.0152, F.S.; prohibiting osteopathic physicians from falsely representing that they are board-certified specialists; providing for the adoption of rules; amending s. 459.022, F.S.; providing for certification under ch. 459, F.S., of physician assistants certified under ch. 458, F.S.; defining the term "continuing medical education"; allowing physician assistants to show by affidavit evidence of compliance with statutory academic requirements; clarifying a provision relating to the number of physician assistants a physician may supervise; clarifying reexamination restrictions; revising certain other requirements for certification; amending s. 460.406, F.S., relating to licensure as a chiropractor by examination; resolving a conflict between different versions of certain provisions; deferring to a later date the requirement that the required bachelor's degree be separate from the degree of chiropractic; creating s. 461.0055, F.S.; providing for investigation of the qualifications of applicants for licensure as a podiatrist; amending s. 461.006, F.S., relating to licensure as a podiatrist by examination; increasing application and examination fees; delaying a change in clinical experience requirements; amending s. 461.007, F.S.; increasing the license renewal fee; creating s. 461.011, F.S.; prohibiting sexual misconduct in the practice of podiatric medicine, for which there are disciplinary actions; amending s. 461.012, F.S.; clarifying a prohibition against advertising podiatric services without an active license or with a license fraudulently obtained; providing penalties; amending s. 461.013, F.S.; revising and providing grounds for disciplinary action; increasing the administrative fine; providing penalties; creating s. 461.018, F.S.; providing for limited scope of practice of podiatric medicine within a specified area of need; creating s. 461.019, F.S.; providing for a podiatric medical faculty certificate; amending s. 766.1115, F.S.; revising the definition of "health care provider" under the Access to Health Care Act; reenacting ss. 320.0848(7), 400.518(3)(b), 455.236(4)(g), 458.310(2)(a), 458.315(4), 458.320(6), 458.345(1)(c) and (2), 459.0085(6), 461.006(2)(c), 766.111(2), and 768.28(9)(b), F.S., relating to parking permits for the disabled, prohibited referrals to home health agencies, prohibited referrals between health care providers and providers of health care services, restricted medical licenses, temporary certificates for practice in areas of critical need, physician and osteopathic physician financial responsibility, registration of resident physicians, interns, and fellows, podiatry licensure, unnecessary diagnostic testing, and waiver of sovereign immunity, to incorporate the amendments to ss. 458.311, 458.331, 459.015, 461.013, and 766.1115, F.S., in references thereto; providing effective dates.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on Business and Professional Regulation; and Representative Tobin and others—

HB 2723—A bill to be entitled An act relating to the regulation of optometry and opticianry; amending s. 455.225, F.S.; including licensed optometrists among the physicians who may be reported on for incompetence, impairment, or unprofessional conduct by certain medical employees and staff members without retaliatory action, absent intentional fraud or malice; amending s. 455.247, F.S.; requiring licensed optometrists to report professional liability claims and actions against them; amending s. 463.006, F.S., relating to licensure and certification of

optometrists by examination; increasing application and examination fees; amending s. 463.007, F.S.; increasing the license renewal fee; amending s. 484.007, F.S.; revising requirements for licensure as an optician; amending s. 766.1115, F.S.; expanding the definition of "health care provider" under the Access to Health Care Act; reenacting s. 768.28(9)(b), F.S., relating to waiver of sovereign immunity, to incorporate the amendment to s. 766.1115, F.S., in a reference thereto; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on Commerce and Representative Mackey and others—

HB 2689—A bill to be entitled An act relating to trust funds; creating the Seafood Workers Economic Assistance Trust Fund within the Department of Environmental Protection; providing for source of moneys and purposes; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

—was referred to the Committees on Natural Resources; Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Natural Resources and Representative Smith—

CS for HB 21—A bill to be entitled An act relating to refrigerant recycling; amending s. 325.222, F.S.; clarifying definitions; amending s. 325.223, F.S.; requiring certification of certain establishments and mechanics; prohibiting the addition of refrigerants under certain circumstances; requiring sellers and distributors of refrigerants to maintain certain records; authorizing sale or distribution of refrigerants to certified technicians; providing penalties; deleting an exception; deleting authorization for the Department of Environmental Protection to assess a noncompliance fee; providing an effective date.

—was referred to the Committees on Natural Resources; Transportation; and Ways and Means.

By the Committee on Governmental Operations and Representative Laurent and others—

CS for HB 25—A bill to be entitled An act relating to state employees; creating s. 110.1165, F.S.; providing a procedure for state employees to receive redress when the employing agency provides the employee with erroneous written information regarding pay or benefits which is detrimentally relied upon by the employee; amending s. 110.123, F.S.; allowing surviving spouses and dependent children of forestry firefighters to be eligible for state group insurance plans under certain circumstances; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By the Committee on Governmental Operations and Representative Lippman and others—

CS for HB 67—A bill to be entitled An act relating to firefighters, paramedics, emergency medical technicians, law enforcement officers, and correctional officers; providing legislative intent; creating s. 112.181, F.S.; providing definitions; excluding certain employees from application of the act; providing that a disability caused by certain diseases shall be presumed to have been suffered in the line of duty in certain circumstances and if certain conditions are met; authorizing certain insurance contracts to include coverage for such disabilities; requiring records to be kept of an employee's exposure to such disease; requiring an employee to be notified of such exposure; requiring prior medical test results and providing for preemployment tests for exposure; providing a contribution rate increase to fund the act; providing for construction; amending s. 440.49, F.S.; to temporarily freeze the assessment rate on the Special Disability Trust Fund; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; Community Affairs; and Ways and Means.

By Representative Ascherl—

HB 205—A bill to be entitled An act for the relief of Robert Lee Wheeler; providing compensation to him for attorney's fees and costs associated with his defense of a charge of improper conduct; providing an effective date.

—was referred to the Special Master; and the Committees on Judiciary; and Ways and Means.

By the Committee on Criminal Justice and Representative Jones and others—

CS for HB 229—A bill to be entitled An act relating to municipal law enforcement agencies; creating the "Officer Jeffery Tackett Law Enforcement Safety Act"; requiring specified municipal law enforcement agencies to establish a means to communicate with other law enforcement agencies and to request assistance; providing a legislative finding of an important state interest; amending s. 790.052, F.S.; permitting specified officers to carry a concealed firearm while off duty, under certain circumstances; limiting liability of an employing department or agency; providing an effective date.

—was referred to the Committees on Criminal Justice and Community Affairs.

By the Committee on Natural Resources and Representative Warner and others—

CS for HB 251—A bill to be entitled An act relating to emergency coastal armoring; creating s. 161.085, F.S.; providing for emergency installation of rigid coastal structures for certain purposes; authorizing the Department of Environmental Protection to issue permits for such structures; providing procedures; providing an exception; authorizing the department to adopt rules for permitting such structures; providing a definition; providing an effective date.

—was referred to the Committee on Natural Resources.

By the Committee on Insurance and Representative Brennan and others—

CS for HB 299—A bill to be entitled An act relating to health insurance; requiring health insurance policies to provide coverage for nonprescription enteral formulas for home use under certain circumstances; providing application; amending s. 627.668, F.S.; providing that the current requirement for group insurers to offer coverage for mental health conditions does not apply to serious mental illness; creating s. 627.6681, F.S.; requiring group health insurers and health maintenance organizations to provide coverage for serious mental illness; requiring benefits to be the same as for physical illness generally; requiring the health benefit plan committee to consider and recommend modifications to standard, basic, and limited health benefit plans; providing definitions; providing an appropriation; providing a description of state interest; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Ways and Means.

By Representative Mackenzie—

HB 343—A bill to be entitled An act relating to ad valorem tax administration; amending s. 196.161, F.S., which provides for imposition of a lien on property improperly granted a homestead exemption; eliminating the assessment of penalty and interest if the homestead exemption was granted as a result of a clerical mistake or omission by the property appraiser; amending s. 200.065, F.S.; providing requirements for advertisement with respect to certain taxing districts which collected less tax revenue than actually advertised; directing the Department of Revenue to conduct a study of the effect of delayed property value adjustments as they relate to TRIM rollback advertising; requiring a report; providing an effective date.

—was referred to the Committee on Ways and Means.

By the Committee on Governmental Operations and Representative Bronson and others—

CS for HB 393—A bill to be entitled An act relating to ad valorem tax administration; amending s. 196.161, F.S., which provides for imposition of a lien on property improperly granted a homestead exemption; eliminating the assessment of penalty and interest if the homestead exemption was granted as a result of a clerical mistake or omission by the property appraiser; amending s. 200.065, F.S., which provides requirements for determination of millage by taxing authorities; providing for public announcement of specified information relating to an adopted millage rate in lieu of public reading of the millage-levy resolution or ordinance; authorizing certain library special districts to hold budget hearings on the same day as the county commission; providing requirements for advertisement with respect to certain taxing districts which collected less tax revenue than actually advertised; directing the Department of Revenue to conduct a study of the effect of delayed property value adjustments as they relate to TRIM rollback advertising; amending s. 200.181, F.S.; authorizing counties receiving surplus revenue from voted levies for debt service to use the surplus for specified maintenance and operation purposes; amending s. 200.171, F.S.; requiring that a levy resulting in surplus revenue be included within the nonvoted millage rate; requiring a report; providing an effective date.

—was referred to the Committee on Ways and Means.

By Representative Rayson—

HB 647—A bill to be entitled An act relating to environmental preservation; amending s. 259.101, F.S.; providing a legislative finding; providing certain distribution of funds from the Preservation 2000 Trust Fund for purchase of lands for South Florida water supply preserves; providing for the distribution of a certain portion of the Preservation 2000 Trust Fund in the General Appropriations Act; providing funding for Florida Recreation Development Assistance Program grants from the Preservation 2000 Trust Fund; removing repealing provisions; providing an effective date.

—was referred to the Committees on Natural Resources; and Ways and Means.

By the Committee on Aging and Human Services; and Representative B. Saunders and others—

CS for HB 665—A bill to be entitled An act relating to developmental disabilities; amending s. 393.063, F.S.; providing that "Prader-Willi syndrome" is one of the disorders or syndromes to which a developmental disability may be attributed for the purposes of ch. 393, F.S.; defining the term "Prader-Willi syndrome" for the purposes of the law on developmental disabilities; amending s. 393.067, F.S.; delaying date of phase-out of unlicensed beds in developmental services institutions; providing for transfer of the Florida Developmental Disabilities Council to a private nonprofit corporation; providing for designation of such corporation by the Governor, consistent with federal law; providing for use of the state communications system; providing for insurance under the Division of Risk Management of the Department of Insurance; providing for state agency cooperation; requiring annual audits; specifying timeframe for fulfillment of legal conditions for the transfer; requiring that certain documents be made available; repealing s. 393.001, F.S., relating to the Florida Developmental Disabilities Council; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Ways and Means.

By the Committee on Governmental Operations and Representative Turnbull—

CS for HB 671—A bill to be entitled An act relating to state financial matters; amending s. 112.215, F.S.; providing for direct disbursement of certain funds to employees or beneficiaries; creating s. 125.325, F.S.; authorizing certain entities to loan proceeds of obligations issued by such entities under certain circumstances; amending s. 163.01, F.S.; authorizing certain legal entities created pursuant to interlocal agreement to own, operate, and manage specified water utilities and systems; exempting such entities from commission jurisdiction; providing for powers of such entities; providing for issuance of bonds, notes, and other obligations by such utilities; providing exemption from certain taxes; amending s. 215.47, F.S.; authorizing the Board of Administration to invest certain moneys in group trusts; amending s. 280.02, F.S.; revising definitions; amending s. 280.03, F.S.; deleting obsolete language; amending s. 280.04, F.S.; clarifying requirements for pledging collateral by qualified public depositories; amending s. 280.05, F.S.; clarifying duties of the Treasurer in administering the public deposits program; amending s. 280.051, F.S.; expanding the grounds for which the Treasurer may suspend or disqualify a qualified public depository; amending s. 280.052, F.S.; requiring the mailing of a suspension or disqualification order to a qualified public depository; amending s. 280.08, F.S.; authorizing the Treasurer to make partial payments from the Public Deposits Trust Fund to certain public depositors; authorizing the Treasurer to deduct certain expenses from the sale of pledged collateral; amending s. 280.09, F.S.; clarifying a cross reference; amending s. 280.10, F.S.; clarifying requirements when a qualified public depository is merged, acquired, or consolidated with certain entities; amending s. 280.11, F.S.; providing an exception to certain report filing requirements; amending s. 280.13, F.S.; clarifying collateral eligible for pledge by banks and savings associations; amending s. 280.16, F.S.; specifying persons required to deliver certain reports to the Treasurer; amending s. 280.17, F.S.; revising certain notice requirements for public depositors; repealing s. 159.825(4) and (5), F.S., relating to the rate of interest at which specified taxable bonds bear interest; repealing s. 215.84, F.S., relating to the maximum rate of interest for government bonds; repealing s. 215.845, F.S., relating to prohibiting special laws which establish interest rates on bonds; repealing s. 280.14, F.S., relating to collateral eligible for pledge by savings associations; repealing s. 280.20, F.S., relating to the Security for Public Deposits Task Force; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By the Committee on Business and Professional Regulation; and Representative Rodriguez-Chomat and others—

CS for HB 681—A bill to be entitled An act relating to the regulation of professions; amending s. 455.201, F.S.; prohibiting the Department of Business and Professional Regulation, the Agency for Health Care Administration, and the regulatory boards under their jurisdiction from adopting rules or policies that change the requirements for licensure in professions regulated by the department or agency, which requirements affect the teaching, content, or curricula of courses offered at community colleges to meet such requirements, without consulting with the State Board of Community Colleges and obtaining from the Division of Community Colleges of the Department of Education information and analysis on the fiscal and programmatic impact thereof; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; Health Care; and Ways and Means.

By the Committee on Community Affairs and Representative Kelly and others—

CS for HB 739—A bill to be entitled An act relating to parking for persons who have disabilities; amending s. 316.008, F.S., relating to powers of local authorities; deleting a cross-reference and revising terminology to conform to the act; amending s. 316.1955, F.S.; revising the requirements for providing parking spaces for certain persons who have disabilities; providing specifications for such parking spaces; providing for leased parking; providing for accessible routes; providing 1 year for parking facilities to alter existing parking spaces; providing for the appointment, training, and authority of volunteer parking enforcement specialists; repealing s. 316.1956, F.S., which provides for parking spaces provided by certain entities; amending s. 316.1957, F.S.; providing for waiver of penalties for violations; amending s. 316.1958, F.S.; providing for reciprocal recognition of validity of out-of-state license plates or permits, unless the individual is required by law to have a Florida driver's license; amending s. 316.1964, F.S.; providing restrictions on free parking in metered or timed parking spaces; amending s. 316.1967, F.S., relating to liability for payment of parking ticket violations and other violations; deleting a cross-reference to conform to the act; amending s. 318.14, F.S.; providing that community-service requirements are not waived by a plea

of nolo contendere or the withholding of adjudication; amending s. 318.18, F.S.; providing additional civil penalties for certain violations; amending s. 320.08035, F.S., relating to small license plates; deleting a cross-reference to conform to the act; amending s. 320.084, F.S.; exempting veterans who have disabilities from certain parking fees or penalties; providing exceptions; amending s. 320.0842, F.S.; providing for an international symbol of accessibility; amending s. 320.0848, F.S.; providing for the issuance of exemption parking permits that are valid until the renewal date of the applicant's driver's license or identification card or for a period of 4 years; providing for temporary permits to be issued for 1 year; providing for rule adoption in order to certify physicians in Alabama, Georgia, or Louisiana who practice within 50 miles of this state and who certify persons for purposes of an exemption parking permit; requiring the driver's license or state identification number to be displayed on the placard and such identification to be in the possession of the placard holder; providing for the issuance of an additional exemption parking permit; providing for fees and a hardship exemption; providing for the distribution of fees; declaring application forms for an exemption permit as "official state documents"; providing increased criminal penalties for supplying false information; providing a criminal penalty for fraudulently obtaining or for using an exemption parking permit or an unauthorized replica of such permit; amending s. 322.051, F.S.; authorizing any person with disabilities to apply for a state identification card in conjunction with exemption parking; amending s. 553.505, F.S., relating to exceptions to the Americans with Disabilities Act; revising a cross-reference to conform to changes in the act; requiring renewal of parking permits issued under s. 320.0848, F.S.; providing that this act fulfills an important state interest; providing an effective date.

—was referred to the Committees on Transportation; Community Affairs; and Ways and Means.

By the Committee on Governmental Operations and Representative Klein and others—

CS for HB 1149—A bill to be entitled An act relating to public records; amending s. 119.01, F.S.; providing a legislative finding with respect to providing access to public records by remote electronic means; amending s. 119.085, F.S.; authorizing, rather than requiring, a custodian of public records of the executive or judicial branch or a political subdivision to charge a fee for access to the records by remote electronic means granted under a contractual agreement with a user; amending s. 282.307, F.S.; requiring that a department's Strategic Plan for Information Resources Management contain certain information relating to public access through remote electronic means; creating the public records mediation program within the Office of the Attorney General; providing duties of the office relating to public records dispute mediation, legislation, and training; requiring a report; amending s. 119.01, F.S.; revising provisions relating to state policy on public records; providing legislative intent with respect to electronic recordkeeping and access to such records; amending s. 119.011, F.S.; revising the definition of "public records"; amending s. 119.083, F.S.; defining "proprietary software"; providing requirements applicable to agencies that use proprietary software and that maintain public records in electronic systems; providing for fees; prohibiting agencies from entering into certain contracts for creation or maintenance of a public records database; amending s. 257.36, F.S.; providing that the Division of Library and Information Services shall institute a training program relating to access to public records; providing an effective date.

—was referred to the Committee on Governmental Reform and Oversight.

By the Committee on Transportation and Representative Minton—

CS for HB 1167—A bill to be entitled An act relating to license plates; providing for the issuance of license plates to commemorate soil and water conservation; providing fees; providing for the use of such fees; providing for the discontinuance of such license plates; providing an effective date.

—was referred to the Committees on Transportation; and Ways and Means.

By the Committees on Finance and Taxation; and Commerce; and Representative Boyd and others—

CS for CS for HB 1317—A bill to be entitled An act relating to saltwater fisheries; creating s. 370.0805, F.S.; creating a net ban assistance program to assist commercial saltwater products licensees adversely affected by adoption of the constitutional amendment limiting marine net fishing; providing for administration and enforcement by the Department of Environmental Protection; providing for assistance by other specified departments; providing eligibility criteria for economic assistance; providing for application for economic assistance; providing for economic assistance payments; providing a limit on such assistance; providing for purchase of commercial fishing gear rendered illegal or useless; providing for retraining programs; providing for funding of the program; providing for rules; providing for administration of certain economic assistance programs under certain circumstances; providing limitations; providing appropriations; requiring state agencies to give displaced saltwater products workers priority consideration for job vacancies; providing for designation of additional enterprise zones in certain affected communities; providing for identification of gear and vessel conversion grants and loans; creating s. 370.092, F.S.; providing for the carriage of banned nets across Florida waters; providing for permits; requiring display of permit numbers; requiring direct, continuous, and expeditious transit; providing for rescission of permits; providing penalties for violation of the constitutional net ban; providing for rules; providing for severability; providing an effective date.

—was referred to the Committees on Natural Resources; Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Health Care and Representative Davis and others—

CS for HB 1373—A bill to be entitled An act relating to certifying Medicaid funding in schools; establishing legislative intent; creating s. 409.9071, F.S., relating to Medicaid provider agreements for school districts; setting out criteria for certifying state match; providing requirements for school districts; amending s. 409.908, F.S., relating to reimbursement of Medicaid providers; authorizing the Agency for Health Care Administration to reimburse school districts; creating s. 236.0812, F.S., relating to Medicaid certified school funding maximization; providing Department of Education duties; providing for deposit and use of funds; requiring agency and department evaluation; requiring development of a plan; providing appropriations; providing an effective date.

—was referred to the Committees on Education; Health Care; and Ways and Means.

By Representative Klein—

HB 1441—A bill to be entitled An act relating to local government; amending s. 162.09, F.S.; authorizing a code enforcement board to impose a fine not exceeding $10,000 per violation if the violation is irreparable or irreversible; amending s. 255.22, F.S.; removing provisions relating to reconveyance of lands conveyed on or after October 1, 1988, to a municipality or county and not used for the purposes specified, and to the retroactive application of such provisions; providing an effective date.

—was referred to the Committees on Community Affairs; Judiciary; and Ways and Means.

By the Committee on Aging and Human Services; and Representative Littlefield—

CS for HB 1485—A bill to be entitled An act relating to public records; creating s. 430.608, F.S.; providing an exemption from public records requirements for identifying information about elderly persons collected and held by the Department of Elderly Affairs, by volunteers, or by persons under contract with area agencies on aging; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

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

By the Committee on Natural Resources and Representative Merchant and others—

CS for HB 1507—A bill to be entitled An act relating to mangrove preservation; creating ss. 403.9321-403.9332, F.S., and amending and renumbering s. 403.938, F.S.; creating the "Mangrove Trimming and Preservation Act"; providing legislative findings; providing legislative intent; providing for delegation of mangrove protection to local governments; providing definitions; providing exemptions from permitting requirements; providing for general permits; requiring a permit for alteration of mangroves; providing for standards and procedures for issuance of permits; providing for professional mangrove trimmers; providing applicability of the act; providing for rules and enforcement; providing for mitigation and policies; providing applicable penalties; providing for variances; repealing ss. 403.93, 403.931, 403.9311, 403.932, 403.933, 403.935, and 403.936, F.S., relating to permit procedures for alteration of mangroves, and restoration of unlawfully altered mangroves; providing an effective date.

—was referred to the Committee on Natural Resources.

By the Committee on Transportation and Representative Brown and others—

CS for HB 1581—A bill to be entitled An act relating to license plates; providing for the issuance of license plates to create public awareness of endangered and threatened marine turtles; providing fees; providing for the use of such fees; providing for the discontinuance of such license plates; providing an effective date.

—was referred to the Committees on Transportation; Rules and Calendar; and Ways and Means.

By the Committee on Business and Professional Regulation; and Representative Ogles and others—

CS for HB 1629—A bill to be entitled An act relating to real estate sales; amending s. 475.01, F.S.; redefining the terms "fiduciary" and "transaction broker" with respect to state law governing real estate brokers and salespersons; defining the term "first substantive contact"; creating s. 475.015, F.S.; providing requirements with respect to disclosed dual agents; prohibiting certain causes of action; creating s. 475.016, F.S.; providing for transaction broker requirements; creating s. 475.017, F.S.; providing for single agent requirements; amending s. 475.25, F.S.; revising language with respect to discipline concerning single agency, dual agency, and transaction brokerage; creating s. 475.256, F.S.; providing for the abrogation of the common law of agency with respect to the chapter; creating s. 475.257, F.S.; authorizing the use of facsimile signatures or writing; creating s. 475.258, F.S.; providing that certain disclosure to an agent, broker, or transaction broker is deemed to satisfy disclosure requirements of the chapter; creating s. 475.259, F.S.; providing that certain ministerial acts performed by a real estate broker are not to be construed as forming a transaction brokerage or agency agreement; creating s. 475.261, F.S.; providing for duties of a broker; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Judiciary.

By the Committees on Finance and Taxation; and Transportation; and Representative Mackey—

CS for CS for HB 1639—A bill to be entitled An act relating to taxation of fuels; revising part I of chapter 206, F.S., relating to taxation of motor fuel; revising definitions; replacing "refiners" with "terminal suppliers"; providing for licensing, bonding, and refund or credit requirements applicable to terminal suppliers and exporters, and for application of enforcement and penalty provisions; removing references to "jobbers"; revising licensing requirements for carriers; requiring licensing of persons transporting fuel by pipeline or marine vessel; providing penalties; revising bond requirements applicable to importers and wholesalers; creating s. 206.051, F.S.; providing credit authorization and bonding requirements for importers and exporters; providing for credits and refunds; providing penalties; creating s. 206.052, F.S.; providing conditions and requirements for export of tax-free motor fuel by exporters; creating s. 206.054, F.S.; providing for payment of tax on imported fuel by importers; providing for licensing of out-of-state terminal suppliers to precollect tax; authorizing the Department of Revenue to require a terminal supplier, wholesaler, or importer to make direct payment of taxes under certain conditions; authorizing cancellation of licenses for filing false claims; authorizing the department to enter into interstate enforcement agreements; repealing s. 206.065, F.S., relating to authority to self-accrue taxes, and purchases for resale to the Federal Government; providing requirements relating to monthly returns by carriers; providing recordkeeping and disclosure requirements; creating s. 206.199, F.S.; providing requirements with respect to transportation of fuel by pipeline or marine vessel; providing requirements for transportation of fuel over public highways; prohibiting the transportation of taxable fuels upon which tax has not been paid; providing exceptions; providing penalties; providing for application of forfeiture provisions; providing for separate statement of local option taxes; prohibiting certain advertising with respect to absorbing taxes; providing penalties; providing liability of persons who cannot prove payment of tax to their suppliers; providing license requirements for retail dealers and resellers; providing for temporary licenses; requiring such persons to make records available to the department; providing penalties; replacing references to "gas tax" with "fuel tax" and renaming trust funds; consolidating the imposition of the constitutional, county, and municipal fuel taxes, local option motor fuel taxes, the State Comprehensive Enhanced Transportation System Tax, and the tax on the privilege of selling motor fuel, under s. 206.41, F.S.; specifying the transactions on which the taxes are imposed; providing for credits and refunds and administration thereof; providing fees and penalties; creating s. 206.414, F.S.; providing for collection of local option taxes and the State Comprehensive Enhanced Transportation System Tax and prohibiting certain credits and refunds; creating s. 206.416, F.S.; providing procedures and requirements for a change in the state destination of fuel; providing for payment of tax or credit or refund for tax paid, as applicable; providing penalties; repealing ss. 206.425 and 206.426, F.S., relating to tax-exempt purchasers and resale and exemption certificates; providing requirements for remitting of taxes; providing allowances for services and expenses and requirements with respect thereto; authorizing wholesalers to remit taxes by electronic funds transfer; providing rights and duties of terminal suppliers and position holders; requiring wholesalers to self-accrue certain taxes; providing for refunds and credits; providing for correction of reporting errors; providing penalties; providing for tax on inventory; providing reporting requirements for terminal suppliers, importers, exporters, and wholesalers; transferring provisions relating to use of State Comprehensive Enhanced Transportation System Tax proceeds to s. 206.608, F.S.; repealing s. 9, ch. 94-146, Laws of Florida, which provides a future amendment relating to administrative costs of said tax, and transferring those provisions to said section; revising part II of chapter 206, F.S., relating to taxation of special fuel; revising definitions; replacing references to "special fuel" with "diesel fuel"; consolidating imposition of the 4-cent excise tax on diesel fuel, local option fuel taxes, the State Comprehensive Enhanced Transportation System Tax, and the tax on the privilege of selling diesel fuel, under s. 206.87, F.S.; specifying the transactions on which the taxes are imposed; creating s. 206.872, F.S.; specifying persons liable for payment of such taxes; providing penalties; creating s. 206.873, F.S.; providing for a backup tax; creating s. 206.8735, F.S.; providing inspection powers of the department; providing penalties; creating s. 206.874, F.S.; providing exemptions; imposing requirements on local governments, school districts, and mass transit systems to qualify for exemptions; creating s. 206.8741, F.S.; providing dyeing and marking requirements and related notice requirements; providing a penalty; creating s. 206.8745, F.S.; providing for refunds and credits; removing references to dealers; providing bonding requirements applicable to terminal suppliers, importers, and wholesalers; providing for computation and payment of taxes; providing allowances for services and expenses and requirements with respect thereto; revising part III of chapter 206, F.S., relating to the tax on aviation fuel, to conform; revising part IV of chapter 206, F.S., relating to the taxes on fuel and other pollutants, to conform; revising the method of imposition of the taxes for coastal protection and water quality on petroleum products; revising the method of imposition of the tax for inland protection; amending ss. 10, 11, and 12, ch. 94-146, Laws of Florida; revising provisions relating to deduction of administrative costs for fuel taxes, to conform; revising chapter 207, F.S., relating to the tax on the operation of commercial motor vehicles, to conform; amending s. 212.02, F.S.; defining "diesel fuel" for purposes of the tax on sales, use, and other transactions; repealing s. 212.05(1)(g), F.S., relating to the tax on the sale of fuel; creating s. 212.0501, F.S.; requiring persons who purchase diesel fuel for use in a business to register as a dealer and remit use tax thereon; providing exemptions; providing for distribution of

certain proceeds; amending s. 212.08, F.S.; revising the exemption for fuels; revising the exemption for motor vehicles engaged in interstate commerce; amending and renumbering s. 212.69, F.S., relating to distribution of proceeds of the tax on the sale of fuels; repealing the remainder of part II of chapter 212, F.S., which provides for said tax; repealing s. 6, ch. 94-146, Laws of Florida, which provides a future amendment to administrative provisions repealed by this act; amending s. 336.021, F.S.; restricting application of said section to procedures and requirements for levy of the ninth-cent fuel tax by counties and distribution and use of the proceeds thereof; revising the allowance for services and expenses; revising distribution provisions; revising dates of imposition; amending s. 336.025, F.S.; restricting application of said section to procedures and requirements for levy of the local option fuel taxes by counties and distribution and use of the proceeds thereof; revising the allowance for services and expenses; revising distribution provisions; revising dates of imposition; amending ss. 213.015, 213.05, 213.055, 213.29, 213.70, and 213.755, F.S.; revising administrative provisions to conform; amending ss. 72.011, 72.041, 215.20, 215.36, 215.47, 215.605, 215.74, 334.065, and 376.3071, F.S., to conform; amending s. 525.09, F.S.; providing the manner of imposition of the fee for inspection of petroleum fuels; providing for cancellation of all refiner, wholesaler, importer, jobber, special fuel dealer, and retail dealer licenses on July 1, 1996; requiring licensing under chapter 206, as amended by this act, and providing requirements with respect thereto; providing for future review of the exemptions for use on a farm and for sales to the United States Government; providing effective dates.

—was referred to the Committees on Transportation; Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Community Affairs and Representative Tedder and others—

CS for HB 1647—A bill to be entitled An act relating to radon protection; amending and transferring s. 404.056(3), F.S.; removing Radon Protection Trust Fund from the Department of Health and Rehabilitative Services to the Department of Community Affairs; providing for the use of a surcharge; transferring from the Department of Health and Rehabilitative Services to the Department of Community Affairs certain positions and funds; providing for the transfer of funds in the Radiation Protection Trust Fund; amending s. 553.98, F.S., relating to building codes for radon-resistant buildings for residential and commercial buildings; providing legislative approval for the department's standards; providing for adoption of department standards for radon-resistant construction for residential buildings by local jurisdictions; providing local applicability of the standards; prohibiting adoption of certain radon requirements by local jurisdictions; providing an effective date.

—was referred to the Committee on Community Affairs.

By the Committee on Aging and Human Services; and Representative Littlefield and others—

CS for HB's 1689 and 1219—A bill to be entitled An act relating to the Department of Elderly Affairs; transferring to the department certain responsibilities of the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services; amending s. 20.41, F.S.; providing for headquarters and planning and service areas of the Department of Elderly Affairs; providing that the department is the state unit on aging; providing for area agencies on aging; providing organization and responsibilities; deleting obsolete language; amending ss. 400.401, 400.402, 400.408, 400.426, 400.431, 400.434, 400.441, and 400.452, F.S.; transferring to the department from the Department of Health and Rehabilitative Services certain responsibilities and funding relating to adult congregate living facilities; providing responsibilities of the departments and the Agency for Health Care Administration; conforming language and references; amending ss. 400.551 and 400.562, F.S.; transferring certain responsibilities relating to adult day care centers; providing for standards adopted in rules; amending s. 400.602, F.S.; providing hospice licensure for certain entities under specified conditions; amending ss. 400.601, 400.602, 400.605, and 400.606, F.S.; transferring certain responsibilities relating to hospices; amending ss. 400.618, 400.619, 400.6196, 400.621, and 400.622, F.S.; transferring certain responsibilities and funding relating to adult family-care homes; providing responsibilities of the departments and the Agency for Health Care Administration; providing for future transfer of powers, duties, and functions relating to administration of the nursing home preadmission screening program to the department from the Department of Health and Rehabilitative Services; providing for allocation of resources to the planning and service areas; providing for transfer of positions and funding; providing for comprehensive assessment and review screening for certain persons; providing for future transfer of powers, duties, and functions relating to the home care for the elderly program; abolishing certain staff positions; providing for administration of the program on a contractual basis through the area agencies on aging; providing for a task force for reemployment assistance; providing for transfer of funding; providing for use of savings due to privatized administration of the program; amending and renumbering s. 410.011, F.S.; providing that the Department of Elderly Affairs is the designated state unit for administration of federal aging programs; amending and renumbering ss. 410.021, 410.022, 410.023, 410.024, 410.0241, 410.026, and 410.0295, F.S., relating to the community-care-for-the-elderly program; revising definitions; transferring responsibilities to the Department of Elderly Affairs; revising powers and duties; providing for collection of fees; revising program services; providing for training standards and requirements for service providers and staff; amending ss. 410.031, 410.032, 410.033, 410.034, 410.035, and 410.037, F.S.; providing for future separate administration of provisions relating to home care for disabled adults and the elderly by the Department of Health and Rehabilitative Services and the Department of Elderly Affairs; deleting references to elderly persons from provisions to be administered by the Department of Health and Rehabilitative Services; deleting provisions relating to judicial review of unfitness to provide home care; conforming language; amending and renumbering ss. 410.401 and 410.403, F.S.; transferring responsibility for the Alzheimer's Disease Advisory Committee to the department; providing additional duties; increasing membership; revising appointment procedures; providing for subcommittees; providing for per diem and travel expenses; amending and renumbering s. 410.402, F.S.; revising provisions relating to funding, training, and research at memory disorder clinics and centers; providing department responsibilities; revising provisions relating to day care and respite care programs; creating s. 430.503, F.S.; providing for collection of fees for services under the "Alzheimer's Disease Initiative"; amending ss. 430.01, 430.02, 430.03, and 430.04, F.S.; revising short title, legislative intent, purposes, and duties and responsibilities of the Department of Elderly Affairs; creating ss. 430.601, 430.602, 430.603, 430.604, 430.605, and 430.606, F.S.; providing for future administration by the Department of Elderly Affairs of provisions relating to home care for the elderly; providing legislative intent; providing definitions; providing for minimum standards and procedures; providing for determination of fitness to provide home care; providing for subsidy payments; providing for eligibility; providing a definition for certain purposes; repealing s. 410.016, F.S. relating to responsibilities of the Department of Health and Rehabilitative Services regarding the state's elderly population; repealing s. 410.029, F.S., relating to multiyear plans for implementation of community care systems; repealing ss. 410.201, 410.2015, and 410.202, F.S., relating to the older volunteers service credit program; repealing s. 430.06, F.S., relating to an interdepartmental plan for improving the provision of social service and long-term care to the elderly; amending ss. 110.501, 400.464, 402.33, and 420.36, F.S.; correcting cross references; amending ss. 159.27, 196.1975, 205.1965, 400.0060, 400.0069, 400.401, 400.402, 400.404, 400.407, 400.408, 400.412, 400.4195, 400.42, 400.421, 400.426, 400.435, 400.442, 400.447, 400.452, 400.553, 400.609, 400.618, 400.619, 400.621, 400.701, 400.702, 405.01, 408.032, 408.033, 408.035, 409.212, 410.031, 410.034, 410.502, 415.102, 415.103, 415.105, 415.107, 420.623, 468.1695, 468.505, 509.013, 633.021, 633.022, and 651.083, F.S.; redesignating adult congregate living facilities as "assisted living facilities"; providing effective dates.

(Substituted for **CS for SB's 1942 and 2812** on the Special Order Calendar this day.)

By Representative Livingston and others—

HB 1743—A bill to be entitled An act relating to energy conservation; authorizing the Department of Community Affairs to contract to provide energy management services for certain purposes; providing for an energy conservation financing and loan program; providing definitions; authorizing certain loans; establishing a maximum term and maximum interest rate for loans; authorizing the department to adopt rules; requiring an annual report; specifying report contents; establishing requirements for loan recipients; establishing guidelines regarding defaults and delinquencies; providing penalties for delinquent loan payments; creating the Energy Conservation Financing and Loan Account in the Economic Opportunity Trust Fund; providing uses of moneys in the account; pro-

viding for administration; authorizing reasonable service fees on loans; providing an effective date.

—was referred to the Committees on Community Affairs; Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Tourism and Cultural Affairs; and Representative Davis and others—

CS for HB 1757—A bill to be entitled An act relating to funding of retained professional sports franchise facilities; amending ss. 212.20 and 288.1162, F.S.; providing for certification of such facilities by the Department of Commerce; providing procedures and requirements for certification; prohibiting certain previously certified applicants from additional certification; providing for a monthly distribution of a portion of sales tax revenues to such certified facilities for a specified period; providing for use of such revenues; amending s. 125.0104, F.S., relating to the tourist development tax; expanding use of an additional 1-percent tax to allow for the construction and operation of a professional sports franchise facility and a convention center; providing an effective date.

(Substituted for **SB 1526** on the Special Order Calendar this day.)

By the Committee on Natural Resources and Representative Mackey—

CS for HB 1961—A bill to be entitled An act relating to the Game and Fresh Water Fish Commission; amending s. 370.01, F.S.; defining the terms "exhibit" and "authorization"; amending s. 370.0605, F.S.; revising language with respect to saltwater fishing licenses; providing that certain persons who are entitled to a free license must be in possession of certain documents in lieu of a license; revising language with respect to persons who are totally and permanently disabled and who are issued a saltwater fishing license; providing reissuance over a certain time period; providing a fee; requiring a report; amending s. 370.0606, F.S.; providing that subagents for the sale of saltwater fishing licenses shall be appointed with the procedures established in chapter 372, F.S.; amending s. 370.0608, F.S.; revising language with respect to the deposit of license fees; providing for the disposition of fees; amending s. 370.0615, F.S.; deleting reference to stamps and providing reference to permits; amending s. 370.062, F.S.; revising language with respect to the Department of Environmental Protection program for tarpon; providing an additional fee; amending s. 370.1111, F.S.; providing reference to snook permits rather than stamps; providing for the disposition of fees; amending s. 370.14, F.S.; providing for reference to crawfish permits rather than stamps; providing for the disposition of fees; amending s. 372.001, F.S.; redefining the term "resident" and defining the term "authorization"; amending s. 372.0222, F.S.; authorizing the Game and Fresh Water Fish Commission to enter into agreements with private vendors for certain vendor advertising; amending s. 372.561, F.S.; revising language with respect to the issuance of licenses to take wild animal life or freshwater aquatic life; amending s. 372.57, F.S.; providing for licenses and permits or authorization, rather than stamps; deleting a provision with respect to out-of-state hunting licenses; amending s. 372.571, F.S.; providing for the expiration of licenses and permits; amending s. 372.5712, F.S.; providing for Florida waterfowl permits; deleting language with respect to usage of fees; amending s. 372.5714, F.S.; deleting a duty of the Waterfowl Advisory Council; amending s. 372.5715, F.S.; providing for the distribution of Florida Wild Turkey Permit revenues; amending s. 372.5717, F.S.; requiring certain persons to complete a hunter safety course before they may obtain hunting licenses; requiring the Game and Fresh Water Fish Commission to develop a voluntary hunter safety course for juveniles; amending s. 372.574, F.S.; providing for the appointment of subagents for sale of hunting, fishing, and trapping licenses and permits; providing requirements for subagents; amending s. 372.58, F.S.; including reference to permits rather than stamps; amending ss. 372.581, 372.59, and 372.711, F.S.; deleting reference to stamps and providing reference to permits; amending s. 372.60, F.S.; providing for the issuance of replacement licenses or permits; providing for the issuance of license plates to promote the preservation of state freshwater fisheries habitats; providing fees; providing for the use of such fees; providing for the discontinuance of such license plates; amending s. 212.69, F.S.; providing an appropriation; repealing s. 372.573, F.S., relating to management area stamp revenues; providing effective dates.

—was referred to the Committees on Natural Resources; Transportation; and Ways and Means.

By the Committee on Natural Resources and Representative Betancourt—

CS for HB 2045—A bill to be entitled An act relating to asbestos-removal programs; amending s. 376.60, F.S.; providing for the Department of Environmental Protection to reimburse local governments that have been approved to conduct asbestos-removal programs; removing fees for inspecting residential dwellings; prohibiting local governments from charging fees while being reimbursed by the department; providing an appropriation; providing an effective date.

—was referred to the Committees on Natural Resources; Community Affairs; and Ways and Means.

By the Committees on Finance and Taxation; and Commerce; and Representative Safley and others—

CS for HB 2317—A bill to be entitled An act relating to mortgage brokering and lending; amending s. 494.001, F.S.; revising certain definitions; amending s. 494.0017, F.S.; revising provisions relating to transfers of moneys in the Mortgage Brokerage Guaranty Fund; creating s. 494.00171, F.S.; imposing special assessments; providing for deposit of such assessments; providing for transfer of such assessments into the Mortgage Brokerage Guaranty Fund; amending s. 494.0025, F.S.; specifying additional prohibited practices; creating s. 494.0026, F.S.; providing for disposition of insurance proceeds; creating s. 494.0028, F.S.; providing for arbitration; providing procedures and criteria; amending s. 494.003, F.S.; providing for exemptions; providing for a report; amending s. 494.0031, F.S.; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; creating s. 494.00311, F.S.; providing for mortgage brokerage schools; providing requirements; prohibiting certain activities relating to mortgage brokering courses; providing a penalty; amending s. 494.0033, F.S.; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; creating s. 494.00331, F.S.; providing a limitation on mortgage broker association; amending s. 494.0042, F.S.; providing a limitation on receiving brokerage fees; creating s. 494.00421, F.S.; requiring disclosure of certain information in contracts pursuant to which a mortgage brokerage fee is received; providing an exemption from such disclosure to certain nonresidential mortgages under certain circumstances; amending s. 494.006, F.S.; providing for exemptions; providing for a report; amending s. 494.0061, F.S.; providing for issuance of mortgage lender's licenses to certain business entities under certain circumstances; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; amending s. 494.0062, F.S.; provides for issuance of an initial correspondent mortgage lender's license to certain business entities; providing for cancellation of licenses, permits, or registrations under certain circumstances; requiring notice; providing for reinstatement; amending s. 494.0065, F.S.; requiring continuous maintenance of minimum net worth; requiring audited financial statements documenting net worth; amending s. 494.0069, F.S.; providing additional requirements for issuing mortgage loan rate lock-in agreements; amending s. 494.0071, F.S.; clarifying application of provisions relating to expiration of lock-in agreements or commitments; creating s. 494.00721, F.S.; providing requirements for net worth; providing an appropriation; providing effective dates.

—was referred to the Committees on Banking and Insurance; and Ways and Means.

By the Committee on Community Affairs and Representative Constantine and others—

CS for HB 2377—A bill to be entitled An act relating to the Little Wekiva River and Seminole and Orange Counties; providing legislative policy; providing for duties and responsibilities of Seminole County and Orange County; providing for intergovernmental coordination; providing for reports; providing for funding; providing an appropriation; providing for future repeal; providing an effective date.

—was referred to the Committee on Natural Resources.

By the Committee on Agriculture and Consumer Services; and Representative Bronson and others—

HB 2487—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; amending s. transferring, renumbering, and amending s. 585.69, F.S.; revising requirements for rabies vaccination certificates; removing the requirement for a standardized rabies vaccination certificate for certain dogs and cats; amending ss. 316.302, 553.851, and 556.102, F.S.; conforming references to the transfer of responsibility for liquefied petroleum gas from the Department of Insurance to the Department of Agriculture and Consumer Services; creating s. 570.074, F.S.; authorizing the Commissioner of Agriculture to create an Office of Water Coordination; amending s. 616.252, F.S.; revising membership of the Florida State Fair Authority; amending s. 616.253, F.S.; revising quorum requirements; amending s. 616.263, F.S.; requiring the Florida State Fair Authority to submit an annual report and audit of authority to the Commissioner of Agriculture; repealing ss. 585.24 and 585.30, F.S., relating to cattle fever tick eradication; amending s. 482.2265, F.S., and creating s. 482.2267, F.S.; authorizing the registry of persons requiring prior notification of the application of pesticides; providing requirements for a physician's certificate; providing a form; providing a penalty; repealing s. 501.016(6), F.S., relating to health studio security requirement exemptions; repealing s. 501.90, F.S., relating to treated fence posts; repealing ss. 536.13, 536.14, 536.15, 536.16, 536.17, 536.18, 536.19, 536.20, 536.21, and 536.22, F.S., relating to timber and lumber; repealing s. 571.11, F.S., relating to seal of quality violations for eggs or poultry; repealing s. 581.151, F.S., relating to control of spreading decline; repealing s. 586.02(10) and (11), F.S., relating to definitions; repealing s. 590.026(6)(a), F.S., relating to a report on burning submitted to the Legislature; repealing s. 590.50, F.S., relating to sale of cypress products; repealing ss. 591.27, 591.28, 591.29, 591.30, 591.31, 591.32, 591.33, and 591.34, F.S., relating to designating and marking seed trees; providing an effective date.

—was referred to the Committees on Agriculture; and Ways and Means.

By the Committee on Natural Resources and Representative Kelly—

HB 2499—A bill to be entitled An act relating to pollutant discharge prevention and response; amending s. 376.031, F.S.; revising definitions; amending s. 376.065, F.S.; clarifying the cleanup capability requirements for terminal facilities; authorizing additional requirements for bulk product facilities; deleting obsolete language; revising penalty provisions; amending s. 376.07, F.S.; revising rules relating to operation and inspection requirements for terminal facilities and vessels; revising penalty provisions; amending s. 376.071, F.S.; revising vessel discharge contingency plan requirements; revising penalty provisions; amending s. 376.09, F.S.; revising provisions relating to removal of pollutants; revising and clarifying certain claims against the Florida Coastal Protection Trust Fund; amending s. 376.10, F.S., relating to personnel and equipment; amending s. 376.11, F.S.; correcting a cross reference; amending s. 376.12, F.S.; revising provisions relating to liability; clarifying exceptions to limitation of liability; clarifying defenses to liability; clarifying liability of third parties; creating s. 376.123, F.S.; providing a mechanism for filing claims against the fund; conforming claims against the fund to the provisions of the Oil Pollution Act of 1990; clarifying procedures for claims for cleanup costs; amending s. 376.14, F.S., relating to claims and service of process against providers of financial responsibility; amending s. 376.16, F.S.; revising penalty and enforcement provisions; amending s. 376.205, F.S.; clarifying individual causes of action; revising provisions relating to costs; creating s. 376.207, F.S.; prohibiting polluting lobster traps; amending s. 376.301, F.S.; revising definitions; amending s. 376.303, F.S.; providing requirements for terminal facilities and bulk product facilities with respect to preventing pollution of surface and ground waters; amending s. 316.2397, F.S.; allowing flashing red lights for Department of Environmental Protection emergency response vehicles; amending s. 287.0595, F.S.; correcting a cross reference; repealing s. 376.06, F.S., relating to the prohibition against operation of a terminal facility without required registration; repealing s. 376.163, F.S., relating to establishment of the Pollutant Discharge Technical Council; amending s. 373.019, F.S.; revising definition of "state water policy"; amending s. 373.414, F.S.; continuing exemption for certain activities from the wetlands delineation methodology ratified in s. 373.4211, F.S.; amending s. 373.4145, F.S.; providing for certain application of a prior methodology within the jurisdiction of the Northwest Florida Water Management District; creating s. 373.428, F.S.; providing for federal consistency review and determination; providing for certain liability; providing effective dates.

—was referred to the Committees on Natural Resources; and Ways and Means.

By the Committee on Agriculture and Consumer Services; and Representative Fuller and others—

HB 2519—A bill to be entitled An act relating to agriculture; amending s. 482.2265, F.S., and creating s. 482.2267, F.S.; authorizing the registry of persons requiring prior notification of the application of pesticides; providing requirements for a physician's certificate; providing a form; providing a penalty; creating s. 570.074, F.S.; authorizing the Commissioner of Agriculture to create an Office of Water Coordination; amending ss. 316.302, 553.851, and 556.102, F.S.; conforming references to the transfer of responsibility for liquified petroleum gas from the Department of Insurance to the Department of Agriculture and Consumer Services; amending s. 581.031, F.S.; revising powers and duties of the Department of Agriculture and Consumer Services relating to the plant industry; specifying certain fees and penalties for nonpayment; amending s. 581.083, F.S.; establishing an application fee for special permits; amending s. 581.131, F.S., relating to certificates of registration; providing requirements for advertising; exempting certain commercial citrus fruit producers from registration or renewal fee; amending s. 581.212, F.S.; revising provisions relating to moneys deposited in the Plant Industry Trust Fund; amending s. 586.045, F.S.; requiring the department to provide written notice and renewal forms to beekeepers and allowing for extension; creating s. 586.112, F.S.; providing for stop-sale and stop-movement of honeybees, honeybee products, and beekeeping equipment; repealing s. 586.165, F.S., relating to a pilot apiary protection program; amending s. 616.252, F.S.; revising membership of the Florida State Fair Authority; amending s. 616.253, F.S.; revising quorum requirements; amending s. 616.263, F.S.; requiring the Florida State Fair Authority to submit an annual report and audit of authority to the Commissioner of Agriculture; providing effective dates.

—was referred to the Committee on Agriculture.

By the Committees on Finance and Taxation; and Corrections; and Representative Sindler and others—

CS for HB 2535—A bill to be entitled An act relating to corrections; amending s. 945.215, F.S.; removing provisions requiring certain deposits in the Department of Corrections' Grants and Donations Trust Fund; providing for verification to the Legislature of contracted telephone commission receipts; removing obsolete effective date language; providing for expenditure of Inmate Welfare Trust Fund moneys for inmate substance abuse treatment and transition and life skills programs; providing for development of administrative procedures with respect to telephone calls by inmates; providing for canteen and vending machine items comparatively priced to fair market prices; providing for increases in inmate weekly discretionary spending allowance under specified circumstances; providing for a one-year pilot project to be conducted by the department for the privatization of inmate canteens and vending machines in two facilities during the 1995-96 fiscal year; providing requirements for the award of contracts; providing requirements for contracts with private vendors; providing effective dates.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By the Select Committee on Child Abuse and Neglect; and Representative Frankel and others—

HB 2541—A bill to be entitled An act relating to child welfare; amending s. 39.001, F.S.; revising guidelines for employment screening required by the Department of Juvenile Justice and the Department of Health and Rehabilitative Services for personnel in child or youth programs; amending s. 39.076, F.S.; revising provisions relating to such screening; amending s. 39.411, F.S.; providing for use of court records to provide disqualification; amending s. 110.1127, F.S.; providing for employment screening of persons in positions of special trust or responsibility; providing for exemptions from disqualification; amending s.

242.335, F.S.; providing for personnel screening at the Florida School for the Deaf and the Blind; amending s. 393.0655, F.S.; providing for screening of direct service providers; amending s. 397.451, F.S.; providing for background checks of service provider personnel who have direct contact with unmarried minor clients or clients who are developmentally disabled; removing provisions relating to confidentiality of personnel background check information; amending s. 394.457, F.S.; providing for screening of mental health personnel; amending s. 400.211, F.S., relating to certification of persons employed as nursing assistants in adult congregate living facilities; providing for denial, suspension, or revocation by the Department of Business and Professional Regulation of such certification based on finding of guilt of specified offense, or confirmed report of abuse or neglect of a vulnerable adult; amending s. 400.414, F.S., relating to denial, revocation, or suspension of adult congregate living facilities licensees; removing provision relating to disciplinary action against a licensee based on confirmed report of child abuse or neglect by facility or employee; revising provisions relating to exemptions from disqualification; amending s. 400.512, F.S.; providing for screening of home health agency personnel, nurse registry personnel, and sitters, companions, and homemakers registered with the Agency for Health Care Administration; amending s. 402.305, F.S.; providing for screening of child care facilities personnel; amending s. 409.175, F.S.; redefining "screening" and providing for screening of family foster homes, residential child-care agencies, child-placing agencies, summer day camps, and summer 24-hour camps; amending s. 415.503, F.S.; revising definitions with respect to part IV of chapter 415, F.S., relating to protective services for abused and neglected children; amending s. 415.504, F.S.; providing for mandatory reports of child abuse, abandonment, or neglect or reports of child deaths; substituting references to the central abuse registry and tracking system with references to the central abuse hotline; providing for preservation of specified records pertaining to a child; prohibiting use of central abuse hotline information for employment screening purposes; amending s. 415.505, F.S.; revising guidelines relating to child protective investigations; amending s. 415.51, F.S.; revising guidelines relating to access to information in cases of child abuse, abandonment, or neglect; creating ch. 435, F.S., relating to background screening for employment and background security checks required by law for employment; providing applicability and definitions; prescribing level 1 screening standards and level 2 screening standards; providing responsibilities and duties of specified employees and employers and guidelines relating to provision of screening information to the Florida Department of Law Enforcement and Department of Health and Rehabilitative Services; requiring affidavits signed under penalty of perjury from specified employers with respect to screening of personnel; providing notice and guidelines relating to exclusion from employment as a result of screening; providing exemptions from disqualification; providing alternative responsibility to the employer or employee for payment for screening; providing for confidentiality of personnel background check information; providing for sharing of personnel information among employers; amending s. 464.018, F.S.; revising and conforming provisions relating to disciplinary action against nurses; amending s. 447.208, F.S.; revising and conforming provisions relating to certain appeals heard by the Public Employees Relations Commission, based on allegations of child abuse or neglect; prohibiting classification by the Department of Health and Rehabilitative Services of child abuse reports; providing for a specified joint protocol for transferring certain screening responsibility to the Department of Law Enforcement; prohibiting failure to disclose involuntary or paid employment applications material facts used in making determinations as to qualifications for a position of trust, under specified circumstances, and providing penalties therefor; prohibiting using records information for purposes other than screening or releasing records information, under specified circumstances, and providing penalties therefor; providing an exemption, and providing for review and repeal thereof; prohibiting willfully, knowingly, or intentionally using or releasing juvenile records information for unauthorized purposes, under specified circumstances, and providing penalties therefor; amending s. 232.02, F.S., relating to home education programs; removing provision relating to pupil's residing with perpetrator of child abuse or neglect; amending s. 393.063, F.S.; redefining the term "screening" with respect to ch. 393, F.S., relating to developmental disabilities: amending s. 394.455, F.S.; redefining the term "screening" with respect to part I of ch. 394, F.S., the Florida Mental Health Act; amending s. 397.311, F.S.; redefining the term "background screening" with respect to specified provisions in ch. 397, F.S., relating to substance abuse services; amending s. 400.462, F.S.; redefining the term "screening" with respect to part IV of ch. 400, relating to home health agencies; amending s. 402.302, F.S.; redefining the term "screening" with respect to specified provisions in ch. 402, F.S.; amending s. 402.3055, F.S.; revising provisions relating to background checks required for licensure of child care facilities; amending s. 402.313, F.S.; revising guidelines for evaluation of registration and licensure system for family day care homes; amending s. 402.319, F.S.; deleting certain provisions relating to illegal use or release of information from the criminal records or central abuse registry or from specified juvenile records; amending s. 216.136, F.S.; removing requirement for development by the Child Welfare System Estimating Conference of estimates and projections of confirmed child abuse or neglect reports; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Criminal Justice; and Ways and Means.

By the Committees on Rules and Calendar; Appropriations; Finance and Taxation; and Commerce; and Representative Lippman and others—

CS for CS for CS for HB 2615—A bill to be entitled An act relating to economic development; creating the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor; providing purposes and responsibilities of the office; requiring the director of the office to establish a coordinating council; requiring the Governor to appoint a rules ombudsperson; providing duties; requiring state agencies to cooperate with the ombudsperson; repealing certain rules of the Florida Administrative Code; transferring certain portions of the Division of Economic Development of the Department of Commerce to Enterprise Florida, Inc.; transferring certain portions of the division to the Enterprise Florida Jobs and Education Partnership; transferring the Division of International Trade and Development of the Department of Commerce to the Florida International Affairs Commission; transferring certain portions of the Division of Tourism of the Department of Commerce to the Tourism Office; transferring remaining portions of the Department of Commerce to the Office of Tourism, Trade, and Economic Development; amending s. 110.123, F.S.; authorizing employees of the Department of Commerce who are transferred to remain state employees under certain circumstances; providing for continued enrollment in the State Group Health Insurance Program; amending s. 120.54, F.S.; providing for duties of the ombudsperson with respect to rule adoption procedures; amending s. 121.051, F.S.; providing for continued membership of certain personnel in the Florida Retirement System; amending ss. 159.345, 159.475, and 159.7055, F.S.; conforming language with respect to the Department of Community Affairs; amending s. 159.803, F.S.; providing a definition; amending s. 159.804, F.S.; revising certain percentages with respect to allocation of the state volume limitation on private activity bonds; amending s. 159.807, F.S.; revising certain provisions for issuance of written confirmations for issues of private activity bonds by agencies; amending s. 159.8081, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; limiting the effect of a written confirmation of the director of the Division of Bond Finance under certain circumstances; providing for certain transfers from the manufacturing facilities bond pool to the Florida First Business allocation pool under certain circumstances; creating s. 159.8083, F.S.; providing for an allocation pool for Florida First Businesses; specifying uses of such pool; providing procedures; providing requirements; amending s. 159.809, F.S.; revising provisions providing for recapture of unused amounts of certain initial allocations of private activity bonds; providing for adding certain portions of initial allocations to the Florida First Business allocation pool; amending s. 163.3177, F.S.; providing for maintenance of ports under coastal management elements of comprehensive plans; amending s. 186.504, F.S.; conforming language with respect to Enterprise Florida, Inc.; amending s. 206.46, F.S.; revising the formula for distribution from the State Transportation Trust Fund to the Right-of-Way Acquisition and Bridge Construction Trust Fund; amending s. 212.08, F.S.; providing a partial exemption for charges for electricity used in manufacturing certain tangible personal property for sale; providing a schedule for implementation of the exemption; requiring the Revenue Estimating Conference to submit a report to the Governor and Legislature for certain purposes; amending s. 212.08, F.S.; providing an exemption for charges for electricity used in manufacturing certain tangible personal property for sale; providing for an exemption schedule; providing for review and repeal of such exemption; requiring the Revenue Estimating Conference to report to the Legislature; amending s. 215.3208, F.S.; conforming language with respect to the dissolution of the Department of Commerce; amending s. 216.136, F.S.; conforming language with respect to the Enterprise Florida Jobs and Education Partnership; amending s. 220.03, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; amending s. 239.249, F.S.; conform-

ing language with respect to the Enterprise Florida Jobs and Education Partnership; amending s. 240.522, F.S.; conforming language with respect to Enterprise Florida, Inc.; amending s. 272.11, F.S.; requiring the Tourism Office to operate the Capitol information center; amending ss. 282.402 and 282.403, F.S.; conforming language with respect to Enterprise Florida, Inc.; amending s. 287.0945, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; amending s. 288.011, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; amending s. 288.012, F.S.; providing for foreign tourism offices; conforming language with respect to the Tourism Office; authorizing the Tourism Office to establish foreign offices; providing for the co-location of tourism and trade foreign offices; amending s. 288.017, F.S.; providing for the administration of the cooperative advertising matching grants program by the Tourism Office; revising certain requirements and deleting certain restrictions; creating s. 288.018, F.S.; authorizing the establishment of a pilot Regional Rural Development Grants Program; providing for matching grants; limiting the amount of the grants; providing guidelines for evaluation of applications; requiring a report; providing rulemaking authority; amending s. 288.021, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; amending s. 288.041, F.S.; conforming language with respect to the Department of Community Affairs; amending s. 288.047, F.S.; conforming language with respect to the Enterprise Florida Jobs and Education Partnership; deleting a provision providing for the Quick Response Advisory Committee; amending s. 288.0475, F.S.; conforming language with respect to Enterprise Florida, Inc.; providing additional duties of the partnership; requiring the board of directors of Enterprise Florida, Inc., to review and evaluate certain reports and to submit reports to the Legislature; requiring the Office of Program Policy Analysis and Government Accountability to review and evaluate the partnership; requiring the Enterprise Florida Jobs and Education Partnership to deposit certain moneys in certain African-American depositories; amending s. 288.0575, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to enter into certain contracts for certain purposes; amending s. 288.095, F.S.; revising provisions relating to the Economic Development Trust Fund; providing for uses of moneys in the fund; providing limitations; requiring the Office of Tourism, Trade, and Economic Development to provide a report; requiring the Office of Tourism, Trade, and Economic Development to adopt rules; reenacting and amending s. 288.104, F.S., which establishes the qualified defense contractor tax refund program and provides procedures, requirements, limitations, and penalties with respect thereto; revising definitions; increasing the annual limit on refunds under the program; revising requirements for application for certification and annual claim for refund; revising qualification requirements for applicants; revising provisions relating to expiration of the program; conforming language with respect to the Office of Tourism, Trade, and Economic Development; amending s. 288.106, F.S.; providing for job opportunities benefits; providing legislative findings and declarations; providing definitions; providing for a tax refund for certain businesses under certain circumstances; specifying eligible amounts; providing for application and approval processes; providing procedures; providing for tax refund agreements; specifying contents; providing for an annual claim for refund; providing for administration by the Office of Tourism, Trade, and Economic Development; requiring the Office of Tourism, Trade, and Economic Development to adopt rules; providing for future repeal of the section; amending s. 288.1185, F.S.; conforming language with respect to Enterprise Florida, Inc.; amending s. 288.122, F.S.; clarifying uses of the Tourism Promotional Trust Fund; amending s. 288.1222, F.S.; providing definitions; amending s. 288.1223, F.S.; revising the membership and duties of the Florida Commission on Tourism; transferring the commission to the Office of Tourism, Trade, and Economic Development; requiring the commission to assist the Tourism Office; amending s. 288.1224, F.S.; authorizing the commission to contract with a direct-support organization for certain tourism marketing and promotion services, functions, and programs; requiring plans; specifying additional requirements of a marketing plan; conforming language with respect to the Tourism Office; amending s. 288.1226, F.S.; providing that the Florida Tourism Industry Marketing Corporation is not an agency for certain purposes; providing additional powers and duties of the corporation; providing for audit of the corporation by the Office of Program Policy Analysis and Government Accountability and the Office of Tourism, Trade, and Economic Development; requiring the corporation to make quarterly reports to the commission; creating ss. 288.1227 and 288.1228, F.S.; transferring the duties of the Department of Commerce relating to promotion of entertainment industries and sports-related industries to the Office of Tourism, Trade, and Economic Development; authorizing the office to contract with direct-support organizations; amending s. 288.124, F.S.; authorizing the Tourism Office to establish a convention grants program; providing for preferences in awarding grants; amending s. 288.701, F.S.; requiring the Office of Tourism, Trade, and Economic Development to oversee operations and management of regional business assistance centers; providing responsibilities; requiring a joint operations plan between Enterprise Florida, Inc., and the Florida International Affairs Commission; requiring such centers to offer certain services; requiring certain organizations to provide the office with a list of regulated and licensed businesses and professions; providing criteria for the operations plan; exempting such centers from certain provisions of law; creating s. 288.7011, F.S.; providing for assistance by Enterprise Florida, Inc., to a certified development corporation for certain purposes; clarifying duties of Enterprise Florida, Inc.; amending ss. 288.705 and 288.707, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; creating ss. 288.721, 288.722, 288.723, 288.724, 288.725, 288.726, 288.727, and 288.728, F.S.; creating the Florida Hispanic Business Investment Board; providing purpose; providing definitions; providing for appointment of members; providing for an executive director and employees; providing powers of the board; specifying conditions for board action; providing for investments from a trust fund under certain circumstances; authorizing disbursements of moneys from the fund under certain circumstances; authorizing the board to establish certain guarantor funds under certain circumstances; providing for uses of certain funds under certain circumstances; authorizing the board to establish a loan guaranty program; authorizing the board to issue certain capital participation instruments under certain circumstances; requiring the board to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives; specifying contents of the report; amending ss. 625.3255, 657.042, 658.67, and 665.0501, F.S.; authorizing insurers, credit unions, banks, and associations to invest in certain capital participation instruments issued by the Florida Hispanic Business Investment Board; amending s. 288.772, F.S.; revising a definition; deleting certain definitions; amending s. 288.774, F.S.; requiring the board of directors of the Florida International Affairs Commission to adopt certain rules; requiring the board to work with the Enterprise Florida Capital Partnership for certain purposes; amending s. 288.776, F.S.; deleting provisions providing for a board of directors for the Florida Finance Corporation; providing powers and duties of the board of directors of the Florida International Affairs Commission; amending s. 288.803, F.S.; transferring the Florida International Affairs Commission to the Executive Office of the Governor; revising commission membership; providing duties and responsibilities of the executive director; amending ss. 288.804 and 288.8041, F.S.; revising duties of the commission; requiring a statewide international trade plan; providing additional duties; amending s. 288.805, F.S.; revising provisions requiring the commission to develop a strategic plan for international economic development in this state; specifying elements of the plan; amending s. 288.806, F.S.; providing for duties of the commission relating to regional international business promotion; deleting certain duties; amending s. 288.807, F.S.; requiring the commission to submit an annual report to the Governor and the Legislature; specifying contents of the report; amending s. 288.8155, F.S.; revising provisions providing for a Florida Trade Data Center; providing duties of the Florida International Affairs Commission; amending s. 288.816, F.S.; providing responsibilities of the Department of State relating to intergovernmental relations; amending s. 288.817, F.S.; providing additional duties of the Office of the Executive Director of the Florida International Affairs Commission; amending s. 288.822, F.S.; revising provisions providing for foreign international trade offices; authorizing the Office of Tourism, Trade, and Economic Development to establish such offices; providing for co-location of tourism and trade international programs in foreign offices; providing duties of the commission relating to such offices; exempting the commission from certain provisions of law with respect to such offices; amending s. 288.901, F.S.; conforming language with respect to Enterprise Florida, Inc.; requiring Enterprise Florida, Inc., to maintain its primary headquarters in Leon County; changing the composition of the board of directors of Enterprise Florida, Inc.; amending s. 288.903, F.S.; requiring diversity of membership of Enterprise Florida, Inc., appointments; requiring a plan; amending s. 288.904, F.S.; requiring certain contracts of Enterprise Florida, Inc., to provide guidelines for auditing purposes; requiring the Comptroller to review such guidelines; authorizing Enterprise Florida, Inc., to restructure and reorganize; renumbering and amending s. 288.07, F.S.; conforming language with respect to Enterprise Florida, Inc.; amending s. 288.905, F.S.; expanding the duties of Enterprise Florida, Inc.; specifying requirements of a strategic economic development plan; requiring Enterprise Florida, Inc., to deposit certain moneys into certain African-

American depositories; amending s. 288.906, F.S.; revising requirements for the annual report of Enterprise Florida, Inc.; requiring Enterprise Florida, Inc., to develop certain research designs for certain purposes; requiring a report to the Governor and Legislature; requiring the Office of Program Policy Analysis and Government Accountability to review and evaluate Enterprise Florida, Inc.; requiring the Office of Program Policy Analysis and Government Accountability to report to the Legislature; renumbering and amending s. 288.063, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; providing additional financial authorizations for the Office of Tourism, Trade, and Economic Development; protecting the integrity of certain contracts between the Division of Economic Development and local governments; providing for disposition of funds in the Economic Development Trust Fund under certain circumstances; increasing certain review committee membership; amending s. 288.9514, F.S.; clarifying powers and duties of the board of directors of the Enterprise Florida Innovation Partnership; providing for minority participation; requiring the Enterprise Florida Innovation Partnership to deposit certain moneys in certain African-American depositories; amending s. 288.9515, F.S.; clarifying provisions relating to authorized programs of the Enterprise Florida Innovation Partnership to provide for minority participation; amending s. 288.9516, F.S.; requiring the board of directors of Enterprise Florida, Inc., to review and evaluate the Enterprise Florida Innovation Partnership; requiring a report to the Legislature; amending s. 288.9517, F.S.; requiring the partnership to develop certain research designs for certain purposes; requiring review of such designs; providing for audit of the partnership by the Office of Program Policy Analysis and Government Accountability; requiring reports to the Legislature; amending s. 288.9613, F.S.; requiring the Enterprise Florida Capital Partnership to deposit certain moneys in certain African-American depositories; amending s. 288 9615, F.S.; clarifying requirements for the annual report of the Enterprise Florida Capital Partnership; requiring the board of directors of Enterprise Florida, Inc., to review and evaluate the partnership; requiring a report to the Legislature; amending s. 288.9616, F.S.; requiring the Florida Development Finance Corporation to develop certain research designs for certain purposes; requiring review of such designs; providing for audit of the corporation by the Office of Program Policy Analysis and Government Accountability; requiring a report to the Legislature; amending ss. 288.973, 288,975, 288.980, 289.031, and 290.004, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; amending s. 290.009, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; revising membership of the Enterprise Zone Interagency Coordinating Council; amending s. 311.07, F.S.; authorizing certain program funds to be used to develop certain trade data information products; amending s. 311.09, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; creating s. 311.105, F.S.; creating the Florida Seaport Dredged-Material Management Committee for the purpose of developing and annually updating the Florida Seaport Dredged-Material Management Plan; providing for membership of the committee; providing components and requirements of the plan; authorizing issuance of certain permits relating to dredged-material management; providing exemption from or credit for environmental mitigation relating to dredged-material management; amending s. 311.11, F.S.; conforming language with respect to the Enterprise Florida Jobs and Education Partnership; creating s. 315.17, F.S.; waiving a term limitation for certain leases entered into by a county for the benefit of a seaport created or authorized under s. 125.01, F.S.; amending s. 320.20, F.S.; providing for distribution of revenues derived from the registration of motor vehicles to the Florida Seaport Transportation and Economic Development Council for certain purposes; amending s. 337.276, F.S.; including state bridge construction within bonding authorization for the Division of Bond Finance on behalf of the Department of Transportation; amending ss. 341.342, 372.072, 377.703, and 380.05, F.S.; conforming language with respect to the dissolution of the Department of Commerce; amending s. 380.24, F.S.; requiring permitting activities relating to deepwater ports to be undertaken by the Department of Environmental Protection; amending s. 403.021, F.S.; requiring maintenance of water depths in deepwater ports of the state to be in compliance with port master plans; adding Fernandina and Key West as deepwater ports to which certain maintenance provisions apply; amending s. 403.061, F.S., relating to powers and duties of the Department of Environmental Protection; requiring the department to establish a permit system for port-maintenance dredging as part of overall dredged-material management in specified seaports; providing legislative intent with respect to Florida's deepwater seaports; amending ss. 403.952, 403.953, 403.954, 403.956, 403.957, 403.958, 403.959, 403.966, 403.967, 403.970, 403.971, 403.972, 443.171, 443.1715, and 624.5105, F.S.; conforming language with respect to the Office of Tourism, Trade, and Economic Development; establishing the Rural Community Development Revolving Loan Fund Program in the Office of Tourism, Trade, and Economic Development; providing purposes; requiring the office to adopt rules to administer the program; establishing the Rural Community Development Revolving Loan Fund Program Committee within the office; providing for membership; providing duties and responsibilities of the committee; requiring the Office of Tourism, Trade, and Economic Development to analyze the economic effect of sales of goods and services on military installations with respect to the effect of loss of sales tax revenues on local communities and the state; requiring a report to the Legislature; providing for affect on certain judicial and administrative proceedings; protecting the validity of certain contracts between the Department of Commerce and other agencies or entities; repealing ss. 20.17, 288.045, 288.08, and 288.825, F.S., relating to the Department of Commerce; repealing s. 286.24, F.S., relating to the Bicentennial Commission; repealing s. 288.116, F.S., relating to sports promotion; repealing s. 288.015, F.S., relating to a foreign trade impact report; repealing s. 288.025, F.S., relating to powers and duties of the Division of International Trade and Development of the Department of Commerce; repealing s. 288.779, F.S., relating to the export finance officer of the Department of Commerce; repealing s. 288.8032, F.S., relating to the administrative composition of the Florida International Affairs Commission; repealing s. 288.810, F.S., relating to the office of the executive director of the commission; repealing s. 288.811, F.S., relating to the Florida International Trade and Investment Council; repealing s. 288.812, F.S., relating to the Florida Tourism Commission; repealing s. 288.813, F.S., relating to the Agricultural Advisory Council; repealing s. 288.814, F.S., relating to the Florida International Council; repealing s. 288.815, F.S., relating to international research; repealing s. 288.8185, F.S., relating to the Florida Council on International Education; amending s. 403.953, F.S.; revising the eligibility requirements for projects covered by the act; repealing s. 288.819, F.S., relating to the Florida International Banking and Finance Council; repealing s. 288.820, F.S., relating to implementation; repealing s. 288.823, F.S., relating to the Florida Council of International Economic Advisors; repealing s. 320.08067, F.S., relating to the quincentennial license plate; providing for a contingent reversion to the General Revenue Fund of certain funds appropriated to the Division of Economic Development of the Department of Commerce; providing appropriations; directing the Division of Statutory Revision to change certain references to the Division of Tourism to the Tourism Office and references to the Department of Commerce to the Office of Tourism, Trade, and Economic Development; providing severability; providing legislative intent; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; Community Affairs; and Ways and Means.

By the Committee on Rules and Calendar; and Representative Mackenzie and others—

HB 2651—A bill to be entitled An act relating to the official Florida Statutes; amending ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes; adopting the Florida Statutes 1995 and designating the portions thereof that are to constitute the official law of the state; providing that the Florida Statutes 1995 shall be effective immediately upon publication; providing that general laws enacted during the 1993 regular and special legislative sessions up to and including the special session of May 24 to May 28, 1993, and prior thereto and not included in the Florida Statutes 1995 are repealed; providing that general laws enacted during the November 1993 special session, the 1994 regular session, and the 1995 regular session are not repealed by this adoption act.

—was referred to the Committee on Rules and Calendar.

By the Committee on Business and Professional Regulation; and Representative Tobin and others—

HB 2721—A bill to be entitled An act relating to the regulation of professions and occupations; amending s. 20.165, F.S.; conforming the change in name of a board; amending s. 28.222, F.S., relating to the recording of instruments; removing the requirement that instruments relating to land surveying include a sketch; providing that the failure to attach a sketch to any instrument presented for recording during the operative period of such requirement shall not affect the validity of the instrument or its recording; amending s. 255.551, F.S.; revising the defini-

tion of "abatement"; amending s. 255.565, F.S.; clarifying the responsibilities of the Asbestos Oversight Program Team; amending ss. 326.002, 326.003, 326.004, and 326.006, F.S., relating to the "Yacht and Ship Brokers' Act"; transferring the regulation of yacht and ship brokers from the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation to the Division of Professions of the Department of Business and Professional Regulation; conforming terminology; amending s. 402.48, relating to health care services pools; transferring the regulation of health care services pools from the Department of Business and Professional Regulation to the Agency for Health Care Administration; conforming terminology; amending s. 455.203, F.S.; providing that a licensee acknowledges compliance with all requirements for renewal upon submitting the appropriate renewal fees to the Department of Business and Professional Regulation or the Agency for Health Care Administration, as applicable; amending s. 455.219, F.S.; authorizing regulatory boards, or the department if there is no board, to charge a fee for authorized inspections; amending s. 455.227, F.S.; exempting licensees acting as mediators in professional mediation programs from being disciplined for failing to report violators; amending s. 468.542, F.S.; providing definitions for classes of water and wastewater operators; defining "operator trainee"; amending s. 468.543, F.S.; providing for the registration of water and wastewater operator trainees; amending s. 468.547, F.S.; providing a registration fee; amending s. 468.549, F.S.; providing for continuing education requirements for water and wastewater operators; amending s. 468.551, F.S.; requiring registration of operator trainees; amending s. 468.627, F.S.; revising an exemption from examination fees applicable to building code administrators and inspectors for employees of local government agencies having building code inspection, regulation, and enforcement responsibilities; amending s. 469.001, F.S.; revising definitions applicable to asbestos abatement; amending s. 469.002, F.S.; revising an exemption relating to asbestos-related activities by governmental employees; amending s. 469.004, F.S.; revising provisions relating to requirements for work involving building structures or systems; revising conditions under which resilient floor covering or its adhesive may be moved, removed, disposed of, or inspected by a person other than a licensed asbestos contractor or asbestos consultant; authorizing the Department of Business and Professional Regulation to inspect certain asbestos-removal sites; providing rulemaking authority; providing conditions under which asbestos-containing pipe or conduit may be repaired, removed, or disposed of by a person other than a licensed asbestos contractor or asbestos consultant; amending s. 469.006, F.S.; eliminating reference to consultant or contractor seals, to conform; amending s. 469.012, F.S.; requiring onsite roofing supervisors to complete a department-approved asbestos roofing course prior to engaging in the removal of asbestos-containing roofing material; amending s. 469.014, F.S.; providing for the department to approve certain training courses and training-course providers who offer training for persons exempt from licensure; repealing s. 469.015, F.S., relating to seals; repealing s. 54 of chapter 94-119, Laws of Florida; abrogating the repeal of s. 469.004(4), F.S., relating to certain activities for which licensure as an asbestos contractor or asbestos consultant is not required; amending s. 470.0085, F.S., relating to the embalmer apprentice program; providing applicability with respect to certain students; amending s. 470.009, F.S.; reorganizing provisions relating to licensure as a funeral director by examination, to clarify applicability of the internship requirement; amending s. 470.024, F.S.; providing licensing limitations with respect to colocated facilities; requiring the relicensure of funeral establishments whose ownership has changed; amending s. 470.029, F.S.; providing a filing date for monthly reports on final dispositions; amending s. 470.0301, F.S.; providing requirements for registration of centralized embalming facilities; providing for application, late, and inspection fees; creating s. 470.0315, F.S.; providing for the storage, preservation, and transportation of human remains; creating s. 470.0355, F.S.; providing for the identification of human remains; amending s. 473.306, F.S.; providing for appointment of an Educational Advisory Committee for purposes of maintaining proper educational qualifications for licensure of certified public accountants; amending s. 473.312, F.S.; providing for appointment of a Continuing Professional Education Advisory Committee for purposes of maintaining proper continuing education requirements for renewal of licensure of certified public accountants; amending s. 474.203, F.S.; revising exemptions from veterinary practice regulations relating to the holders of veterinary faculty certificates and to certain persons assisting a licensed veterinarian; providing an exemption for registered interns and residents; providing an exemption for out-of-state licensees whose presence is requested by an in-state licensee and prohibiting such a licensee from applying for a premises permit; amending s. 474.214, F.S.; increasing the administrative fine the Board of Veterinary Medicine may impose as a disciplinary measure; reenacting ss. 474.207(2) and 474.217(2), F.S., relating to licensure qualifications and licensure by endorsement, to incorporate the amendment to s. 474.214, F.S., in references thereto; amending s. 474.215, F.S.; requiring limited service veterinary medical practice permittees to register each location; providing a registration fee for such purpose; reenacting ss. 474.213(1)(k) and 474.214(1)(w), F.S., relating to prohibitions and grounds for disciplinary action, to incorporate the amendment to s. 474.215, F.S., in references thereto; amending s. 475.15, F.S.; eliminating a provision that requires the automatic cancellation of the registration of a real estate broker partnership upon the lapse in licensure or registration of any of its partners; amending s. 475.25, F.S.; revising a ground for disciplinary action; amending s. 475.451, F.S.; revising provisions relating to the permitting of instructors for proprietary real estate schools or state institutions; providing permit renewal requirements; amending s. 475.452, F.S.; providing restrictions applicable to advance fees for brokers auctioning real property; creating s. 475.6145, F.S.; providing for a seal for the Florida Real Estate Appraisal Board to authenticate its proceedings, records, and acts; combining barbering and cosmetology within a single practice act; amending s. 477.011, F.S.; renaming the "Florida Cosmetology Act" as the "Florida Barbering and Cosmetology Act"; amending s. 477.012, F.S., relating to purpose, to conform; providing legislative intent; amending s. 477.013, F.S.; revising and providing definitions; amending s. 477.0135, F.S., relating to exemptions, to conform; amending s. 477.015, F.S.; creating the Board of Barbering and Cosmetology and providing for its members and duties; amending s. 477.017, F.S.; providing for legal, investigative, and inspection services by the Department of Business and Professional Regulation; amending s. 477.019, F.S.; revising qualifications for licensure as a barber or cosmetologist; providing for biennial renewal; providing for a restricted barbering license; providing continuing education requirements; amending s. 477.0212, F.S., relating to inactive status; eliminating a reference to reactivation and renewal fees; amending s. 477.022, F.S., relating to examinations, to conform; providing requirements relating to reexaminations; eliminating an obsolete provision relating to testing facilities; amending and renumbering s. 477.0201, F.S.; revising specialty registration requirements; providing for biennial renewal; amending s. 477.025, F.S.; revising licensure provisions for barbershops and cosmetology and specialty salons; requiring display of establishment and practitioner licenses and registrations; providing for the licensure of mobile barbershops, mobile cosmetology salons, and mobile specialty salons; amending and renumbering s. 477.0263, F.S., relating to services authorized to be performed in licensed barbershops and salons, to conform; amending s. 477.026, F.S.; revising and providing fees; eliminating a provision relating to submission of a proposed budget; amending and renumbering s. 477.023, F.S., relating to licensure of schools, to conform; amending and renumbering s. 477.0132, F.S., relating to hair braiding registration; providing for biennial renewal; amending and renumbering s. 477.0265, F.S., relating to prohibited acts, to conform; amending s. 477.029, F.S.; revising and providing grounds for discipline; providing penalties; amending s. 477.031, F.S., relating to civil proceedings; amending and renumbering s. 476.254, F.S., relating to a saving clause, and repealing the remainder of chapter 476, F.S., relating to barbering, to conform; repealing ss. 477.014, 477.016, 477.018, 477.0213, and 477.028, F.S., relating to qualifications for practice, rulemaking, investigative services, cosmetology graduates of the Florida School for the Deaf and the Blind, and disciplinary proceedings, to conform; amending ss. 20.165, 455.2228, and 480.034, F.S.; correcting cross references; providing for a transitional Board of Barbering and Cosmetology; providing for continuation of current rules, contracts, investigations, and prosecutions; amending ss. 480.033 and 480.035, F.S.; renaming the Board of Massage as the Board of Massage Therapy; amending s. 480.032, F.S.; providing legislative intent with respect to regulation of the practices of massage therapy and reflexology by a single board; amending s. 480.033, F.S.; providing definitions; creating s. 480.0481, F.S.; providing for qualification, licensure, and provisional licensure of reflexologists; providing fees; providing for adoption of rules governing the licensure and operation of reflexology establishments; creating s. 480.0482, F.S.; establishing examination requirements; providing for licensure by examination or without examination for an interim period; amending s. 480.047, F.S.; prohibiting certain acts relating to reflexology; providing penalties; providing an appropriation; amending s. 480.044, F.S.; providing for a nonrefundable fee for all applications; amending s. 489.105, F.S.; revising and providing definitions applicable to contractors; amending s. 489.107, F.S.; adding a solar contractor to the Construction Industry Licensing Board; amending s. 489.113, F.S.; revising provisions that authorize persons who are not certified or registered to perform construction work under the supervision of a person who is certified or registered; providing that expansion of the scope of practice of any type of contractor does not limit the scope

of practice of any existing type of contractor unless the Legislature expressly provides such limitation; repealing s. 489.1135, F.S., relating to the designation and certification of underground utility and excavation contractors for businesses that were qualified by the Department of Transportation by a specified date; amending s. 489.115, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.119, F.S.; detailing what constitutes an incomplete contract for purposes of temporary certification or registration of a business organization; amending s. 489.127, F.S.; revising and adding penalties applicable to violations of construction contracting provisions, including public service, restitution, and the surcharge when the victim is handicapped or elderly; amending s. 489.131, F.S., relating to applicability; correcting a cross reference; amending s. 489.140, F.S.; eliminating a provision that requires the transfer of surplus moneys from fines into the Construction Industries Recovery Fund; amending s. 489.141, F.S.; clarifying provisions relating to conditions for recovery from the fund; eliminating a notice requirement; revising a limitation on the making of a claim; amending s. 489.142, F.S.; revising a provision relating to powers of the Construction Industry Licensing Board with respect to actions for recovery from the fund, to conform; amending s. 489.143, F.S.; revising provisions relating to payment from the fund; amending s. 489.503, F.S.; clarifying an exemption relating to the sale or installation of certain finished products, materials, or articles of merchandise; amending s. 489.507, F.S.; revising membership of the Electrical Contractors' Licensing Board; amending s. 489.509, F.S.; transferring a portion of fees paid at the time of application or renewal to the Department of Education to fund certain projects or continuing education programs relating to the building construction industry and providing requirements with respect thereto; providing for appointments to the Building Construction Industry Advisory Council; amending s. 489.517, F.S.; authorizing certificateholders and registrants to apply continuing education courses earned under other regulatory provisions under certain circumstances; amending s. 489.531, F.S.; revising and adding penalties applicable to violations of electrical and alarm system contracting provisions, including public service, restitution, and the surcharge when the victim is handicapped or elderly; reenacting s. 489.533(1)(a) and (2), F.S., relating to disciplinary proceedings, to incorporate the amendment to s. 489.531, F.S., in a reference thereto; amending ss. 489.539 and 553.19, F.S.; providing for adoption of current electrical standards by rule; amending s. 553.63, F.S., relating to trench excavations in excess of a specified depth; deleting a provision requiring contract bids to include certain items; repealing s. 553.64, F.S., relating to certain requirements for contract bids; creating s. 501.214, F.S.; providing requirements relating to home-inspection reports; providing Legislative intent; providing definitions; providing exemptions; requiring, prior to inspection, provision of inspector credentials, a caveat, a disclosure of conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions; requiring a report on the results of the inspection; providing prohibited acts, for which there are civil penalties; amending s. 713.03, F.S.; including professional geologists within provisions regulating liens for professional services; amending s. 489.503, F.S., relating to exemptions from part II of chapter 489, F.S., relating to electrical and alarm system contracting; revising an exemption that applies to school boards, the Board of Regents, and community colleges, to reduce the applicable cost threshold; revising an exemption that applies to telecommunications, community antenna television, and radio distribution systems, to include cable television systems; providing exemptions relating to personal emergency response systems; providing exemptions relating to the monitoring of alarm systems by law enforcement employees or officers or fire department employees or officials, by employees of state or federally chartered financial institutions, or by employees of a business endeavor; amending s. 489.505, F.S.; revising the definitions of "alarm system" and "alarm system contractor" and providing definitions for "personal emergency response system" and "monitoring"; amending s. 489.509, F.S.; changing the due date for the biennial renewal fee for certificateholders and registrants; creating s. 489.5165, F.S.; providing for the regulation of monitoring; requiring certification and providing qualifications and procedures therefor; providing grounds for disciplinary action; providing penalties; providing fees; providing applicability to local occupational licenses and permits and to certified electrical and alarm system contractors; amending s. 489.521, F.S.; providing conditions on qualifying agents qualifying more than one business organization; providing for revocation or suspension of such qualification for improper supervision; amending s. 489.525, F.S.; changing the date for the Department of Business and Professional Regulation to inform local boards and building officials of the names of all certificateholders and the status of the certificates; amending s. 489.537, F.S., relating to certain alarm system registration; eliminating reference to monitoring, to conform to other provisions of the act; authorizing the department to sell a regional service center located at a specified location; providing for proceeds from the sale to be deposited into the Professional Regulation Trust Fund; amending s. 489.503, F.S.; revising exemptions from regulation under part II of chapter 489, relating to electrical and alarm system contracting, that apply to school boards, the Board of Regents, and community colleges and to public utilities; amending s. 489.511, F.S.; revising eligibility requirements for certification as an electrical or alarm system contractor; amending s. 489.513, F.S.; revising registration requirements for electrical contractors; amending ss. 489.539 and 553.19, F.S.; providing for updating of electrical standards; amending s. 455.217, F.S.; providing for licensing or certification examination to be competitively bid under certain circumstances; providing effective dates.

—was referred to the Committee on Governmental Reform and Oversight.

By the Committee on Business and Professional Regulation; and Representative Tobin and others—

HB 2725—A bill to be entitled An act relating to the regulation of health care practitioners; amending s. 457.105, F.S.; revising qualifications for certification to practice acupuncture; amending s. 457.107, F.S.; requiring a specified number of continuing education hours to be on human immunodeficiency virus and acquired immune deficiency syndrome; increasing a fee cap; amending s. 464.004, F.S.; increasing the membership of the Board of Nursing; amending s. 464.008, F.S.; providing that applicants for licensure as a registered or licensed practical nurse are responsible for the fee required by the Department of Law Enforcement for background checks; amending s. 464.009, F.S.; providing a fee for licensure verification for nurses endorsing to other states; amending s. 464.012, F.S.; requiring certification by an appropriate specialty board for initial state certification and recertification as a nurse anesthetist or nurse midwife; providing for provisional certification of graduate nurse anesthetists and nurse midwives; amending s. 464.015, F.S.; revising the period during which the terms "Graduate Nurse" and "Graduate Practical Nurse" and their corresponding abbreviations may be used; amending s. 464.018, F.S.; revising disciplinary actions; increasing the administrative fine; providing penalties; creating s. 464.0205, F.S.; providing for certification of retired volunteer nurses; providing requirements, qualifications, fees, and restrictions; amending s. 464.022, F.S.; revising and providing exemptions from regulation under ch. 464, F.S., relating to nursing; amending s. 465.003, F.S.; revising the definitions of "pharmacy" and "practice of the profession of pharmacy"; creating s. 465.0075, F.S.; providing for licensure of certain foreign-trained pharmacists; providing for future repeal of the section; creating s. 465.0105, F.S.; providing for a pharmacy specialist certificate; amending s. 465.0125, F.S.; providing responsibilities of consultant pharmacists and Doctors of Pharmacy; providing for rules; amending s. 465.014, F.S.; revising tasks and duties delegated to a pharmacy technician; increasing the number of pharmacy technicians who may be supervised by a licensed pharmacist; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.016, F.S.; revising disciplinary actions; increasing the administrative fine; providing penalties; amending s. 465.0196, F.S., relating to special pharmacy permits; correcting a cross reference; amending s. 465.035, F.S.; authorizing the dispensing of certain controlled substances pursuant to facsimile receipt of original prescription; amending s. 465.186, F.S.; increasing the membership of the committee responsible for establishing the formulary of medicinal drug products and dispensing procedures; authorizing the formulary to include over-the-counter proprietary drugs under federal law that have been approved for reimbursement by the Florida Medicaid Program; amending s. 466.004, F.S., relating to the Board of Dentistry; revising provisions relating to meetings and duties of the Council on Dental Hygiene and the Council on Dental Assisting; amending s. 466.007, F.S., relating to examination of dental hygienists; revising qualifications to take the examination and providing an exemption therefrom for certain graduates of foreign dental colleges or schools; reducing the number of academic years of postsecondary education required; creating s. 466.0075, F.S.; authorizing the Board of Dentistry to require any applicant for the examination to practice dentistry or dental hygiene to carry certain medical malpractice insurance; amending s. 466.017, F.S.; eliminating obsolete provisions relating to the utilization of general anesthesia and parenteral conscious sedation by licensed dentists; correcting a reference; amending s. 466.023, F.S.; clarifying scope and area of practice of dental hygienists; amending

s. 466.028, F.S.; revising and providing grounds for disciplinary action; increasing the administrative fine; providing penalties; amending s. 466.0282, F.S.; revising provisions relating to practicing and advertising as a dental specialist; providing purpose and legislative findings and intent; amending s. 466.032, F.S.; providing for biennial registration of dental laboratories; amending s. 467.009, F.S.; revising and providing education and training requirements for midwifery programs; amending s. 467.0125, F.S., relating to licensure by endorsement; revising requirements for certificates and diplomas from foreign institutions of medicine or midwifery; amending s. 467.203, F.S.; increasing the administrative fine; clarifying a penalty; amending s. 766.1115, F.S.; expanding the definition of "health care provider" under the Access to Health Care Act; amending s. 831.30, F.S., relating to the offense of fraudulently obtaining medicinal drugs; revising a cross reference; amending s. 893.03, F.S., relating to controlled substance standards and schedules; providing additional exemptions from inclusion in the schedules; revising and adding substances to Schedules I and II; reenacting ss. 212.0505(1)(a) and (2), 316.193(5), 327.35(3), 415.503(10)(a) and (g), 440.102(11)(b), 455.236(4)(g), 457.116(1)(b), 458.326(3), 464.008(2), 464.009(3), 465.035(2), 466 011, 467.205(1), (3), and (4), 468.505(1)(l), 766.101(3)(a), 766.111(2), 768 28(9)(b), 782.04(1)(a) and (4)(k), 817.563, 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.0356(2)(a) and (5), 893.08(1)(b), 893.12(2)(b), (c), and (d), 893.13(1)(a), (c), and (d), (2)(a), (4), (5)(a) and (b), and (7)(a), 893.135(1)(c), and 921.0012, F.S., relating to exemption from taxation for controlled substances under certain circumstances, driving under the influence, operating a vessel under the influence, harm to a child's health or welfare, drug-free workplace program requirements, prohibited referrals between health care providers and providers of health care services, prohibited practice of acupuncture, intractable pain treatment, nursing licensure, dispensing of medical drugs pursuant to facsimile of prescription, approval of midwifery programs, exemption from regulation as a dietician or nutritionist, medical review committee immunity from liability, unnecessary diagnostic testing, waiver of sovereign immunity, murder, sale of substances in lieu of controlled substances, counterfeit controlled substances, a definition of "drug" applicable to open house parties, the definition of "controlled substance," controlled substance analogs, drugs dispensed by a registered pharmacist without a prescription, contraband, prohibited acts and penalties applicable to controlled substances, trafficking, and sentencing guidelines, to incorporate the amendments to ss. 457.105, 464.018, 464.022, 466.007, 466.028, 467.009, 766.1115, and 893.03, F.S., in references thereto; providing an effective date.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on Business and Professional Regulation; and Representative Tobin and others—

HB 2727—A bill to be entitled An act relating to the regulation of allied health professions; amending s. 20.165, F.S., relating to the Department of Business and Professional Regulation; eliminating reference to the Division of Medical Quality Assurance; amending s. 20.42, F.S., relating to the Agency for Health Care Administration; revising the name of a medical regulatory board; amending s. 381.81, F.S., relating to the Minority Health Improvement Act; revising the name of a medical regulatory board; amending s. 455.02, F.S.; correcting a reference relating to regulatory boards; amending s. 456.32, F.S.; including other licensed professions within the definitions of "healing arts" and "practitioner of the healing arts" for purposes of provisions regulating hypnosis; amending s. 468.1115, F.S.; revising an exemption from regulation as a speech-language pathologist or audiologist; amending s. 468.1145, F.S.; revising and providing fees; providing for disposition thereof; amending s. 468.1155, F.S.; revising provisional licensure requirements; increasing the number of hours of supervised clinical practice required; creating s. 468.1201, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license or certificate to practice speech-language pathology or audiology; amending s. 468.1215, F.S.; revising requirements for certification as a speech-language pathology or audiology assistant; amending s. 468.1245, F.S.; revising language relating to certain complaints concerning hearing aids; amending s. 468.1295, F.S.; prohibiting failing to notify the Board of Speech-Language Pathology and Audiology of a change in mailing address within a specified time; increasing the administrative fine; providing penalties; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.205, F.S.; revising membership of the Occupational Therapy Council; revising provisions for the filling of vacancies; amending s. 468.209, F.S.; revising educational requirements for licensure as an occupational therapist or occupational therapy assistant; providing for licensure of certain applicants without meeting such educational requirements; providing for certain temporary permits; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy; amending ss. 468.351, 468.352, 468.353, 468.354, 468.355, 468.356, 468.357, 468.358, 468.359, 468.36, 468.361, 468.363, 468.364, 468.365, 468.366, and 468.368, F.S., and transferring and amending s. 468.362, F.S.; providing for licensure of respiratory care practitioners and respiratory therapists; eliminating references to certification and registration; revising terminology; amending s. 478.42, F.S.; revising the definition of "electrolysis or electrology"; amending s. 478.44, F.S.; increasing membership of the Electrolysis Council and revising qualifications; revising the manner of filling vacancies on and calling meetings of the council; increasing the number of members required for a quorum; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; providing for the approval and conduct of an electrology licensure examination; amending ss. 478.46 and 478.47, F.S., relating to temporary permits and licensure by endorsement; correcting cross references; creating s. 478.475, F.S.; providing for licensure without examination; amending s. 478.52, F.S.; revising and providing grounds for disciplinary action; providing penalties; repealing s. 478.53(6), F.S., relating to a penalty applicable to practicing or attempting to practice permanent hair removal other than as regulated and authorized by law; amending s. 478.55, F.S.; increasing fees applicable to the practice of electrology; amending s. 483.041, F.S.; including licensed optometrists within the definition of "licensed practitioner" for purposes of laws regulating clinical laboratories; amending s. 483.813, F.S.; extending the period of a temporary license for clinical laboratory personnel; amending s. 486.023, F.S.; increasing the membership of the Board of Physical Therapy Practice; amending ss. 486.031, 486.041, and 486.103, F.S.; eliminating temporary permits for physical therapists and physical therapist assistants and providing for graduate status for each under certain circumstances; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending ss. 486.021, 486.081, 486.102, and 486.107, F.S.; revising a definition and eliminating provisions relating to temporary permits, to conform; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist assistant; amending s. 486.109, F.S.; revising the courses which may be approved for continuing education purposes; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.125, F.S.; increasing the administrative fine; providing a penalty; amending s. 490.003, F.S.; revising the definitions of "board" and "practice of psychology"; providing a definition for "doctoral-level psychological education" and "doctoral degree in psychology"; amending s. 490.004, F.S.; renaming the Board of Psychological Examiners as the Board of Psychology; amending s. 490.005, F.S., relating to licensure of psychologists and school psychologists; increasing application fees; revising accreditation and other educational requirements; revising experience requirements; amending s. 490.006, F.S.; revising requirements for licensure by endorsement; amending s. 490.0085, F.S., relating to continuing education; providing fees for application for and renewal of provider status; providing for disposition thereof; amending s. 490.009, F.S.; increasing the administrative fine; amending s. 490.014, F.S.; revising an exemption relating to the use of the term "psychologist"; authorizing the performance of psychotherapeutic services by unlicensed persons pursuant to protocols under certain circumstances; prohibiting behavior analysts from engaging in specified treatments; amending s. 491.003, F.S.; revising definitions relating to the practices of marriage and family therapy and mental health counseling; amending s. 491.005, F.S., relating to licensure by examination; revising coursework requirements applicable to applicants for licensure as clinical social workers; revising fees and costs applicable to applicants for licensure as marriage and family therapists; revising accreditation provisions relating to licensure as a marriage and family therapist or as a mental health counselor; revising supervision requirements; creating s. 491.0055, F.S.; providing for licensure of certain persons as mental health counselors under special conditions involving a district court order; providing for future repeal of the section; amending s. 491.006, F.S.; revising requirements and qualifications for licensure or certification by endorsement; creating s. 491.0065, F.S.; requiring instruction on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of being granted a license under chapter 491, F.S., relating to clinical, counseling, and psychotherapy services; amend-

ing s. 491.0085, F.S., relating to continuing education; increasing fees for application for and renewal of provider status; providing for disposition thereof; amending s. 491.014, F.S.; authorizing the performance of psychotherapeutic services by unlicensed persons pursuant to protocols under certain circumstances; prohibiting behavior analysts from engaging in specified treatments; clarifying applicability of exemptions; amending s. 766.1115, F.S.; expanding the definition of "health care provider" under the Access to Health Care Act; reenacting ss. 468.1185(2)(a), 468.1215(4), 490.003(3) and (5), 490.006(3), 491.012(1)(j) and (k), 491.014(7), and 768.28(9)(b), F.S., relating to licensure of speech-language pathologists and audiologists and certification of assistants, definitions of "psychologist" and "school psychologist," licensure of psychologists, violations of law and exemption from regulation applicable to marriage and family therapists and mental health counselors, and waiver of sovereign immunity, to incorporate the amendments to ss. 468.1155, 490.005, 490.006, 490.009, 491.003, and 766.1115, F.S., in references thereto; providing effective dates.

—was referred to the Committees on Health Care; Governmental Reform and Oversight; and Ways and Means.

By Representative Wise and others—

HM 493—A memorial urging full concurrent receipt of military longevity retired pay and service-connected disability compensation benefits.

—was referred to the Committee on Rules and Calendar.

RETURNING MESSAGES—FINAL ACTION

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed SB 2, CS for SB 72, CS for SB 232, SB 498, SB 566, SB 682, CS for SB 884, CS for SB's 956, 1500 and 2364, CS for SB 986, CS for SB 988, CS for SB 1412, CS for SB 1520, CS for SB 1582, SB 1802, CS for SB 2090, CS for SB 2318, SB 2384 and SB 2664; has passed SB 2296 by the required Constitutional three-fifths vote of the membership; and has passed SB 280 by the required Constitutional two-thirds vote of the membership.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended CS for HB 621.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

CS for SB 102

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

SB 188

Yeas—34

Bankhead	Diaz-Balart	Jennings	Rossin
Beard	Dudley	Johnson	Silver
Bronson	Dyer	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—5

Forman	Holzendorf	Turner
Hargrett	Kurth	

Vote after roll call:

Yea to Nay—Meadows, Weinstein

SB 188—After Reconsideration

Yeas—27

Bankhead	Dantzler	Harris	Ostalkiewicz
Beard	Dudley	Horne	Rossin
Bronson	Dyer	Jenne	Silver
Brown-Waite	Grant	Jennings	Sullivan
Burt	Gutman	Latvala	Thomas
Childers	Harden	McKay	Williams
Crist	Hargrett	Myers	

Nays—8

Forman	Jones	Meadows	Weinstein
Holzendorf	Kurth	Turner	Wexler

Vote after roll call:

Yea to Nay—Hargrett

SB 290

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

SB 318

Yeas—37

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Harden	Latvala	Wexler
Casas	Hargrett	McKay	Williams
Childers	Harris	Meadows	
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—1

Holzendorf

CS for SB 494

Yeas—36

Bankhead	Diaz-Balart	Horne	Myers
Beard	Dudley	Jenne	Ostalkiewicz
Bronson	Forman	Jennings	Rossin
Brown-Waite	Grant	Johnson	Silver
Burt	Gutman	Jones	Sullivan
Casas	Harden	Kirkpatrick	Thomas
Childers	Hargrett	Kurth	Weinstein
Crist	Harris	Latvala	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

SB 774

Yeas—38

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 798

Yeas—36

Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

SB 824

Yeas—37

Bankhead	Dudley	Jenne	Silver
Beard	Dyer	Jennings	Sullivan
Bronson	Forman	Johnson	Thomas
Brown-Waite	Grant	Jones	Turner
Burt	Gutman	Kurth	Weinstein
Casas	Harden	Latvala	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Holzendorf	Ostalkiewicz	
Diaz-Balart	Horne	Rossin	

Nays—None

SB 852

Yeas—9

Bankhead	Dantzler	Myers
Beard	Grant	Sullivan
Burt	Harden	Williams

Nays—26

Bronson	Brown-Waite	Casas	Diaz-Balart
Dudley	Holzendorf	Kurth	Thomas
Dyer	Horne	McKay	Turner
Forman	Jenne	Meadows	Weinstein
Gutman	Jennings	Ostalkiewicz	Wexler
Hargrett	Johnson	Rossin	
Harris	Jones	Silver	

SB 852
Motion to Reconsider

Yeas—23

Mr. President	Childers	Harden	McKay
Bankhead	Crist	Harris	Myers
Beard	Dantzler	Horne	Ostalkiewicz
Bronson	Dudley	Jennings	Sullivan
Brown-Waite	Grant	Kirkpatrick	Williams
Burt	Gutman	Kurth	

Nays—13

Dyer	Jenne	Silver	Wexler
Forman	Johnson	Thomas	
Hargrett	Jones	Turner	
Holzendorf	Meadows	Weinstein	

SB 852—After Reconsideration

Yeas—26

Mr. President	Crist	Jenne	Ostalkiewicz
Bankhead	Dantzler	Jennings	Sullivan
Beard	Dudley	Jones	Thomas
Bronson	Grant	Kirkpatrick	Wexler
Brown-Waite	Harden	Kurth	Williams
Burt	Harris	McKay	
Childers	Horne	Myers	

Nays—11

Dyer	Holzendorf	Meadows	Turner
Forman	Johnson	Rossin	Weinstein
Hargrett	Latvala	Silver	

SB 888

Yeas—32

Beard	Dyer	Jennings	Ostalkiewicz
Bronson	Forman	Johnson	Rossin
Casas	Grant	Jones	Silver
Childers	Gutman	Kurth	Sullivan
Crist	Hargrett	Latvala	Turner
Dantzler	Harris	McKay	Weinstein
Diaz-Balart	Holzendorf	Meadows	Wexler
Dudley	Jenne	Myers	Williams

Nays—1

Harden

Vote after roll call:

Yea—Kirkpatrick

SB 932

Yeas—35

Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—3

Harden	Holzendorf	Turner

Vote after roll call:

Nay to Yea—Holzendorf, Turner

CS for SB 952

Yeas—37

Mr. President	Diaz-Balart	Jennings	Silver
Bankhead	Dyer	Johnson	Sullivan
Beard	Forman	Jones	Thomas
Bronson	Grant	Kirkpatrick	Turner
Brown-Waite	Gutman	Latvala	Weinstein
Burt	Harden	McKay	Wexler
Casas	Harris	Meadows	Williams
Childers	Holzendorf	Myers	
Crist	Horne	Ostalkiewicz	
Dantzler	Jenne	Rossin	

Nays—1

Kurth

CS for SB's 956, 1500 and 2364

Yeas—38

Mr. President	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 1006

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

SB 1010

Yeas—35

Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	

Nays—None

CS for SB 1372

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

CS for SB 1372—After Reconsideration

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—None

SB 1526

Yeas—34

Bankhead	Dyer	Johnson	Rossin
Bronson	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Casas	Gutman	Kurth	Thomas
Childers	Harden	Latvala	Turner
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	
Dudley	Jenne	Ostalkiewicz	

Nays—2

Beard Hargrett

SB 1656

Yeas—34

Mr. President	Forman	Jones	Silver
Bankhead	Grant	Kirkpatrick	Sullivan
Beard	Gutman	Kurth	Thomas
Brown-Waite	Hargrett	Latvala	Turner
Casas	Harris	McKay	Weinstein
Childers	Holzendorf	Meadows	Wexler
Crist	Horne	Myers	Williams
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

SB 1660

Yeas—39

Mr. President	Bronson	Childers	Diaz-Balart
Bankhead	Brown-Waite	Crist	Dudley
Beard	Casas	Dantzler	Dyer

Forman	Horne	Latvala	Sullivan
Grant	Jenne	McKay	Thomas
Gutman	Jennings	Meadows	Turner
Harden	Johnson	Myers	Weinstein
Hargrett	Jones	Ostalkiewicz	Wexler
Harris	Kirkpatrick	Rossin	Williams
Holzendorf	Kurth	Silver	

Nays—None

SB 1972

Yeas—37

Mr. President	Dudley	Johnson	Silver
Bankhead	Dyer	Jones	Sullivan
Beard	Forman	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Bronson

CS for SB's 2030 and 2144

Yeas—37

Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kirkpatrick	Turner
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	
Dudley	Jenne	Rossin	

Nays—1

Ostalkiewicz

Vote after roll call:

Yea—Bankhead

SB 2148

Yeas—38

Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

SB 2186

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

SB 2186—After Reconsideration

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	
Dudley	Jennings	Rossin	

Nays—None

SB 2358

Yeas—38

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for SB 2382

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

SB 2384

Yeas—38

Bankhead	Brown-Waite	Childers	Diaz-Balart
Beard	Burt	Crist	Dudley
Bronson	Casas	Dantzler	Dyer

Forman	Jenne	McKay	Thomas
Grant	Jennings	Meadows	Turner
Gutman	Johnson	Myers	Weinstein
Harden	Jones	Ostalkiewicz	Wexler
Hargrett	Kirkpatrick	Rossin	Williams
Harris	Kurth	Silver	
Horne	Latvala	Sullivan	

Nays—None

CS for SB 2506

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	
Dudley	Jenne	Ostalkiewicz	

Nays—None

SB 2546

Yeas—38

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Williams

CS for CS for SB 2684

Yeas—36

Bankhead	Diaz-Balart	Horne	Meadows
Beard	Dudley	Jenne	Myers
Bronson	Dyer	Jennings	Ostalkiewicz
Brown-Waite	Forman	Johnson	Rossin
Burt	Grant	Jones	Silver
Casas	Gutman	Kirkpatrick	Sullivan
Childers	Harden	Kurth	Turner
Crist	Harris	Latvala	Wexler
Dantzler	Holzendorf	McKay	Williams

Nays—None

Vote after roll call:

Yea—Thomas

CS for SB 2858

Yeas—40

Mr. President	Brown-Waite	Crist	Dyer
Bankhead	Burt	Dantzler	Forman
Beard	Casas	Diaz-Balart	Grant
Bronson	Childers	Dudley	Gutman
Harden	Jennings	McKay	Sullivan
Hargrett	Johnson	Meadows	Thomas
Harris	Jones	Myers	Turner
Holzendorf	Kirkpatrick	Ostalkiewicz	Weinstein
Horne	Kurth	Rossin	Wexler
Jenne	Latvala	Silver	Williams

Nays—None

ROLL CALLS ON HOUSE BILLS

CS for HB 27

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Dudley	Jenne	Ostalkiewicz	

Nays—None

CS for HB 45

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 251

Yeas—38

Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

HB 271

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

HB 347

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 425

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

CS for HB 435

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

CS for HB 687

Yeas—40

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams

Nays—None

HB 793

Yeas—34

Bankhead	Beard	Bronson	Brown-Waite
Burt	Forman	Jennings	Silver
Casas	Grant	Johnson	Thomas
Childers	Gutman	Jones	Turner
Crist	Harden	Kurth	Weinstein
Dantzler	Hargrett	McKay	Wexler
Diaz-Balart	Holzendorf	Myers	Williams
Dudley	Horne	Ostalkiewicz	
Dyer	Jenne	Rossin	

Nays—None

Vote after roll call:

Yea—Harris

CS for HB 1149

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

CS for HB 1161

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

CS for HB 1163

Yeas—38

Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

CS for HB 1319

Yeas—37

Bankhead	Casas	Dudley	Hargrett
Beard	Childers	Dyer	Harris
Bronson	Crist	Forman	Holzendorf
Brown-Waite	Dantzler	Grant	Horne
Burt	Diaz-Balart	Gutman	Jenne

Jennings	McKay	Silver	Wexler
Johnson	Meadows	Sullivan	Williams
Jones	Myers	Thomas	
Kurth	Ostalkiewicz	Turner	
Latvala	Rossin	Weinstein	

Nays—None

Vote after roll call:

Yea—Harden

HB 1465

Yeas—38

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Harris

CS for HB 1507

Yeas—34

Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kirkpatrick	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	

Nays—4

Forman	Kurth	Silver	Turner

Vote after roll call:

Yea—Harden

HB 1575

Yeas—35

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Gutman	Jones	Sullivan
Brown-Waite	Harden	Kirkpatrick	Thomas
Burt	Hargrett	Kurth	Turner
Childers	Harris	McKay	Weinstein
Crist	Holzendorf	Meadows	Wexler
Dantzler	Horne	Myers	Williams
Dudley	Jenne	Ostalkiewicz	

Nays—None

HB 1583

Yeas—39

Bankhead	Bronson	Burt	Childers
Beard	Brown-Waite	Casas	Crist
Dantzler	Hargrett	Kirkpatrick	Silver
Diaz-Balart	Harris	Kurth	Sullivan
Dudley	Holzendorf	Latvala	Thomas
Dyer	Horne	McKay	Turner
Forman	Jenne	Meadows	Weinstein
Grant	Jennings	Myers	Wexler
Gutman	Johnson	Ostalkiewicz	Williams
Harden	Jones	Rossin	

Nays—None

CS for HB 1647

Yeas—39

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	

Nays—None

CS for HB 1659

Yeas—36

Bankhead	Dyer	Jennings	Ostalkiewicz
Beard	Forman	Johnson	Rossin
Bronson	Grant	Jones	Silver
Brown-Waite	Gutman	Kirkpatrick	Sullivan
Burt	Harden	Kurth	Thomas
Casas	Hargrett	Latvala	Turner
Childers	Harris	McKay	Weinstein
Crist	Horne	Meadows	Wexler
Diaz-Balart	Jenne	Myers	Williams

Nays—1

Holzendorf

CS for HB 1687

Yeas—36

Bankhead	Dyer	Jennings	Ostalkiewicz
Beard	Forman	Johnson	Rossin
Brown-Waite	Grant	Jones	Silver
Burt	Gutman	Kirkpatrick	Sullivan
Casas	Harden	Kurth	Thomas
Childers	Hargrett	Latvala	Turner
Crist	Harris	McKay	Weinstein
Dantzler	Holzendorf	Meadows	Wexler
Diaz-Balart	Horne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Jenne

CS for HB's 1689 and 1219

Yeas—40

Mr. President	Burt	Diaz-Balart	Gutman
Bankhead	Casas	Dudley	Harden
Beard	Childers	Dyer	Hargrett
Bronson	Crist	Forman	Harris
Brown-Waite	Dantzler	Grant	Holzendorf

Horne	Kirkpatrick	Myers	Thomas
Jenne	Kurth	Ostalkiewicz	Turner
Jennings	Latvala	Rossin	Weinstein
Johnson	McKay	Silver	Wexler
Jones	Meadows	Sullivan	Williams

Nays—None

CS for HB 1757

Yeas—35

Bankhead	Grant	Johnson	Rossin
Bronson	Gutman	Jones	Silver
Brown-Waite	Harden	Kirkpatrick	Sullivan
Childers	Hargrett	Kurth	Thomas
Crist	Harris	Latvala	Turner
Dantzler	Holzendorf	McKay	Weinstein
Dudley	Horne	Meadows	Wexler
Dyer	Jenne	Myers	Williams
Forman	Jennings	Ostalkiewicz	

Nays—1

Beard

CS for HB 1759

Yeas—38

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

CS for HB 1807

Yeas—37

Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kirkpatrick	Turner
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	
Dudley	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Bankhead

CS for HB 1843

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for CS for HB 1853

Yeas—38

Mr. President	Dudley	Jennings	Rossin
Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Holzendorf	Meadows	Williams
Crist	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—2

Dantzler	Hargrett

HB 2039

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Turner
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	
Dudley	Jenne	Ostalkiewicz	

Nays—None

HB 2111

Yeas—37

Bankhead	Forman	Johnson	Silver
Beard	Grant	Jones	Sullivan
Bronson	Gutman	Kirkpatrick	Thomas
Brown-Waite	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	Williams
Diaz-Balart	Horne	Myers	
Dudley	Jenne	Ostalkiewicz	
Dyer	Jennings	Rossin	

Nays—None

HB 2123

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

HB 2125

Yeas—36

Mr. President	Dantzler	Jennings	Ostalkiewicz
Bankhead	Diaz-Balart	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Grant	Kurth	Thomas
Burt	Gutman	Latvala	Turner
Casas	Harden	McKay	Weinstein
Childers	Harris	Meadows	Wexler
Crist	Horne	Myers	Williams

Nays—None

HB 2313

Yeas—38

Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Turner
Casas	Hargrett	Latvala	Weinstein
Childers	Harris	McKay	Wexler
Crist	Holzendorf	Meadows	Williams
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

CS for HB 2377

Yeas—38

Mr. President	Dudley	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

HB 2519

Yeas—35

Bankhead	Dyer	Johnson	Rossin
Beard	Forman	Jones	Silver
Bronson	Grant	Kirkpatrick	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Hargrett	Latvala	Turner
Childers	Harris	McKay	Weinstein
Crist	Horne	Meadows	Wexler
Dantzler	Jenne	Myers	Williams
Diaz-Balart	Jennings	Ostalkiewicz	

Nays—4

Brown-Waite	Dudley	Harden	Holzendorf

Vote after roll call:

Nay to Yea—Holzendorf

CS for HB 2619

Yeas—39

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kirkpatrick	Turner
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	

Nays—None

Vote after roll call:

Yea—Sullivan

HB 2721

Yeas—38

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Turner
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Weinstein

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 3 was corrected and approved.

RECESS

On motion by Senator Jennings, the Senate recessed at 7:33 p.m. to reconvene at 9:00 a.m., Friday, May 5.