Journal of the Senate

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CONTENTS

Bills on Third Reading 1033, 1059
Call to Order 1031, 1059
Co-Sponsors 1188
Communication 1176
House Messages, Final Action 1188
House Messages, First Reading 1178
Introduction and Reference of Bills 1176
Motions 1033, 1176
Motions Relating to Committee Reference 1176
Point of Order 1038, 1077, 1143
Point of Order, Disposition 1039, 1078
Point of Order Ruling 1144
Reports of Committees 1176
Resolutions 1031
Special Order Calendar 1078
Special Presentation 1031

CALL TO ORDER

The Senate was called to order by President King at 10:36 a.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

PRAYER

The following prayer was offered by Colonel David M. Fuller, Chaplain, Florida National Guard, Valrico:

Almighty God, we thank you for this fresh new day and for the opportunity that is ours to serve our country, our state, and those citizens who are our neighbors no matter where they may live.

We thank you for the common bonds, values, and dreams that bring us together as your people and as brothers and sisters working together for the common good of all.

This morning, we lift up special prayers for our President and his advisors, for our Governor, and for the Senate and staff of the State of Florida. We pray, O God, that they might lean on you for guidance, inspiration, and direction as they seek to deal with dangerous and difficult situations at home and abroad.

And this morning, Lord, we ask for your special blessings upon the members of the Armed Forces of the United States. Fill them with courage, confidence, and a clear sense of the significance of their personal sacrifices. Bless their families and help us to be compassionate and supportive as they struggle with separation and loss.

Change us, Lord, as you see fit: change us from fearful to confident; from closed to open; from indifferent to passionate; and enable us to work to establish peace, justice, and equality; right here, over there, and everywhere.

Father, at this special moment, we pause because there are individual needs represented within this chamber. We pray that those hearts will lift up to you their special need. Bless us, O Lord, in your name we pray. Amen.

HONOR GUARD

At the direction of the President, the Sergeant at Arms opened the doors of the chamber and the Adjutant General's Honor Guard marched into the chamber bearing flags of the United States of America and the State of Florida. Members included: Sergeant First Class Earnest L. Clemons, Sergeant First Class Ron Haynes, Jr., Tech Sergeant Michael C. Haynes, Sergeant First Class Thomas H. Aycock, and Master Sergeant Lynn L. Boop.

PLEDGE

The pledge of allegiance to the flag of the United States of America was led by combat veteran Lieutenant Colonel Mike Canzoneri.

ADOPTION OF RESOLUTIONS

On motion by Senator Fasano—

By Senator Fasano—

SR 3180—A resolution honoring and supporting the members of the Florida National Guard and their families.

WHEREAS, the members of the Florida National Guard are continually vigilant and ready to respond when called for war or national emergency, or to protect the residents of Florida when disasters or emergencies occur within this state's borders, and

WHEREAS, the Florida Army and Air National Guard contribute significantly to the defense capability of the United States and are vitally important to our national security, and

WHEREAS, the Florida National Guard members readily accept their role as defenders of our freedoms and rights and continue to meet and exceed all military readiness standards, and

WHEREAS, these citizen-soldiers continue to demonstrate their professionalism, dedication, and skills, as well as their patriotism and love of their country as they mobilize in support of Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, and the global war on terrorism, and

WHEREAS, the Florida National Guard has to date activated almost 6,000 men and women to serve in the various military operations following the attacks of September 11, 2001, and six members of the Florida National Guard have paid the ultimate sacrifice in service to our nation, and

WHEREAS, it is fitting and proper that we pause to recognize these Floridians for their professional excellence, their dedicated patriotism, and their exemplary courage, and

WHEREAS, we express our sincere gratitude to the families of these soldiers and airmen who endure many hardships as a result of their loved one's courageous service to the nation, and

WHEREAS, we express also our great pride and enduring support for our men and women of the Florida National Guard as they respond to the call to duty, NOW, THEREFORE,

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

That this legislative body declares its most sincere thanks and heartfelt gratitude to the men and women of the Florida National Guard and to their families and loved ones for their great gift of service and sacrifice, and pays tribute to them on behalf of this state and the people of Florida.

—was introduced out of order and read by title. On motion by Senator Fasano, **SR 3180** was read the second time in full and adopted.

At the request of Senator Lynn—

By the Committee on Natural Resources and Senator Lynn—

CS for SR 1078—A resolution supporting the continued inclusion of a "local sources first" policy in chapter 373, Florida Statutes, and opposing any amendments to the state's water resource policy that are inconsistent with the public interest.

WHEREAS, Florida's water resources are a natural resource and not a commodity to be sold or transferred to the highest bidder, and

WHEREAS, the Florida Senate supports a state "local sources first" policy in state law, and

WHEREAS, the Florida Senate recognizes that the continued retention of the local sources first policy is integral to protecting the state's water resources, advancing long-term sustainable water-resource development and supply systems, and preserving the opportunities of local residents to secure and sustain their future prosperity and quality of life through the use and enjoyment of local water resources, and

WHEREAS, the Florida Senate supports the fundamental principles of the state's water law which require that a proposed use of water be reasonable and beneficial, not interfere with an existing legal use of water, and be consistent with the public interest, and

WHEREAS, the Florida Senate opposes legislation that would fundamentally alter the state's current water-supply allocation practices, and

WHEREAS, the Florida Senate opposes legislation that undermines a fundamental principle of water law which establishes a right of use rather than a right of ownership, and

WHEREAS, a recent report by the Florida Council of 100 has recommended modifications to chapter 373, Florida Statutes, to significantly alter provisions that establish a policy for using local water sources first, and

WHEREAS, the Florida Senate wishes to go on record that such a proposal could put the state's surface waters and aquifers at risk of irreparable harm, and

WHEREAS, the Florida Senate believes that any discussion of regional water transfer is premature until minimum flows and levels have been established for all of the state's water resources, NOW, THEREFORE,

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

That the Florida Senate opposes any modifications to the fundamental provisions of chapter 373, Florida Statutes, as they relate to the current "local sources first" policy, and encourages its legislative colleagues and the Governor to join in this opposition.

—**CS for SR 1078** was adopted by publication.

At the request of Senator Saunders—

By Senator Saunders—

SR 2812—A resolution commending Team Kobayashi of Cape Coral, Florida, for winning the Silver Medal in the Collective Performance Division of the 2003 USA National Karate-Do Federation Tournament.

WHEREAS, Team Kobayashi of Cape Coral, Florida, composed of students aged 5 to 47 years, competed in the USA National Karate-Do Federation Tournament in San Jose, California, on July 25, 2003, and earned 38 medals and won the Silver Medal in the Collective Performance Division of the competition, and

WHEREAS, Team Kobayashi competed in the USA National Karate-Do Junior Olympics in Myrtle Beach, South Carolina, on November 8, 2003, and earned 26 medals, including 9 Gold Medals, 10 Silver Medals, and 7 Bronze Medals, and

WHEREAS, the coaches of the Team were Bernard Dougherty and Yuki Dougherty, and the participating members of the team were Pamela Calvert, Stephen Cross, Adrian Dougherty, Daichi Dougherty, Miko Dougherty, Khoi Duong, Hollyanne Ebner, Erin Hodson, Christian Jurney, Steven Lam, Cynthia Martin, Jerome Martin, Neda Mustafa, Emanuel Paz, Max Peugues, Anthony Rosado, Bencis Sanchez, Joseph Schilk, Grayson Sifrar, Chelsea Spiro, Christopher Spiro, C.J. Spiro, William Staeb, Evan Thompson, Sharon Thompson, Alex Wilson, and Zach Wilson, and

WHEREAS, the Team routinely performs free Karate demonstrations in Cape Coral and Lee County to entertain and promote good will for numerous organizations, such as the American Cancer Society, the Kiwanis Club, the Westbay Retirement Home, and St. Jude's Children's Hospital, and

WHEREAS, the team's civic activities and successes in Karate competitions bring distinctive honor to the State of Florida and its citizens, especially those who reside in Cape Coral and Lee County, by exemplifying the responsible citizenship and competitive excellence a group of young men and women can attain by combining their talents and disciplining themselves in work to excel in performing the art of Karate, NOW, THEREFORE,

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

That Team Kobayashi of Cape Coral, Florida, is commended for its outstanding accomplishments in competition at the USA National Karate-Do Federation Tournament in San Jose, California, and at the USA National Karate-Do Junior Olympics in Myrtle Beach, South Carolina, and for its responsible citizenship in routinely performing free Karate demonstrations for community service organizations in and around Cape Coral and Lee County.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Team Kobayashi of Cape Coral, Florida, as a tangible token of the sentiments of the Florida Senate.

—**SR 2812** was introduced, read and adopted by publication.

At the request of Senator Smith—

By Senator Smith—

SR 3178—A resolution honoring Chesterfield Smith.

WHEREAS, rising from humble beginnings, Chesterfield Smith, whether serving his country during World War II, pursuing a public cause, or raising the standards of the legal profession, left a moral footprint that gained him the highest regard of his fellow citizens and blazed a trail for many to follow, and

WHEREAS, past president of both the American Bar Association and The Florida Bar, and a founder of one of the state's largest law firms, few have done more to enhance the legal profession than has Chesterfield Smith, whose dedication to improving the organized bar earned him the title "America's Lawyer," and

WHEREAS, Chesterfield Smith was a resolute, tough-minded individual who, never backing down from conflict, took on the highest when as president of the American Bar Association he denounced President Nixon for firing special prosecutor Archibald Cox, his simple, direct "No man is above the law" becoming a defining moment in the American legal system, and

WHEREAS, Chesterfield Smith was one of the first to actively recruit minorities to his firm, which under his leadership became a model of diversity, focusing on opening a door that had been historically closed to minorities and women; and he never lost interest in guiding young lawyers, constantly prodding and encouraging them to "be somebody," a legacy reflected in the lives of thousands who follow his simple mantra to "do good," and

WHEREAS, Chesterfield Smith's voice was that of the legally disenfranchised and, constantly reminding lawyers that the privilege to practice law carries with it the responsibility to represent the powerless, the poor, the underrepresented, and the victims of discrimination, he was instrumental in creating the national Legal Services Corporation, whose building in Miami bears his name, and

WHEREAS, United States Supreme Court Justice Ruth Bader Ginsburg once described this extraordinary man as being "among the brightest, boldest, bravest, all-around most effective lawyers ever bred in Florida and the U.S.A.," and, although the state and nation deeply mourned his death, his legacy is that not of loss, but of one whose deeds place him in a pantheon of greatness and are those to which all may aspire, NOW, THEREFORE,

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

That the Senate takes great pride in recognizing the outstanding contributions made by Chesterfield Smith to this chamber, this state, and this nation.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to Jacqueline Allee Smith, Chesterfield Smith, Jr., and Rhoda Smith Kibler, wife, son, and daughter of "America's Lawyer," as a tangible token of the sentiments of the Florida Senate.

—**SR 3178** was introduced, read and adopted by publication.

MOTION

On motion by Senator Lee, by two-thirds vote **CS for CS for SB 2962** was placed on the Special Order Calendar.

BILLS ON THIRD READING

Consideration of **CS for CS for SB 3036** and **HB 349** was deferred.

CS for SB 2284—A bill to be entitled An act relating to probation and community control; amending s. 944.473, F.S.; providing additional criteria for mandated participation in a substance abuse program; requiring that substance abuse treatment be considered a basic support service in the release orientation program for certain offenders; amending s. 944.705, F.S.; requiring that substance abuse treatment be included as part of the release orientation program for certain inmates; amending s. 947.22, F.S.; requiring law enforcement officers to assist probation officers in making warrantless arrests; amending s. 948.03, F.S., relating to terms and conditions of probation or community control; providing additional requirements for offenders who have been incarcerated for controlled substance violations; providing additional requirements for random substance abuse testing; authorizing the Department of Corrections to order electronic monitoring as a reporting requirement; amending s. 948.032, F.S.; clarifying the responsibilities of the defendant to prove his or her ability to pay restitution; amending s. 948.06, F.S.; requiring law enforcement officers to assist probation officers in making warrantless arrests; providing for tolling of a probationary period upon a warrantless arrest; authorizing use of a notification letter of a technical violation of a term of probation or community control; requiring the department to provide the court with recommendations concerning the disposition of an offender who has violated probation or community control; specifying the factors to be considered by the department in making its recommendation; requiring submission of a statement regarding the offender's ability to pay; creating s. 948.061, F.S.; requiring the Department of Corrections to develop a risk assessment and alert system to monitor certain offenders placed on probation or community control; requiring increased supervision of such offenders under certain circumstances; requiring that information be provided to the court by the correctional probation officer; creating s. 948.062, F.S.; requiring the Department of Corrections to review the circumstances of certain arrests of offenders on probation or community control; requiring the Office of Program Policy Analysis and Government Accountability to analyze the reviews and report to the President of the Senate and the Speaker of the House of Representatives; providing legislative findings with respect to the necessity for increased supervision of high-risk offenders who violate community supervision; requesting that the Supreme Court amend a Rule of Criminal Procedure to require that certain offenders arrested for a violation of probation or community control be detained while awaiting a hearing on the violation; creating s. 903.0473, F.S.; permitting the court to order appearance bonds for probationers; amending s. 948.09, F.S.; authorizing the department to contract for collection of electronic monitoring fees; providing effective dates.

—as amended April 26 was read the third time by title.

On motion by Senator Villalobos, **CS for SB 2284** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Crist	Lynn	Wise
Dawson	Margolis	

Nays—None

Vote after roll call:

Yea—Cowin

CS for SB 2572—A bill to be entitled An act relating to airport zoning; amending s. 333.03, F.S.; providing exceptions from certain airport zoning prohibitions for the placement of educational facilities in certain counties; amending s. 1013.36, F.S., to conform; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Garcia, **CS for SB 2572** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Vote after roll call:

Yea—Alexander

CS for CS for SB 1178—A bill to be entitled An act relating to minority health care; creating s. 381.736, F.S.; providing for the Depart-

ment of Health to monitor and report on Florida's status regarding the Healthy People 2010 goals and objectives currently tracked by the department; requiring an annual report to the Legislature; requiring the department to work with various groups to educate health care professionals on racial and ethnic issues in health, to recruit and train health care professionals from minority backgrounds, and to promote certain research; amending s. 409.901, F.S.; defining the term "minority physician network"; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to contract for a Medicaid minority physician network; providing guidelines for the operation of the network; defining the term "cost-effective"; requiring the agency to conduct actuarially sound audits; providing an effective date.

—as amended April 26 was read the third time by title.

Senator Miller moved the following amendment:

Amendment 1 (710614)(with title amendment)—On page 4, line 23 through page 5, line 9, delete those lines and insert:

(45) The agency shall contract with established minority physician networks that provide services to historically underserved minority patients. The networks must provide cost-effective Medicaid services, comply with the requirements to be a MediPass provider, and provide their primary care physicians with access to data and other management tools necessary to assist them in ensuring the appropriate use of services, including inpatient hospital services and pharmaceuticals.

(a) The agency shall provide for the development and expansion of minority physician networks in each service area to provide services to Medicaid recipients who are eligible to participate under federal law and rules.

(b) The agency shall reimburse each minority physician network as a fee-for-service provider, including the case management fee for primary care, or as a capitated rate provider for Medicaid services. Any savings shall be shared with the minority physician networks pursuant to the contract.

And the title is amended as follows:

On page 1, lines 17-19, delete those lines and insert: contract with minority physician networks; providing guidelines for the operation of the networks; defining the term

On motion by Senator Miller, further consideration of **CS for CS for SB 1178** with pending **Amendment 1 (710614)** was deferred.

SB 2132—A bill to be entitled An act relating to the Florida Construction Industries Recovery Fund; amending s. 489.140, F.S.; renaming the fund as the Florida Homeowners' Construction Recovery Fund; creating s. 489.1401, F.S.; declaring legislative intent with respect to use of the fund; creating s. 489.1402, F.S.; defining terms; amending s. 489.141, F.S.; revising conditions for recovery from the fund; amending s. 489.142, F.S.; providing for hearings and for service of notice; amending s. 489.1425, F.S.; conforming to changes in terminology; amending s. 489.143, F.S.; providing a limit on disbursements with respect to a single contract; revising guidelines for making payments from the fund; providing criminal penalties for specified fraudulent acts; amending ss. 489.144, 489.13, 489.131, F.S.; conforming terminology to the changes made by the act; amending s. 468.631, F.S.; requiring certain information relating to building permits to be reported to the Department of Business and Professional Regulation; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Argenziano, **SB 2132** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Campbell	Dawson
Argenziano	Carlton	Diaz de la Portilla
Aronberg	Clary	Dockery
Atwater	Constantine	Fasano
Bennett	Cowin	Garcia
Bullard	Crist	Geller
Haridopolos	Margolis	Siplin
Hill	Miller	Villalobos
Jones	Peaden	Wasserman Schultz
Klein	Posey	Webster
Lawson	Pruitt	Wilson
Lee	Saunders	Wise
Lynn	Sebesta	

Nays—None

Vote after roll call:

Yea—Alexander

CS for CS for CS for SB 2480—A bill to be entitled An act relating to agricultural equipment; amending s. 686.40, F.S.; providing a popular name; amending s. 686.401, F.S.; clarifying intent of the Agricultural Equipment Manufacturers and Dealers Act to provide for regulation of the conduct of manufacturers, distributors, and dealers of equipment primarily designed for or used in agriculture; amending s. 686.402, F.S.; revising and adding definitions; amending s. 686.403, F.S.; clarifying provisions relating to application; amending s. 686.405, F.S.; providing that it is unlawful to deny, delay payment for, or restrict warranty claims under certain circumstances; providing for audit of warranty claims; amending s. 686.406, F.S.; clarifying provisions relating to surplus parts; amending s. 686.407, F.S.; providing requirements for the establishment of a new dealership or relocation of a current dealership within a certain area; providing requirements for the sale or lease of new equipment; amending s. 686.409, F.S.; clarifying provisions relating to compensation for inventory under certain circumstances; amending s. 686.413, F.S.; providing additional unlawful acts and practices in the conduct of the manufacturing, distribution, wholesaling, franchising, sale, and advertising of equipment; providing requirements for termination of a franchise or selling agreement under certain circumstances; amending s. 686.418, F.S.; clarifying provisions relating to the effect of the act on local ordinances; amending s. 316.515, F.S.; revising the criteria for determining whether agricultural equipment qualifies for an exemption from maximum width and length limits; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Alexander, **CS for CS for CS for SB 2480** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 2654—A bill to be entitled An act relating to the carrying of concealed weapons; amending s. 790.06, F.S.; prohibiting the carrying of a concealed weapon or firearm within district legislative offices; within the Capitol Building and specified surrounding buildings and in certain adjacent areas; providing an exemption for secured weapons or firearms in vehicles parked within a parking garage attached to any of the specified buildings, or in a manner designated by the Capitol Police; providing an effective date.

—was read the third time by title.

On motion by Senator Jones, **CS for SB 2654** was passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Pruitt
Aronberg	Fasano	Saunders
Atwater	Garcia	Sebesta
Bennett	Geller	Siplin
Bullard	Haridopolos	Smith
Campbell	Hill	Villalobos
Carlton	Jones	Wasserman Schultz
Clary	Klein	Webster
Constantine	Lawson	Wilson
Cowin	Lee	Wise
Crist	Lynn	

Nays—None

Vote after roll call:

Yea—Posey

The Senate resumed consideration of—

CS for CS for SB 1178—A bill to be entitled An act relating to minority health care; creating s. 381.736, F.S.; providing for the Department of Health to monitor and report on Florida's status regarding the Healthy People 2010 goals and objectives currently tracked by the department; requiring an annual report to the Legislature; requiring the department to work with various groups to educate health care professionals on racial and ethnic issues in health, to recruit and train health care professionals from minority backgrounds, and to promote certain research; amending s. 409.901, F.S.; defining the term "minority physician network"; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to contract for a Medicaid minority physician network; providing guidelines for the operation of the network; defining the term "cost-effective"; requiring the agency to conduct actuarially sound audits; providing an effective date.

—which was previously considered this day. Pending **Amendment 1 (710614)** by Senator Miller was adopted by two-thirds vote.

On motion by Senator Miller, **CS for CS for SB 1178** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for CS for SB 2804—A bill to be entitled An act relating to greenways and trails; renaming ch. 260, F.S., as "Florida Greenways and Trails"; amending s. 260.011, F.S.; providing a popular name; amending s. 260.012, F.S.; revising legislative intent with respect to the development and completion of the Florida National Scenic Trail; amending s. 260.0125, F.S.; requiring a private landowner's written authorization to the Department of Environmental Protection for public access to private land that has been designated part of the state's trail system; amending s. 260.013, F.S.; revising definitions; amending s. 260.0141, F.S.; deleting provisions authorizing certain acquisitions; amending s. 260.0142, F.S.; revising the powers and duties of the Florida Greenways and Trails Council; extending the terms of certain appointees; providing for reappointment of appointees; amending eligibility requirements for appointees of the trail-user community to include users of off-road highway vehicles; amending s. 260.015, F.S.; removing provisions for appraisal of certain property by the department; amending s. 260.016, F.S.; revising the general powers of the Department of Environmental Protection relating to greenways and trails; creating s. 335.067, F.S.; creating the Conserve by Bicycle Program within the Department of Transportation; providing the purposes of the program; requiring the department, in conjunction with specified organizations, to conduct a Conserve by Bicycle study; requiring that the study be submitted to the Governor, the Legislature, and the secretaries of Transportation, Environmental Protection, and Health, under certain circumstances; amending s. 373.199, F.S.; requiring the water management districts to include information about the Florida National Scenic Trail in the 5-year work plans; amending s. 378.036, F.S.; defining the term "lands mined for phosphate" for purposes of land acquisitions financed by the Nonmandatory Land Reclamation Trust Fund; exempting sales or leases to Florida Mining-Recreation, Inc., from the tax on sales, use, and other transactions; specifying how funds appropriated by the Legislature may be spent; exempting the corporation from state competitive bidding requirements for certain services; amending s. 380.507, F.S.; revising provisions relating to the acquisition or disposition of certain property under the Florida Communities Trust Program; providing an effective date.

—was read the third time by title.

On motion by Senator Dockery, **CS for CS for SB 2804** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

SENATOR WEBSTER PRESIDING

HB 1807—A bill to be entitled An act relating to burglary; amending s. 810.015, F.S.; providing legislative findings and intent, providing for special rules of statutory construction; providing retroactive applicability; providing an effective date.

—was read the third time by title.

On motion by Senator Smith, **HB 1807** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Clary	Garcia
Argenziano	Constantine	Geller
Aronberg	Cowin	Haridopolos
Atwater	Crist	Hill
Bennett	Dawson	Jones
Bullard	Diaz de la Portilla	Klein
Campbell	Dockery	Lawson
Carlton	Fasano	Lee

Lynn	Pruitt	Villalobos
Margolis	Saunders	Wasserman Schultz
Miller	Sebesta	Webster
Peaden	Siplin	Wilson
Posey	Smith	Wise

Nays—None

SB 2574—A bill to be entitled An act relating to commercial relations; creating part III of ch. 668, F.S., relating to unsolicited commercial electronic mail; providing a short title; providing legislative intent; providing definitions relating to unsolicited commercial electronic mail; prohibiting a person from initiating or assisting in the initiation of unsolicited commercial electronic mail under certain circumstances; providing that a provider of Internet access service is not required to undertake certain actions with regard to electronic mail; providing that acts that are otherwise unlawful are not rendered lawful; authorizing the Department of Legal Affairs to enforce the act; authorizing the department and persons receiving or retransmitting unsolicited electronic mail to bring an action against persons transmitting that mail; providing for declaratory and injunctive relief, compensatory damages, and attorney's fees; declaring that persons outside this state are subject to the jurisdiction of this state's courts under specified circumstances; providing a statute-of-limitations period; providing that a violation of the act is an unfair and deceptive trade practice; providing for severability; providing an effective date.

—as amended April 26 was read the third time by title.

Senator Garcia moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (821154)—On page 7, line 8 through page 8, line 5, delete those lines and insert: *penalty as provided in s. 668.6075. A cause of action, without regard to any other remedy or relief to which a person is entitled, including the right to seek declaratory and injunctive relief against a person who initiates or assists in the transmission of a commercial electronic mail message that violates, has violated, or is otherwise likely to violate s. 668.603, is also available to an interactive computer service, telephone company, or cable provider that handles or retransmits the commercial electronic mail message.*

(2) This part does not create a cause of action against an interactive computer service, telephone company, or cable provider whose equipment is used to transport, handle, or retransmit a commercial electronic mail message that violates s. 668.603.

(3) A prevailing plaintiff in an action filed under this part is entitled to:

(a) An injunction to enjoin future violations of s. 668.603.

(b) Compensatory damages equal to any actual damage proven by the plaintiff to have resulted from the initiation of the unsolicited commercial electronic mail message or liquidated damages of $500 for each unsolicited commercial electronic mail message that violates s. 668.603.

On motion by Senator Garcia, **SB 2574** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Crist	Lawson
Argenziano	Dawson	Lee
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Bennett	Fasano	Miller
Bullard	Garcia	Peaden
Campbell	Geller	Posey
Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin
Smith	Wasserman Schultz	Wilson
Villalobos	Webster	Wise

Nays—None

SB 3010—A bill to be entitled An act relating to reemployment after retirement; amending s. 238.181, F.S.; authorizing district school boards to reemploy certain retired teachers under certain circumstances; deleting certain reemployment criteria and limitations; providing legislative intent pertaining to funding and implementation; providing for retroactive applicability; providing that certain reemployment and retirement benefits are available to instructional personnel employed by developmental research schools and the Florida School for the Deaf and the Blind; authorizing the director or principal of certain charter schools to reemploy certain retired teachers under certain circumstances; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Constantine, **SB 3010** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise
Dawson	Miller	

Nays—None

Vote after roll call:

Yea—Jones

SB 3012—A bill to be entitled An act relating to judgment liens; amending s. 55.141, F.S.; revising provisions relating to satisfaction of judgments and decrees; eliminating authority of judges to act under these provisions when there is no clerk of court; revising requirements of clerk when accepting payment for satisfaction of a judgment and executing and recording a satisfaction of judgment; providing a sample form to be used by a clerk when recording a satisfaction of judgment; revising provisions relating to notification of satisfaction of judgment to a judgment holder; amending s. 55.202, F.S.; revising procedures for acquiring a judgment lien; providing court authorization to file a judgment lien certificate before a judgment becomes final under certain circumstances; providing effect; amending s. 55.204, F.S.; revising provisions relating to continuation of judgment liens; revising provisions requiring the Department of State to maintain certain files and information; amending s. 55.205, F.S.; deleting a provision authorizing certain creditors to bring certain actions against property of a debtor; amending ss. 55.602, 55.603, 55.604, 55.605, and 55.606, F.S.; revising provisions relating to foreign judgments to apply only to out-of-country foreign judgments; amending s. 56.21, F.S.; revising requirements for notices of a levy and execution sale; amending s. 56.27, F.S.; clarifying provisions relating to payment of money received under execution; amending s. 56.29, F.S.; revising requirements regarding supplementary proceedings for unsatisfied judgments; amending s. 222.01, F.S.; revising provisions relating to designation of homestead property by the owner prior to levy to include foreign judgments; amending s. 319.27, F.S.; correcting a cross-reference; amending s. 679.1021, F.S.; revising a definition of "lien creditor"; providing effective dates.

—was read the third time by title.

On motion by Senator Campbell, **SB 3012** was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Dawson	Margolis	Wise
Diaz de la Portilla	Miller	

Nays—None

Vote after roll call:

Yea—Crist

CS for SB 2918—A bill to be entitled An act relating to the Florida School for the Deaf and the Blind; amending s. 11.45, F.S.; requiring the Auditor General to conduct audits of the accounts and records of the Florida School for the Deaf and the Blind; amending s. 1001.20, F.S.; including the Florida School for the Deaf and Blind in the entities subject to inspection by the Department of Education's Inspector General; amending s. 1002.36, F.S., relating to the Florida School for the Deaf and the Blind; providing that the school is a component of the delivery of public education within Florida's K-20 education system; requiring certain compliance; revising audit requirements; revising provisions specifying authority of the Board of Trustees for the Florida School for the Deaf and the Blind to perform certain actions; revising the power and authority of the board of trustees; revising duties of the board of trustees; amending s. 1011.55, F.S.; revising the procedure for legislative budget requests of the Florida School for the Deaf and the Blind; creating s. 1013.351, F.S.; providing definitions; providing a policy statement concerning the coordination of planning between the board of trustees and local governments on property acquired after a certain date; authorizing the board of trustees to enter into an interlocal agreement with the municipality where the school is located; providing for the makeup of the interlocal agreement; requiring the submission of the interlocal agreement with the Office of Educational Facilities and the state land planning agency; providing for a review of the interlocal agreement by the office and the agency; providing for amendments of the interlocal agreement; authorizing an alternative process to the interlocal agreement concerning expansion of the school's campus; providing for improved coordination between the board of trustees and the affected local governments concerning future acquisitions of real property; providing for the board of trustees to request a determination of consistency with the local government's comprehensive plan and local development regulations for the proposed use of property acquired after a certain date; providing for a local government that regulates land use to make that determination; requiring that disputes concerning the implementation of an executed interlocal agreement be resolved in accordance with ch. 164, F.S.; creating s. 1002.361, F.S.; authorizing the board of trustees to create a direct-support organization; requiring the organization to operate under a contract with the board of trustees; providing for the elements of the contract; providing for audits of the organization; providing for membership to the board of directors of the organization; requiring the board of trustees to adopt rules; amending s. 413.011, F.S.; providing legislative policy and intent; providing duties of the Division of Blind Services; requiring the division to develop and implement a state plan for vocational rehabilitation services; requiring the division to develop and implement a state plan for independent living services; providing for the division to purchase and distribute specialized equipment without using state centralized purchasing procedures; exempting such equipment from certain record and inventory requirements; creating a children's program; requiring background investigations of division personnel; requiring division personnel and applicants for employment to meet level 2 screening standards as a condition of employment; redesignating the Advisory Council for the Blind as the Rehabilitation Council for the Blind; amending ss. 413.014, 413.041, 413.051, and 413.091, F.S.; modernizing terminology; requiring the division to conduct a periodic survey of state properties; authorizing the division to create a blind services direct-support organization; providing purposes and objectives; providing for members of the board of the direct-support organization; providing that the organization is subject to s. 24, Art. I of the State Constitution, ch. 119, F.S., and s. 286.011, F.S.; requiring expenses of the organization to be paid by private funds; providing guidelines for the use of the funds; repealing ss. 413.061, 413.062, 413.063, 413.064, 413.065, 413.066, 413.067, 413.068, and 413.069, F.S., relating to permits for soliciting funds to benefit the blind; providing effective dates.

—as amended April 26 was read the third time by title.

MOTION

On motion by Senator Atwater, the rules were waived to allow the following amendment to be considered:

Senators Carlton and Bennett offered the following amendment which was moved by Senator Atwater:

Amendment 1 (783172)(with title amendment)—On page 4, line 10, insert:

Section 1. Section 1004.451, Florida Statutes, is created to read:

1004.451 Center for the Performing Arts direct-support organization.—

(1) Florida State University shall create a direct-support organization for the Florida State University Center for the Performing Arts for the purposes described in this section. The board of directors of the direct-support organization shall consist of eleven members. The core members of the board of directors shall be the President of Florida State University, the Chair of the Board of Trustees for Florida State University, the Dean of Florida State University School of Theater, the Dean of Florida State University School of Visual Arts and Dance, the Director of Florida State University Conservatory for Actor Training in Sarasota, and two members nominated by Asolo Theater, Inc., and approved by the President of Florida State University. The seven core members of the board shall appoint two additional members to serve on the board of directors with the approval of the President of Florida State University. The President of Florida State University shall appoint two members from the Sarasota community, or, at the President's discretion, may appoint two members nominated by the Sarasota Ballet, Inc. Upon appointment of all members of the board of directors, the direct-support organization shall develop a charter and bylaws to govern its operation, provided that all decisions by its board of directors shall be taken by at least six-vote majorities. The charter, bylaws, and any modifications of such, shall be subject to approval by Florida State University.

(2) The direct-support organization, operating under its charter and bylaws, shall acquire from Florida State University, own and operate the Florida State University Center for the Performing Arts, and shall promote a resident professional repertory program to work in conjunction with, complement and support the Conservatory's graduate educational theater program of Florida State University in Sarasota. It shall engage in fundraising to support its activities and support the independent fundraising efforts of the Asolo and the Conservatory. The direct-support organization shall operate and maintain the building in coordination with the Florida State University Ringling Cultural Center. All agreements between the University and Asolo in force on the effective date of this statute shall remain binding on the parties.

(3) The direct support organization shall provide for an annual financial audit in accordance with s. 1004.28(5). The audit shall be addressed to the direct support organization, Florida State University, the Asolo and, if it has members serving on the Board of Directors, the Ballet, each of whom are authorized to require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of such organization.

(4) An employee or member of the direct-support organization may not receive, nor any member of their immediate family receive, a commission, fee, or financial benefit in connection with services or goods associated with the direct-support organization and may not be a business associate of any individual, firm, or organization involved in the sale or exchange of goods or services within the direct-support organization.

(5) In all other respects, the direct-support organization shall act as a direct-support organization authorized and governed by the provisions of s. 1004.28.

(6) Florida State University shall transfer the Center for the Performing Arts to the direct-support organization when Florida State University has approved the charter and bylaws of the direct-support organization.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines insert: An act relating to state educational facilities and programs; creating s. 1004.451, F.S.; providing for creation of the Florida State University Center for the Performing Arts direct-support organization; providing its organization, powers, and duties; amending s. 11.45, F.S.;

POINT OF ORDER

Senator Wise raised a point of order that pursuant to Rule 7.1 **Amendment 1** was not germane to the bill.

The President referred the point of order and the amendment to Senator Lee, Chair of the Committee on Rules and Calendar.

On motion by Senator Atwater, further consideration of **CS for SB 2918** with pending **Amendment 1 (783172)** and pending point of order was deferred.

CS for SB 538—A bill to be entitled An act relating to pugilistic contests and exhibitions; providing a short title; amending s. 548.002, F.S.; defining the term "amateur sanctioning organization"; revising certain definitions to apply them to both amateur and professional participants; amending s. 548.003, F.S.; providing the Florida State Boxing Commission the responsibility for, and the authority to adopt rules relating to, the approval of amateur sanctioning organizations for amateur boxing and kickboxing matches held in the state; authorizing the commission to adopt by rule, or incorporate by reference into rule, the health and safety standards of certain specified boxing and kickboxing organizations; requiring the commission to review its rules at least every 2 years; authorizing the commission to adopt emergency rules; amending s. 548.006, F.S.; limiting required certification of competitiveness of mixed martial arts and kickboxing matches to professional matches; expanding power of the commission to control pugilistic contests and exhibitions to include exclusive jurisdiction over the approval of amateur sanctioning organizations for amateur boxing and kickboxing matches; specifying requirements for the holding of professional and amateur matches; creating s. 548.0065, F.S.; prohibiting certain amateur matches except under certain circumstances; prohibiting approval of amateur sanctioning organizations not meeting and enforcing certain health and safety standards and not meeting certain other background, training, and experience requirements; providing for periodic checks for compliance with enforcement and supervision requirements; providing procedures for suspending the approval of an amateur sanctioning organization that fails to comply with the health and safety standards required by ch. 548, F.S.; providing that a member of the commission or a representative of the commission may immediately suspend a match that appears to violate health and safety standards; authorizing a law enforcement officer to assist in enforcing a suspension order; requiring biennial or sooner, if necessary, sanctioning review; providing for continuation, suspension, or revocation of sanctioning approval pursuant to such review; amending s. 548.008, F.S.; prohibiting the holding of certain amateur matches not sanctioned and supervised by an amateur sanctioning organization approved by the commission; prohibiting the holding of amateur mixed martial arts matches; prohibiting the holding of professional matches not meeting the requirements of ch. 548, F.S., and rules adopted by the commission; providing penalties for participating in or holding, promoting, or sponsoring a prohibited match; deleting provisions relating to professional or amateur toughman or badman competitions; amending s. 548.007, F.S.; providing for the applicability of ch. 548, F.S., to amateur matches and certain other matches or events; amending s. 548.056, F.S.; deleting a promoter from a list of persons who are prohibited from having a financial interest in a participant; providing an effective date.

—was read the third time by title.

On motion by Senator Lynn, **CS for SB 538** was passed and certified to the House. The vote on passage was:

Yeas—28

Alexander	Fasano	Peaden
Argenziano	Geller	Posey
Atwater	Hill	Saunders
Bullard	Jones	Sebesta
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Crist	Lee	Wilson
Dawson	Lynn	Wise
Diaz de la Portilla	Margolis	
Dockery	Miller	

Nays—10

Aronberg	Cowin	Siplin
Bennett	Garcia	Smith
Campbell	Haridopolos	Villalobos
Constantine		

Vote after roll call:

Yea—Pruitt

Nay to Yea—Cowin, Smith

The Senate resumed consideration of—

CS for SB 2918—A bill to be entitled An act relating to the Florida School for the Deaf and the Blind; amending s. 11.45, F.S.; requiring the Auditor General to conduct audits of the accounts and records of the Florida School for the Deaf and the Blind; amending s. 1001.20, F.S.; including the Florida School for the Deaf and Blind in the entities subject to inspection by the Department of Education's Inspector General; amending s. 1002.36, F.S., relating to the Florida School for the Deaf and the Blind; providing that the school is a component of the delivery of public education within Florida's K-20 education system; requiring certain compliance; revising audit requirements; revising provisions specifying authority of the Board of Trustees for the Florida School for the Deaf and the Blind to perform certain actions; revising the power and authority of the board of trustees; revising duties of the board of trustees; amending s. 1011.55, F.S.; revising the procedure for legislative budget requests of the Florida School for the Deaf and the Blind; creating s. 1013.351, F.S.; providing definitions; providing a policy statement concerning the coordination of planning between the board of trustees and local governments on property acquired after a certain date; authorizing the board of trustees to enter into an interlocal agreement with the municipality where the school is located; providing for the makeup of the interlocal agreement; requiring the submission of the interlocal agreement with the Office of Educational Facilities and the state land planning agency; providing for a review of the interlocal agreement by the office and the agency; providing for amendments of the interlocal agreement; authorizing an alternative process to the interlocal agreement concerning expansion of the school's campus; providing for improved coordination between the board of trustees and the affected local governments concerning future acquisitions of real property; providing for the board of trustees to request a determination of consistency with the local government's comprehensive plan and local development regulations for the proposed use of property acquired after a certain date; providing for a local government that regulates land use to make that determination; requiring that disputes concerning the implementation of an executed interlocal agreement be resolved in accordance with ch. 164, F.S.; creating s. 1002.361, F.S.; authorizing the board of trustees to create a direct-support organization; requiring the organization to operate under a contract with the board of trustees; providing for the elements of the contract; providing for audits of the organization; providing for membership to the board of directors of the organization; requiring the board of trustees to adopt rules; amending s. 413.011, F.S.; providing legislative policy and intent; providing duties of the Division of Blind Services; requiring the division to develop and implement a state plan for vocational rehabilitation services; requiring the division to develop and implement a state plan for independent living services; providing for the division to purchase and distribute specialized equipment without using state centralized purchasing procedures; exempting such equipment from certain record and inventory requirements; creating a children's program; requiring background investigations of division personnel; requiring division personnel and applicants for employment to meet

level 2 screening standards as a condition of employment; redesignating the Advisory Council for the Blind as the Rehabilitation Council for the Blind; amending ss. 413.014, 413.041, 413.051, and 413.091, F.S.; modernizing terminology; requiring the division to conduct a periodic survey of state properties; authorizing the division to create a blind services direct-support organization; providing purposes and objectives; providing for members of the board of the direct-support organization; providing that the organization is subject to s. 24, Art. I of the State Constitution, ch. 119, F.S., and s. 286.011, F.S.; requiring expenses of the organization to be paid by private funds; providing guidelines for the use of the funds; repealing ss. 413.061, 413.062, 413.063, 413.064, 413.065, 413.066, 413.067, 413.068, and 413.069, F.S., relating to permits for soliciting funds to benefit the blind; providing effective dates.

—which was previously considered this day.

POINT OF ORDER DISPOSITION

Pending point of order by Senator Wise and pending **Amendment 1 (783172)** by Senators Carlton and Bennett were withdrawn.

On motion by Senator Atwater, **CS for SB 2918** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise
Diaz de la Portilla	Miller	

Nays—None

Vote after roll call:

Yea—Cowin

SB 2532—A bill to be entitled An act relating to Three Kings Day; creating s. 683.33, F.S.; designating January 5 as "Three Kings Day" providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Siplin, **SB 2532** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for CS for SB 546** was deferred.

CS for SB 1900—A bill to be entitled An act relating to public postsecondary education and state universities; amending s. 1004.225, F.S.; deleting obsolete provisions; providing for terms of members appointed to the Emerging Technology Commission; providing for filling any vacancy that occurs during the term of a member of the commission; delaying the expiration of the Florida Technology Development Act; requiring Florida Research Consortium, Inc., to report to the Emerging Technology Commission within a specified timeframe with respect to criteria for reviewing proposals for a center of excellence; requiring the commission to notify state universities and the State Technology Office of approved criteria for submitting a proposal for a center of excellence by a specified date; requiring the Emerging Technology Commission to submit, by a specified date, a recommended plan to the State Board of Education for establishing or expanding one or more centers of excellence; providing a timeframe for the State Board of Education to approve a final plan and report to the Governor and the Legislature; creating s. 1004.451, F.S.; creating the Florida State University Center for the Performing Arts Direct Support Organization; providing an appropriation; amending s. 1004.55, F.S.; relocating regional autism centers for certain counties; creating s. 1004.63, F.S.; creating the Florida-Scripps Research Compact; providing an appropriation; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Klein, **CS for SB 1900** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for SB 702—A bill to be entitled An act relating to public records and meetings; creating s. 381.0273, F.S.; providing that information contained in patient safety data or other records maintained by the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors which identifies a patient, which identifies the person or entity reporting patient safety data, or which identifies a health care practitioner or health care facility is confidential and exempt from disclosure under public-records requirements; authorizing the release of information under specified circumstances, including release to a health care research entity; specifying circumstances under which the corporation may deny a request for records or data that identifies a patient; providing that portions of meetings held by the corporation and its subsidiaries, advisory committees, or contractors at which such information is discussed are exempt from public-meetings requirements; providing for future legislative review and repeal under the Open Government Sunset Review Act of 1995; providing a statement of public necessity; providing a contingent effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Saunders, **CS for SB 702** as amended was passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—33

Alexander	Carlton	Diaz de la Portilla
Aronberg	Clary	Dockery
Atwater	Constantine	Fasano
Bennett	Cowin	Garcia
Bullard	Dawson	Geller

Haridopolos	Margolis	Siplin
Jones	Peaden	Villalobos
Klein	Posey	Wasserman Schultz
Lawson	Pruitt	Webster
Lee	Saunders	Wilson
Lynn	Sebesta	Wise

Nays—5

Argenziano	Crist	Smith
Campbell	Hill	

Vote after roll call:

Yea to Nay—Dockery, Haridopolos

Consideration of **CS for SB 2412** was deferred.

SB 2420—A bill to be entitled An act relating to seniors' services; authorizing each county to create an independent special district to provide funding for seniors' services; requiring approval by a majority vote of electors to annually levy ad valorem taxes not to exceed a certain maximum; creating a governing board for the special district; specifying criteria for membership to the governing board; providing terms of office; clarifying that a county may provide seniors' services or create a special district to provide such services by general or special law; specifying the powers and functions of a council on seniors' services; requiring each council to appoint a chair and a vicechair and elect officers, to identify and assess the needs of the seniors in the county served by the council, to provide training and orientation to new members of the council, to make and adopt bylaws and rules for the council's operation and governance, and to provide an annual written report to the governing body of the county; requiring the council to maintain minutes of each meeting and to serve without compensation; requiring the council to prepare a tentative annual written budget and to compute millage rate to fund the tentative budget; requiring that all tax money collected be paid directly to the council on seniors' services by the tax collector of the county and deposited in qualified public depositories; specifying expenditures of funds; requiring the council to prepare and file a financial report with the governing body of the county; providing that a district may be dissolved by a special act of the Legislature or by ordinance by the governing body of the county; specifying obligations of the county if a district is dissolved; providing that the governing body of a county may fund the budget of the council on seniors' services from its own funds after or during the council's first year of operation; requiring a special district to comply with statutory requirements related to the filing of a financial or compliance report; authorizing a county to create a dependent special district to provide certain services for seniors; authorizing the district to seek grants from several sources and to accept donations from public and private sources; providing legislative intent with respect to the use of funds collected by a council on seniors' services; providing that two or more councils on seniors' services may enter into a cooperative agreement to share administrative costs, staff, and office space and to seek grants, to accept donations, or to jointly fund programs serving multicounty areas; providing an effective date.

—was read the third time by title.

On motion by Senator Campbell, **SB 2420** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Crist	Lawson
Argenziano	Dawson	Lee
Aronberg	Diaz de la Portilla	Lynn
Atwater	Dockery	Margolis
Bennett	Fasano	Miller
Bullard	Garcia	Peaden
Campbell	Geller	Posey
Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin
Smith	Wasserman Schultz	Wilson
Villalobos	Webster	Wise

Nays—None

SB 2924—A bill to be entitled An act relating to child support; amending s. 409.2558, F.S.; requiring the Department of Revenue to use reasonable efforts to locate persons to whom collections or refunds are owed, including disclosing information on the Internet; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Aronberg, **SB 2924** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for SB 444—A bill to be entitled An act relating to abrogating offensive or derogatory place names; creating s. 267.0625, F.S.; providing legislative findings that certain place names are offensive or derogatory; providing definitions; requiring the Florida Historical Commission and the Division of Historic Resources to aid state agencies and local governments in identifying geographic sites having offensive or derogatory place names; directing state agencies and local governments to identify geographic sites having offensive or derogatory place names by a specified date; directing the commission to recommend to the division replacement names; directing the division to select replacement names by a specified date; requiring state and local governments to update maps and markers with the new place names; directing the division to notify the United States Board of Geographic Names of name changes; providing specified exceptions to the act; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Geller, **CS for SB 444** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Margolis	

Nays—None

SB 2426—A bill to be entitled An act relating to electronic monitoring services; amending s. 648.387, F.S.; requiring vendors that provide elec-

tronic monitoring services to register certain information with the clerk of the court; authorizing bail bond agents to contract with registered vendors to provide electronic monitoring of pretrial releasees in certain circumstances; authorizing bail bond agents to contract with government entities to provide electronic monitoring services in certain circumstances; authorizing such agents to assess and collect a fee for electronic monitoring services; providing that failure to make timely payment of fees constitutes grounds to remand; providing that such fees are exempt from regulation by the Department of Financial Services; providing specifications for electronic monitoring equipment; creating s. 903.0472, F.S.; authorizing pretrial release subject to electronic monitoring; authorizing a fee for such services; providing that failure to make timely payment of electronic monitoring fees constitutes a violation of pretrial release conditions; providing that a violation of pretrial release conditions constitutes grounds to remand; requiring reporting of violations of pretrial release conditions; providing that it is a third-degree felony for certain persons to alter, tamper with, damage, or destroy electronic monitoring equipment; providing criminal penalties; providing applicability; amending s. 948.09, F.S.; authorizing the department to contract for collection of electronic monitoring fees; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Crist, **SB 2426** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

SB 1440—A bill to be entitled An act relating to voter education; requiring district school boards and county supervisors of elections jointly to provide a program of voter education for high-school seniors; providing guidelines for the content of the educational program; requiring that the program of voter education be conducted during school hours; providing an effective date.

—was read the third time by title.

On motion by Senator Sebesta, **SB 1440** was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Peaden
Argenziano	Dockery	Posey
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise
Dawson	Miller	

Nays—None

Vote after roll call:

Yea—Lawson

CS for CS for SB 1604—A bill to be entitled An act relating to military affairs; creating s. 163.3175, F.S.; providing legislative findings on the compatibility of development with military installations; providing for the exchange of information relating to proposed land use decisions between counties and local governments and military installations; providing for responsive comments by the commanding officer or his or her designee; providing for the county or affected local government to take such comments into consideration; providing for a representative of the military installation to be an ex-officio, nonvoting member of the county's or local government's land planning or zoning board; encouraging the commanding officer to provide information on community planning assistance grants; providing definitions; amending s. 163.3177, F.S.; providing for the future land use plan element of comprehensive plans to include compatibility with military installations; requiring the inclusion of criteria; requiring local governments to update or amend their comprehensive plan by a certain date; providing for the coordination by the state land planning agency and the Department of Defense on compatibility issues for military installations; amending s. 163.3187, F.S.; providing that amendments to address compatibility or include criteria do not count toward the limitation on frequency of amending comprehensive plans; amending s. 163.3191, F.S.; providing that evaluations of comprehensive plans include whether such criteria were successful in resolving land use compatibility uses with military installations; amending s. 288.980, F.S.; creating the Defense Infrastructure Grant Program; providing the purpose and for implementation of the program; amending s. 295.01, F.S.; revising certain requirements relating to scholarships for children of deceased veterans; amending s. 443.101, F.S.; providing eligibility for unemployment compensation benefits for the spouses of a member of the military under certain circumstances beginning on a date certain; amending s. 445.007, F.S.; providing for the appointment of a military representative to certain regional workforce boards; amending s. 464.009, F.S.; removing a scheduled repeal of provisions; providing for licensure by endorsement of certain nurses licensed in another state that is a member of the Nurse Licensure Compact; amending s. 464.022, F.S.; providing that certain nurses relocating to this state may perform nursing services for a period of 120 days after submitting application for licensure; amending s. 1002.39, F.S.; revising eligibility requirements for military dependents applying for a John M. McKay Scholarship; requiring the State Board of Education to adopt rules; amending s. 1003.05, F.S.; directing the Department of Education to assist in the development of memoranda of agreement between school districts and military installations; providing that qualifying military dependents receive priority admission to certain special academic programs; creating s. 1008.221, F.S.; providing for alternate assessments for the grade 10 FCAT for certain military dependents; amending s. 1009.21, F.S.; classifying dependents of active duty members of the armed forces and certain liaison officers and their spouses and dependent children as residents for tuition purposes; directing Workforce Florida, Inc., to establish an employment advocacy and assistance program targeting military spouses and dependents; directing the Florida Housing Finance Corporation to assess the housing needs of Florida's military families; requiring a report; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Fasano, **CS for CS for SB 1604** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for CS for SB 2262** was deferred.

SB 2754—A bill to be entitled An act relating to construction contracting; amending s. 218.70, F.S.; providing a short title; amending s. 218.72, F.S.; redefining terms used in part VII of ch. 218, F.S.; amending s. 218.735, F.S.; revising provisions relating to timely payment for purchases of construction services; revising deadlines for payment; providing procedures for project closeout and payment of retainage; providing requirements for local government construction retainage; providing that ss. 218.72-218.76, F.S., apply to the payment of any payment request for retainage; providing exceptions; creating s. 255.0705, F.S.; providing a short title; amending s. 255.071, F.S.; revising deadlines for the payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects; creating ss. 255.072, 255.073, 255.074, 255.075, 255.076, 255.077, and 255.078, F.S.; providing definitions; providing for timely payment for purchases of construction services by a public entity; providing procedures for calculating payment due dates; providing procedures for handling improper payment requests; providing for the resolution of disputes; providing for project closeout and payment of retainage; providing that ss. 255.072-255.076, F.S., apply to the payment of any payment request for retainage; providing exceptions; amending s. 255.05, F.S.; providing that certain restrictions in bonds issued for public works projects are unenforceable; providing requirements for certain notices of nonpayment served by a claimant who is not in privity with the contractor; revising the form for a public construction bond; requiring the payment provisions of all public construction bonds to be construed as statutory bonds; prohibiting conversion to common law bonds; deleting obsolete language; deleting a requirement that bond forms used by public owners reference certain notice and time limitation provisions; providing limitations on a claimant's institution of certain actions against a contractor or surety; amending s. 95.11, F.S., to conform a cross-reference; amending s. 713.015, F.S.; revising a direct contract provision requirement; amending s. 713.02, F.S.; protecting the rights of certain persons to enforce certain contract, lien, or bond remedies or contractual obligations under certain circumstances; precluding certain defenses; amending s. 713.04, F.S.; revising certain final payment requirements; amending s. 713.08, F.S.; requiring a claim of lien to be served on an owner; amending s. 713.13, F.S.; clarifying use of a payment bond as a transfer bond; amending s. 713.135, F.S., revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; amending s. 713.24, F.S.; preserving certain lien rights when filing a transfer bond after commencing certain lien enforcement proceedings; amending s. 713.345, F.S.; increasing certain criminal penalties for misapplication of construction funds; amending s. 713.3471, F.S.; revising a notice requirement concerning the disbursement of payments on construction loans; requiring that the notice be provided to the owner; providing for application of specified sections of the act to certain contracts and projects; providing an effective date.

—as amended April 26 was read the third time by title.

Senator Argenziano moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (643966)—On page 33, between lines 14 and 15, insert:

Nothing in this section shall be construed to adversely affect the lien and bond rights of lienors who are not in privity with the owner. This section does not apply when the owner is also a licensed contractor or a construction professional who is in the business of developing property.

On motion by Senator Argenziano, **SB 2754** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Clary	Garcia
Argenziano	Constantine	Geller
Aronberg	Cowin	Haridopolos
Atwater	Crist	Hill
Bennett	Dawson	Jones
Bullard	Diaz de la Portilla	Klein
Campbell	Dockery	Lawson
Carlton	Fasano	Lee
Lynn	Pruitt	Villalobos
Margolis	Saunders	Wasserman Schultz
Miller	Sebesta	Webster
Peaden	Siplin	Wilson
Posey	Smith	Wise

Nays—None

CS for CS for SB 2994—A bill to be entitled An act relating to the Department of Financial Services; creating s. 17.0416, F.S.; authorizing the Chief Financial Officer to provide certain services on a fee basis under certain circumstances; requiring the Department of Financial Services to deposit fees collected into the General Revenue Fund; authorizing the department to recover expenses by a budget amendment; authorizing the department to adopt rules; amending s. 17.16, F.S.; providing that the office of the Chief Financial Officer may have an official seal; amending s. 17.57, F.S.; authorizing the Chief Financial Officer to use reverse repurchase agreements in investment transactions; amending s. 17.59, F.S.; revising collateral safekeeping requirements; amending s. 17.61, F.S.; authorizing entities created under the State Constitution to invest funds; amending s. 20.121, F.S.; providing that the Chief Financial Officer may be referred to as the "Treasurer"; providing that the Department of Financial Services, rather than the Office of Insurance Regulation, is responsible for regulation of insurance adjusters; providing that the Director of the Office of Insurance Regulation may be known as the Commissioner of Insurance Regulation; providing that the Director of the Office of Financial Regulation may be known as the Commissioner of Financial Regulation; amending s. 110.1227, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an actuary to the Florida Employee Long-Term-Care Plan Board of Directors; amending s. 112.215, F.S.; redefining the term "employee" to include any state university board of trustees; providing for the Government Employees' Deferred Compensation Plan to be funded indirectly from fees charged by investment providers to plan participants; replacing the term "plan provider" with the term "investment option provider"; amending s. 215.95, F.S.; revising the membership of the Florida Financial Management Information Board; amending s. 215.96, F.S.; revising the membership of the coordinating council to the Florida Financial Management Information Board; extending the date of future repeal of the law requiring the board to facilitate the integration of certain administrative and financial management systems and establishing the Enterprise Resource Planning Integration Task Force; amending s. 287.064, F.S.; authorizing the financing of a guaranteed energy performance savings contract pursuant to a master equipment financing agreement; providing certain terms and restrictions; amending s. 408.05, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an employee to the State Comprehensive Health Information System Advisory Council; amending s. 501.212, F.S.; specifying persons, causes of action, or activities that are exempt from part II of chapter 501, F.S., the Deceptive and Unfair Trade Practice Act; amending s. 516.35, F.S.; correcting a reference to the agency that licenses the sale of credit insurance; amending s. 624.4622, F.S.; providing that a local government self-insurance fund must initially be organized as a commercial self-insurance fund or a group self-insurance fund and, for a specified period, must comply with the requirements for such a fund; providing that a local government self-insurance fund comply with specified provisions relating to financial statements; amending ss. 624.313, 624.317, 624.501, 626.016, 626.112, 626.161, 626.171, 626.181, 626.191, 626.211, 626.221, 626.231, 626.241, 626.251, 626.261, 626.266, 626.271, 626.281, 626.2817, 626.291, 626.301, 626.371, 626.381, 626.431, 626.461, 626.471, 626.521, 626.541, 626.551, 626.611, 626.621, 626.631, 626.641, 626.661, 626.681, 626.691, 626.692, 626.8582, 626.8584, 626.859, 626.863, 626.865, 626.866, 626.867, 626.869, 626.8695, 626.8696, 626.8697, 626.8698, 626.870, 626.871, 626.872, 626.873, 626.8732, 626.8734, 626.8736, 626.8738, 626.874, 626.878, F.S.; transferring and renumbering s. 627.7012, F.S., as s. 626.879, F.S., and amending such section; making conforming changes to authorize the Department of Financial Services, rather than the Office of Insurance Regulation, to regulate insurance adjusters; amending s. 626.9543, F.S.; specifying that the Department of Financial Services, rather than the former Department of Insurance, administers the Holocaust Victims Insurance Act; amending s. 626.989, F.S.; correcting references to the Bureau of Workers' Compensation Insurance Fraud with regard to the required annual report of the Department of Financial Services related to workers' compensation fraud; amending s.

627.0628, F.S.; providing that the Director of the Office of Insurance, rather than the Chief Financial Officer, shall appoint an employee of the office who is an actuary to the Florida Commission on Hurricane Loss Projection Methodology; amending s. 627.6699, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall be a member of the board of the Small Employer Health Reinsurance Program; providing that the transfer of the regulation of adjusters from the Office of Insurance Regulation to the Department of Financial Services does not affect any administrative or judicial action prior to or pending on the effective date of the act; providing that any action approved or authorized by the Financial Services Commission or the Office of Insurance Regulation continues to be effective until the Department of Financial Services otherwise prescribes; providing that the rules of the Financial Services Commission related to adjusters shall become rules of the Department of Financial Services; amending s. 626.99245, F.S.; providing that the regulation of certain viatical settlement agreements and providers is within the exclusive jurisdiction of the Office of Insurance Regulation under part X of ch. 626; amending s. 494.0025, F.S.; prohibiting the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent; amending s. 516.07, F.S.; providing that the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent is grounds for denial of license or for disciplinary action; amending s. 520.995, F.S.; providing that the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent is grounds for disciplinary action; amending s. 626.9541, F.S.; providing that the deceptive use of a name is an unfair method of competition and an unfair or deceptive act or practice; amending s. 655.005, F.S.; revising certain definitions relating to financial institutions to include the term "international branch"; amending s. 655.0322, F.S.; revising the definition of the term "financial institution" to include an international branch; amending s. 655.0385, F.S.; clarifying requirements for notification of the appointment of an executive director or equivalent by state financial institutions; requiring a nonrefundable fee to accompany notification; amending s. 655.045, F.S.; providing an exemption from audit requirements; amending s. 655.059, F.S.; providing for the inspection and examination of financial institution records and books pursuant to subpoena; providing for reimbursement of reasonable costs and fees for compliance; providing for setting the reimbursement amount when charges are contested; amending s. 655.921, F.S.; prohibiting certain out-of-state financial institutions from locating branch offices in the state in order to qualify for certain exempt transactions; deleting provisions relating to authorization of offices in the state; amending s. 655.922, F.S.; clarifying provisions authorizing financial institutions under another state's financial codes to transact business in this state; expanding the names or titles under which only a financial institution may transact business; prohibiting the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent; requiring the Financial Services Commission to adopt rules; amending s. 655.94, F.S.; deleting a prohibition against certain notary publics being involved in opening safety deposit boxes for nonpayment of rent; requiring use of certified mail instead of registered mail; amending. s. 658.16, F.S.; providing criteria for a bank or trust company chartered as a limited liability company to be considered "incorporated" under the financial institutions codes; providing definitions; amending s. 658.23, F.S.; correcting terminology; deleting a requirement for a current copy of the bylaws of a bank or trust company to be on file with the Office of Financial Regulation; amending s. 658.26, F.S.; providing for state banks to relocate offices upon approval; providing that certain financial institutions may establish or relocate an office upon written notification; providing requirements for notification and a fee; requiring an application for relocation of a main office outside the state; exempting applications from publication in the Florida Administrative Weekly; modifying requirements for applications for branch offices by a bank ineligible for branch notification; deleting a requirement that such applications be published in the Florida Administrative Weekly and be subject to ch. 120, F.S.; requiring a relocation application to be filed with the Office of Financial Regulation; providing for a filing fee, investigations, and restrictions relating to such applications; amending s. 658.33, F.S.; adding to the list of persons who must meet certain qualification levels; providing for a waiver of qualification requirements; amending s. 658.37, F.S.; prohibiting an imminently insolvent bank from paying dividends; amending s. 658.48, F.S.; specifying limitations on making loans and extending credit by a bank declared to be imminently insolvent; amending s. 658.67, F.S.; providing multiple dates for the assessment of the value of property acquisition as security; amending s. 658.73, F.S.; delineating which entities or individuals must pay a fee for a certificate of good standing; amending s. 663.16, F.S.; revising definitions to include the term "branch" and to reduce the percentage of voting stock necessary for consideration as control; amending s. 663.304, F.S.; deleting a requirement for reservation of a proposed corporate name with the Department of State; amending s. 665.034, F.S.; revising a percentage designating control of an association; amending s. 674.406, F.S.; reducing the time that banks must retain receipts of items; reducing the time within which one must report unauthorized signatures; providing a time limitation within which to assert claims against a bank for an unauthorized endorsement; repealing s. 658.68, F.S., relating to liquidity requirements for a state bank; amending s. 627.4133, F.S.; providing for an effective date of certain policy cancellations by insureds; amending s. 717.101, F.S.; providing definitions; amending ss. 717.106, 717.107, 717.109, and 717.116, F.S.; revising criteria for presuming as unclaimed certain bank deposits and funds in financial organizations, funds owing under life insurance policies, funds held by business associations, and property held in a safe-deposit box or other safekeeping repository, respectively; amending s. 717.117, F.S.; revising reporting requirements for unclaimed property; presuming certain accounts as unclaimed under certain circumstances; providing that certain intangible property is exempt from being reported as unclaimed property under certain conditions; amending s. 717.118, F.S.; providing requirements for notification of apparent owners of unclaimed property; amending s. 717.119, F.S.; revising requirements for delivery of certain unclaimed property; providing penalties for late deliveries; amending s. 717.1201, F.S.; revising certain holder payment and repayment requirements; amending s. 717.122, F.S.; revising certain public sale requirements; authorizing the Department of Financial Services to deduct certain auction fees, costs, and expenses; prohibiting actions or proceedings against the department for certain decisions relating to auctions of unclaimed property; specifying that certain sales of unclaimed property are not subject to the sales tax; amending s. 717.123, F.S.; increasing a maximum amount of funds the department may retain from certain funds received; amending s. 717.124, F.S.; providing additional requirements for filing unclaimed property claims; providing for the return or withdrawal of certain claims under certain circumstances; specifying a time period for department determination of claims; authorizing the department to deny claims under certain circumstances; specifying an exclusive remedy for subsequent claimants; revising requirements for a power of attorney; requiring direct delivery of safe-deposit boxes under certain circumstances; revising payment of fees and costs requirements; creating s. 717.12403, F.S.; providing presumptions for certain unclaimed demand, savings, or checking accounts in financial institutions with more than one beneficiary; creating s. 717.12404, F.S.; providing requirements for claims for property reported in the name of an active or dissolved corporation for which the last annual report is unavailable; creating s. 717.12405, F.S.; providing requirements; for claims by estates; amending s. 717.1241, F.S.; revising requirements for remittance of property subject to conflicting claims; amending s. 717.1242, F.S.; clarifying legislative intent relating to filing certain claims; creating s. 717.1244, F.S.; providing criteria for department determinations of claims; amending s. 717.126, F.S.; providing a criterion for proof of entitlement; specifying venue in certain unclaimed property actions; creating s. 717.1261, F.S.; requiring a death certificate in claiming entitlement to certain unclaimed property; creating s. 717.1262, F.S.; requiring certain court documents in claiming entitlement to certain unclaimed property; amending s. 717.1301, F.S.; revising certain fee and expense requirements for investigations or examinations; providing for interest on such amounts under certain circumstances; amending s. 717.1315, F.S.; clarifying a record retention requirement for owner representatives; amending s. 717.132, F.S.; specifying criteria for certain corrective actions; creating s. 717.1322, F.S.; specifying grounds for certain disciplinary actions; providing for certain disciplinary actions; providing penalties; authorizing the department to adopt rules with regard to disciplinary guidelines; creating s. 717.1331, F.S.; providing for department actions against certain lienholders under certain circumstances; creating s. 717.1333, F.S.; providing for admitting certain documents into evidence in certain actions; amending s. 717.134, F.S.; authorizing the department to impose and collect penalties for failing to report certain information; authorizing the department waive such penalties under certain circumstances; creating s. 717.1341, F.S.; prohibiting receipt of unentitled unclaimed property; providing for liability for such property under certain circumstances; authorizing the department to maintain certain civil or administrative actions; providing for fines, costs, and attorney fees; prohibiting filing claims for unentitled unclaimed property; providing criminal penalties; amending s. 717.135, F.S.; revising requirements for agreements to recover certain

property; providing an agreement form; creating s. 717.1351, F.S.; providing requirements for acquisition of unclaimed property by certain persons; providing certain contract requirements; providing a contract form; creating s. 717.1400, F.S.; requiring certain licensed persons to register with the department for certain purposes; providing registration requirements; providing for denial of registration under certain circumstances; providing registration limitations; amending s. 212.02, F.S.; revising a definition to conform; amending ss. 322.142 and 395.3025, F.S.; providing for disclosure of certain confidential information to the department under certain circumstances; amending s. 723.103, F.S.; authorizing the court, under specified conditions, to extend the right of succession to surviving heirs when the decent's lineage cannot be fully documented because it includes a Holocaust victim; limiting the application of statutes of limitation under certain circumstances; defining the term "Holocaust victim"; providing an effective date.

—as amended April 26 was read the third time by title.

Senator Fasano moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (754486)(with title amendment)—On page 166, delete line 15 and insert:

Section 146. Paragraph (h) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

(h) The Division of Consumer Services, which shall include a Bureau of Funeral and Cemetery Services.

1. The Division of Consumer Services shall perform the following functions concerning products or services regulated by the Department of Financial Services or by either office of the Financial Services Commission:

a. Receive inquiries and complaints from consumers.~~;~~

b. Prepare and disseminate such information as the department deems appropriate to inform or assist consumers.~~;~~

c. Provide direct assistance and advocacy for consumers who request such assistance or advocacy.~~;~~

d. With respect to apparent or potential violations of law or applicable rules by a person or entity licensed by the department or by either office of the commission, report such apparent or potential violation to the appropriate division of the department or office of the commission, which may take such further action as it deems appropriate.

e. Designate an employee of the division as primary contact for consumers on issues relating to sinkholes.

2. Any person licensed or issued a certificate of authority by the department or by the Office of Insurance Regulation shall respond, in writing, to the Division of Consumer Services within 20 days after receipt of a written request for information from the division concerning a consumer complaint. The response must address the issues and allegations raised in this complaint. The division may, in its discretion, impose an administrative penalty for failure to comply with this subparagraph in an amount up to $2,500 per violation upon any entity licensed by the department or the Office of Insurance Regulation and $250 for the first violation, $500 for the second violation and up to $1,000 per violation thereafter upon any individual licensed by the department or the Office of Insurance Regulation.

3. The department may adopt rules to implement the provisions of this paragraph.

4. The powers, duties, and responsibilities expressed or granted in this paragraph shall not limit the powers, duties, and responsibilities of the Department of Financial Services, the Financial Services Commission, the Office of Insurance Regulation, or the Office of Financial Regulation set forth elsewhere in the Florida Statutes.

Section 147. Paragraph (a) of subsection (7) of section 440.107, Florida Statutes, is amended to read:

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

(7)(a) Whenever the department determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to secure the payment of workers' compensation required by this chapter or to produce the required business records under subsection (5) within 5 business days after receipt of the written request of the department, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the department of a stop-work order on the employer, requiring the cessation of all business operations. If the department makes such a determination, the department shall issue a stop-work order within 72 hours. The order shall take effect when served upon the employer or, for a particular employer work site, when served at that work site. In addition to serving a stop-work order at a particular work site which shall be effective immediately, the department shall immediately proceed with service upon the employer which shall be effective upon all employer work sites in the state for which the employer is not in compliance. A stop-work order may be served with regard to an employer's work site by posting a copy of the stop-work order in a conspicuous location at the work site. The order shall remain in effect until the department issues an order releasing the stop-work order upon a finding that the employer has come into compliance with the coverage requirements of this chapter and has paid any penalty assessed under this section. *The department may issue an order of conditional release from a stop-work order to an employer upon a finding that the employer has complied with coverage requirements of this chapter and has agreed to remit periodic payments of the penalty pursuant to a payment agreement schedule with the department. If an order of conditional release is issued, failure by the employer to meet any term or condition of such penalty payment agreement shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become immediately due.* The department may require an employer who is found to have failed to comply with the coverage requirements of s. 440.38 to file with the department, as a condition of release from a stop-work order, periodic reports for a probationary period that shall not exceed 2 years that demonstrate the employer's continued compliance with this chapter. The department shall by rule specify the reports required and the time for filing under this subsection.

Section 148. Section 501.137, Florida Statutes, is amended to read:

501.137 Mortgage lenders; tax and insurance payments from escrow accounts; duties.—

(1) Every lender of money, whether a natural person or an artificial entity, whose loans are secured by a mortgage on real estate located within the state and who receives funds incidental thereto or in connection therewith for the payment of property taxes or hazard insurance premiums when *the* ~~such~~ funds are held in escrow by or on behalf of the lender, shall promptly pay *the* ~~such~~ taxes or insurance premiums when *the* ~~such~~ taxes or premiums become due and adequate escrow funds are deposited, so that the maximum tax discount available may be obtained with regard to the taxable property and so that insurance coverage on the property does not lapse.

(2) If an escrow account for *the* ~~such~~ taxes or insurance premiums is deficient, the lender shall notify the property owner within 15 days after the lender receives the notification of taxes due from the county tax collector or receives the notification from the insurer that a premium is due.

(3)(a) If the lender, as a result of neglect, fails to pay any tax or insurance premium when the tax or premium is due and there are sufficient escrow funds on deposit to pay the tax or premium, and if the property owner suffers a loss as a result of *this* ~~such~~ failure, then the lender *is* ~~will be~~ liable for *the* ~~such~~ loss; except, however, that with respect to any loss which would otherwise have been insured, the extent of *the* ~~such~~ liability shall not exceed the coverage limits of any insurance policy which has lapsed.

(b) If the lender violates paragraph (a) and the premium payment is not more than 90 days overdue, the insurer shall reinstate the insurance policy, retroactive to the date of cancellation, and the lender shall reim-

burse the property owner for any penalty or fees imposed by the insurer and paid by the property owner for purposes of reinstating the policy.

(c) If the lender violates paragraph (a) and the premium payment is more than 90 days overdue or if the insurer refuses to reinstate the insurance policy, the lender shall pay the difference between the cost of the previous insurance policy and a new, comparable insurance policy for a period of 2 years.

(4) At the expiration of the annual accounting period, the lender shall issue to the property owner an annual statement of the escrow account.

Section 149. Paragraph (c) of subsection (3) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(3)

(c)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in paragraph (5)(b), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the office to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the office information substantially the same as that required to be reported on the NAIC Annual Statement form by authorized insurers. The assuming insurer shall submit to examination of its books and records by the office and bear the expense of examination.

2.a. Credit for reinsurance must not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(I) The insurance regulator of the state in which the trust is domiciled; or

(II) The insurance regulator of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

b. The form of the trust and any trust amendments must be filed with the insurance regulator of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the insurance regulator.

c. The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the insurance regulator in writing the balance of the trust and list the trust's investments at the preceding year end, and shall certify that the trust will not expire prior to the following December 31.

3. The following requirements apply to the following categories of assuming insurer:

a. The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20 million. *Not less than 50 percent of* the funds in the trust *covering the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers* and trusteed surplus *shall* consist of assets of a quality substantially similar to that required in part II of chapter 625. *Clean, irrevocable, unconditional, and evergreen letters of credit, issued or confirmed by a qualified United States financial institution, as defined in paragraph (5)(a), effective no later than December 31 of the year for which the filing is made and in the possession of the trust on or before the filing date of its annual statement, may be used to fund the remainder of the trust and trusted surplus.*

b.(I) In the case of a group including incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after August 1, 1995, the trust consists of a trusteed account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which $100 million must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(II) The incorporated members of the group must not be engaged in any business other than underwriting of a member of the group, and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as the unincorporated members.

(III) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the insurance regulator an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

Section 150. Section 625.081, Florida Statutes, is amended to read:

625.081 Reserve for health insurance.—For all health insurance policies, the insurer shall maintain an active life reserve which places a sound value on the insurer's liabilities under such policies; is not less than the reserve according to appropriate standards set forth in rules issued by the commission; and, *with the exception of credit disability insurance,* in no event, is less in the aggregate than the pro rata gross unearned premiums for such policies.

Section 151. Paragraphs (a), (e), and (f) of subsection (5) and subsection (13) of section 625.121, Florida Statutes, are amended, and paragraphs (k) and (l) are added to subsection (5) of that section, to read:

625.121 Standard Valuation Law; life insurance.—

(5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.—Except as otherwise provided in paragraph (h) and subsections (6), (11), and (14), the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s. 627.476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners' reserve valuation method defined in subsections (7), (11), and (14); 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4.5 percent interest for such policies issued on or after October 1, 1979; and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies:

1. For policies issued prior to the operative date of s. 627.476(9), the commissioners' 1958 Standard Ordinary Mortality Table; except that, for any category of such policies issued on female risks, modified net premiums and present values, referred to in subsection (7), may be calculated according to an age not more than 6 years younger than the actual age of the insured.~~; and~~

2. For policies issued on or after the operative date of s. 627.476(9), the commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.

3. For policies issued on or after July 1, 2004, ordinary mortality tables, adopted after 1980 by the National Association of Insurance Com-

missioners, adopted by rule by the commission for use in determining the minimum standard of valuation for such policies.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts:

1. For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit;

2. For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either those tables or, at the option of the insurer, the class three disability table (1926); ~~and~~

3. For policies issued prior to January 1, 1961, the class three disability table (1926)*; and*~~.~~

4. For policies or contracts issued on or after July 1, 2004, tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those policies or contracts.

Any such table for active lives shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies:

1. For policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table;

2. For policies issued on or after January 1, 1961, and prior to January 1, 1966, either that table or, at the option of the insurer, the Intercompany Double Indemnity Mortality Table; ~~and~~

3. For policies issued prior to January 1, 1961, the Intercompany Double Indemnity Mortality Table*; and*~~.~~

4. For policies issued on or after July 1, 2004, tables of accidental death benefits adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those policies.

Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(k) For individual annuity and pure endowment contracts issued on or after July 1, 2004, excluding any disability and accidental death benefits purchased under those contracts, individual annuity mortality tables adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those contracts.

(l) For all annuities and pure endowments purchased on or after July 1, 2004, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts, group annuity mortality tables adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum standard of valuation for those contracts.

(13) ~~APPLICABILITY TO~~ CREDIT LIFE *AND DISABILITY* ~~INSURANCE~~ POLICIES.—

(a) For policies issued prior to January 1, 2004:

1. The minimum reserve for single-premium credit disability insurance, monthly premium credit life insurance and monthly premium credit disability insurance shall be the unearned gross premium.

2. As to single-premium credit life insurance policies, the insurer shall establish and maintain reserves that are not less than the value, at the valuation date, of the risk for the unexpired portion of the period for which the premium has been paid as computed on the basis of the commissioners' 1980 Standard Ordinary Mortality Table and 3.5 percent interest. At the discretion of the office, the insurer may make a reasonable assumption as to the ages at which net premiums are to be determined. In lieu of the foregoing basis, reserves based upon unearned gross premiums may be used at the option of the insurer.

(b) For policies issued on or after January 1, 2004:

1. The minimum reserve for single-premium credit disability insurance shall be either:

a. The unearned gross premium, or

b. Based upon a morbidity table that is adopted by the National Association of Insurance Commissioners and is specified in a rule the commission adopts pursuant to subsection (14).

2. The minimum reserve for monthly premium credit disability insurance shall be the unearned gross premium.

3. The minimum reserve for monthly premium credit life insurance shall be the unearned gross premium.

4. As to single-premium credit life insurance policies, the insurer shall establish and maintain reserves that are not less than the value, at the valuation date, of the risk for the unexpired portion of the period for which the premium has been paid as computed on the basis of the commissioners' 1980 Standard Ordinary Mortality Table or any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commission for use in determining the minimum standard of valuation for such policies; and an interest rate determined in accordance with subsection (6). At the discretion of the office, the insurer may make a reasonable assumption as to the ages at which net premiums are to be determined. In lieu of the foregoing basis, reserves based upon unearned gross premiums may be used at the option of the insurer. ~~This section does not apply as to those credit life insurance policies for which reserves are computed and maintained as required under s. 625.131.~~

Section 152. Paragraphs (c) and (d) of subsection (1) of section 626.321, Florida Statutes, are amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), (e), and (i), a license as agent authorized to transact a limited class of business in any of the following categories:

(c) Personal accident insurance.—License covering only policies of personal accident insurance covering the risks of travel, except as provided in subparagraph 2. The license may be issued only:

1. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency and may authorize the sale of such ticket policies only in connection with the sale of transportation tickets, or to the full-time salaried employee of such an agent. No such policy shall be for a duration of more than 48 hours or for the duration of a specified one-way trip or round trip.

2. To a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business *entity* ~~office of a business~~ which offers motor vehicles for rent or lease ~~if insurance sales activities authorized by the license are limited to full-time salaried employees~~. A business office licensed or a person licensed pursuant to this subparagraph may, as an agent of an insurer, transact insurance that provides coverage for accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the rental motor vehicle if the lease or rental agreement is for not more than 30 days, or if the lessee is not provided coverage for more than 30 consecutive days per lease period; however, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days.

(d) Baggage and motor vehicle excess liability insurance.—

1. License covering only insurance of personal effects except as provided in subparagraph 2. The license may be issued only:

a. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of baggage and personal effects of travelers, and may authorize the sale of such insurance only in connection with such transportation; or

b. To the full-time salaried employee of a licensed general lines agent~~, a full-time salaried employee of a business which offers motor vehicles for rent or lease,~~ or to ~~a business office of~~ a business *entity that* ~~which~~ offers motor vehicles for rent or lease if insurance sales activities authorized by the license are *in connection with and incidental to the rental of a motor vehicle* ~~limited to full-time salaried employees~~. *An entity applying for a license under this sub-subparagraph:*

(I) Is required to submit only one application for a license under s. 626.171. The requirements of s. 626.171(5) shall apply only to the officers and directors of the entity submitting the application.

(II) Is required to obtain a license for each office, branch office, or place of business making use of the entity's business name by applying to the department for the license on a simplified application form developed by rule of the department for this purpose.

(III) Is required to pay the applicable fees for a license as prescribed in s. 624.501, be appointed under s. 626.112, and pay the prescribed appointment fee under s. 624.501. A licensed and appointed entity shall be directly responsible and accountable for all acts of the licensee's employees.

The purchaser of baggage insurance shall be provided written information disclosing that the insured's homeowner's policy may provide coverage for loss of personal effects and that the purchase of such insurance is not required in connection with the purchase of tickets or in connection with the lease or rental of a motor vehicle.

2. A business *entity that* ~~office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which~~ offers motor vehicles for rent or lease, may include lessees under a master contract providing coverage to the lessor or may transact excess motor vehicle liability insurance providing coverage in excess of the standard liability limits provided by the lessor in its lease to a person renting or leasing a motor vehicle from the licensee's employer for liability arising in connection with the negligent operation of the leased or rented motor vehicle, provided that the lease or rental agreement is for not more than 30 days; that the lessee is not provided coverage for more than 30 consecutive days per lease period, and, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days; that the lessee is given written notice that his or her personal insurance policy providing coverage on an owned motor vehicle may provide additional excess coverage; and that the purchase of the insurance is not required in connection with the lease or rental of a motor vehicle. The excess liability insurance may be provided to the lessee as an additional insured on a policy issued to the licensee's employer.

3. A business *entity that* ~~office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which~~ offers motor vehicles for rent or lease, may, as an agent of an insurer, transact insurance that provides coverage for the liability of the lessee to the lessor for damage to the leased or rented motor vehicle if:

a. The lease or rental agreement is for not more than 30 days; or the lessee is not provided coverage for more than 30 consecutive days per lease period, but, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days;

b. The lessee is given written notice that his or her personal insurance policy that provides coverage on an owned motor vehicle may provide such coverage with or without a deductible; and

c. The purchase of the insurance is not required in connection with the lease or rental of a motor vehicle.

Section 153. Section 626.9743, Florida Statutes, is created to read:

626.9743 Claim settlement practices relating to motor vehicle insurance.—

(1) This section shall apply to the adjustment and settlement of personal and commercial motor vehicle insurance claims.

(2) An insurer may not, when liability and damages owed under the policy are reasonably clear, recommend that a third-party claimant make a claim under his or her own policy solely to avoid paying the claim under the policy issued by that insurer. However, the insurer may identify options to a third-party claimant relative to the repair of his or her vehicle.

(3) An insurer that elects to repair a motor vehicle and specifically requires a particular repair shop for vehicle repairs shall cause the damaged vehicle to be restored to its physical condition as to performance and appearance immediately prior to the loss at no additional cost to the insured or third-party claimant other than as stated in the policy.

(4) An insurer may not require the use of replacement parts in the repair of a motor vehicle which are not at least equivalent in kind and quality to the damaged parts prior to the loss in terms of fit, appearance, and performance.

(5) When the insurance policy provides for the adjustment and settlement of first-party motor vehicle total losses on the basis of actual cash value or replacement with another of like kind and quality, the insurer shall use one of the following methods:

(a) The insurer may elect a cash settlement based upon the actual cost to purchase a comparable motor vehicle, including sales tax, if applicable pursuant to subsection (9). Such cost may be derived from:

1. When comparable motor vehicles are available in the local market area, the cost of two or more such comparable motor vehicles available within the preceding 90 days;

2. The retail cost as determined from a generally recognized used motor vehicle industry source such as:

a. An electronic database if the pertinent portions of the valuation documents generated by the database are provided by the insurer to the first-party insured upon request; or

b. A guidebook that is generally available to the general public if the insurer identifies the guidebook used as the basis for the retail cost to the first-party insured upon request; or

3. The retail cost using two or more quotations obtained by the insurer from two or more licensed dealers in the local market area.

(b) The insurer may elect to offer a replacement motor vehicle that is a specified comparable motor vehicle available to the insured, including sales tax if applicable pursuant to subsection (9), paid for by the insurer at no cost other than any deductible provided in the policy and betterment as provided in subsection (6). The offer must be documented in the insurer's claim file. For purposes of this subsection, a comparable motor vehicle is one that is made by the same manufacturer, of the same or newer model year, and of similar body type and that has similar options and mileage as the insured vehicle. Additionally, a comparable motor vehicle must be in as good or better overall condition than the insured vehicle and available for inspection within a reasonable distance of the insured's residence.

(c) When a motor vehicle total loss is adjusted or settled on a basis that varies from the methods described in paragraph (a) or paragraph (b), the determination of value must be supported by documentation, and any deductions from value must be itemized and specified in appropriate dollar amounts. The basis for such settlement shall be explained to the claimant in writing, if requested, and a copy of the explanation shall be retained in the insurer's claim file.

(d) Any other method agreed to by the claimant.

(6) When the amount offered in settlement reflects a reduction by the insurer because of betterment or depreciation, information pertaining to the reduction shall be maintained with the insurer's claim file. Deductions shall be itemized and specific as to dollar amount and shall accurately reflect the value assigned to the betterment or depreciation. The basis for any deduction shall be explained to the claimant in writing, if requested, and a copy of the explanation shall be maintained with the insurer's claim file.

(7) Every insurer shall, if partial losses are settled on the basis of a written estimate prepared by or for the insurer, supply the insured a copy of the estimate upon which the settlement is based.

(8) Every insurer shall provide notice to an insured before termination of payment for previously authorized storage charges, and the notice shall provide 72 hours for the insured to remove the vehicle from storage before terminating payment of the storage charges.

(9) If sales tax will necessarily be incurred by a claimant upon replacement of a total loss or upon repair of a partial loss, the insurer may defer payment of the sales tax unless and until the obligation has actually been incurred.

(10) Nothing in this section shall be construed to authorize or preclude enforcement of policy provisions relating to settlement disputes.

Section 154. Section 626.9744, Florida Statutes, is created to read:

626.9744 Claim settlement practices relating to property insurance.—Unless otherwise provided by the policy, when a homeowner's insurance policy provides for the adjustment and settlement of first-party losses based on repair or replacement cost, the following requirements apply:

(1) When a loss requires repair or replacement of an item or part, any physical damage incurred in making such repair or replacement which is covered and not otherwise excluded by the policy shall be included in the loss to the extent of any applicable limits. The insured may not be required to pay for betterment required by ordinance or code except for the applicable deductible, unless specifically excluded or limited by the policy.

(2) When a loss requires replacement of items and the replaced items do not match in quality, color, or size, the insurer shall make reasonable repairs or replacement of items in adjoining areas. In determining the extent of the repairs or replacement of items in adjoining areas, the insurer may consider the cost of repairing or replacing the undamaged portions of the property, the degree of uniformity that can be achieved without such cost, the remaining useful life of the undamaged portion, and other relevant factors.

(3) This section shall not be construed to make the insurer a warrantor of the repairs made pursuant to this section.

(4) Nothing in this section shall be construed to authorize or preclude enforcement of policy provisions relating to settlement disputes.

Section 155. Effective July 1, 2004, and applicable to cancellation requests and notices received on or after that date, subsection (3) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(3) The office may, after consultation with insurers licensed to write automobile insurance in this state, approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance, as an alternate to the plan required in s. 627.351(1). All insurers authorized to write automobile insurance in this state shall subscribe to the plan and participate therein. The plan shall be subject to continuous review by the office which may at any time disapprove the entire plan or any part thereof if it determines that conditions have changed since prior approval and that in view of the purposes of the plan changes are warranted. Any disapproval by the office shall be subject to the provisions of chapter 120. The Florida Automobile Joint Underwriting Association is created under the plan. The plan and the association:

(a) Must be subject to all provisions of s. 627.351(1), except apportionment of applicants.

(b) May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of all other insurers to provide insurance for applicants who are in good faith entitled to, but unable to, procure insurance through the voluntary insurance market at standard rates.

(c) Must provide that designated insurers will issue policies of insurance and provide policyholder and claims service on behalf of all insurers for the joint underwriting association.

(d) Must provide for the equitable apportionment among insurers of losses and expenses incurred.

(e) Must provide that the joint underwriting association will operate subject to the supervision and approval of a board of governors consisting of 11 individuals, including 1 who will be elected as chair. Five members of the board must be appointed by the Chief Financial Officer. Two of the Chief Financial Officer's appointees must be chosen from the insurance industry. Any board member appointed by the Chief Financial Officer may be removed and replaced by her or him at any time without cause. Six members of the board must be appointed by the participating insurers, two of whom must be from the insurance agents' associations. All board members, including the chair, must be appointed to serve for 2-year terms beginning annually on a date designated by the plan.

(f) Must provide that an agent appointed to a servicing carrier must be a licensed general lines agent of an insurer which is authorized to write automobile liability and physical damage insurance in the state and which is actively writing such coverage in the county in which the agent is located, or the immediately adjoining counties, or an agent who places a volume of other property and casualty insurance in an amount equal to the premium volume placed with the Florida Joint Underwriting Association. The office may, however, determine that an agent may be appointed to a servicing carrier if, after public hearing, the office finds that consumers in the agent's operating area would not have adequate and reasonable access to the purchase of automobile insurance if the agent were not appointed to a servicing carrier.

(g) Must make available noncancelable coverage as provided in s. 627.7275(2).

(h) Must provide for the furnishing of a list of insureds and their mailing addresses upon the request of a member of the association or an insurance agent licensed to place business with an association member. The list must indicate whether the insured is currently receiving a good driver discount from the association. The plan may charge a reasonable fee to cover the cost incurred in providing the list.

(i) Must not provide a renewal credit or discount or any other inducement designed to retain a risk.

(j) Must not provide any other good driver credit or discount that is not actuarially sound. In addition to other criteria that the plan may specify, to be eligible for a good driver credit, an insured must not have any criminal traffic violations within the most recent 36-month period preceding the date the discount is received.

(k)*1.* Shall have no liability, and no cause of action of any nature shall arise against any member insurer or its agents or employees, agents or employees of the association, members of the board of governors of the association, the Chief Financial Officer, or the office or its representatives for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for or arising out of breach of any contract or agreement pertaining to insurance, or any willful tort.

2. Notwithstanding the requirements of s. 624.155(3)(a), as a condition precedent to bringing an action against the plan under s. 624.155, the department and the plan must have been given 90 days' written notice of the violation. If the department returns a notice for lack of specificity, the 90-day time period shall not begin until a proper notice is filed. This notice must comply with the information requirements of s. 624.155(3)(b). Effective October 1, 2007, this subparagraph shall expire unless reenacted by the Legislature prior to that date.

(l) May require from the insured proof that he or she has obtained the mandatory types and amounts of insurance from another admitted carrier prior to the cancellation of a policy the insured obtained from the plan and prior to the return of any unearned premium the insured paid for such coverage from the plan. This paragraph does not apply to any person who provides proof of sale or inoperability of the vehicle covered under the policy purchased from the plan or relocation outside the state.

Section 156. Subsection (5) is added to section 627.4091, Florida Statutes, to read:

627.4091 Specific reasons for denial, cancellation, or nonrenewal.—

(5) When an insurer refuses to provide private passenger automobile insurance or personal lines residential property insurance, including, but not limited to, homeowner's, mobile home owner's, condominium unit

owner's, or other insurance covering a personal residential structure, to an applicant due to adverse underwriting information, the insurer shall:

(a) Provide to the applicant specific information regarding the reasons for the refusal to insure.

(b) If the reason for the refusal to insure is based on a loss underwriting history or report from a consumer reporting agency, to the extent applicable identify the loss underwriting history and notify the applicant of his or her right under the federal Fair and Accurate Credit Transactions Act to obtain a copy of the report from the consumer reporting agency.

Section 157. Effective upon this act becoming a law, subsections (5) and (6) are added to section 627.4133, Florida Statutes, to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(5) An insurer that cancels a property insurance policy on property secured by a mortgage due to the failure of the lender to timely pay the premium when due shall reinstate the policy as required by s. 501.137.

(6) A single claim on a property insurance policy which is the result of water damage may not be used as the sole cause for cancellation or nonrenewal unless the insurer can demonstrate that the insured has failed to take action reasonably requested by the insurer to prevent a future similar occurrence of damage to the insured property.

Section 158. Paragraph (h) of subsection (9) of section 627.476, Florida Statutes, is amended to read:

627.476 Standard Nonforfeiture Law for Life Insurance.—

(9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.—

(h) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners' 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However:

1. At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

2. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (2), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

3. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

4. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners' 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners' 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

5. In lieu of the mortality tables specified in this section, at the option of the insurance company and subject to rules adopted by the commission, the insurance company may substitute:

a. The 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection and before January 1, 1989;

b. The 1980 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection;

c. A mortality table that is a blend of the sex-distinct 1980 CSO or CET mortality table standard, whichever is applicable, or a mortality table that is a blend of the sex-distinct 1980 CSO or CET smoker and nonsmoker mortality table standards, whichever is applicable, for policies that are subject to the United States Supreme Court decision in Arizona Governing Committee v. Norris to prevent unfair discrimination in employment situations.

6. Ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, adopted by rule by the commission for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners' 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners' 1980 Extended Term Insurance Table.

7.~~6.~~ For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

Section 159. Section 627.7077, Florida Statutes, is created to read:

627.7077 Florida Sinkhole Insurance Facility and other matters related to affordability and availability of sinkhole insurance; feasibility study.—

(1) The Florida State University College of Business Department of Risk Management and Insurance shall, under the direction of the office, conduct a feasibility and cost-benefit study of a potential Florida Sinkhole Insurance Facility and of other matters related to affordability and availability of sinkhole insurance. The study shall be conducted in consultation with the State Board of Administration and the Florida Geological Survey. The university shall provide a preliminary report of its analysis, findings, and recommendations to the Financial Services Commission and the presiding officers of the Legislature no later than February 1, 2005, and shall provide a final report no later than April 1, 2005.

(2) The potential functions of the facility to be analyzed include:

(a) Serving as the direct insurer or the reinsurer for all or some sinkhole losses.

(b) Providing training, communication, and other educational services to the public, engineers, the construction industry, insurance professionals, or others.

(c) Providing uniform standards for use by insurers in evaluating sinkhole loss claims.

(d) Providing consulting services for insurers.

(e) Maintaining a public database of all confirmed sinkholes and paid sinkhole loss claims, for use by consumers and by the insurance, building construction, banking, and real estate industries.

(3) The feasibility study shall, at a minimum, address the following issues:

(a) Where the facility should be housed, including, but not limited to, the options of creating a separate facility or using the Citizens Property Insurance Corporation or the Florida Hurricane Catastrophe Fund.

(b) Federal income taxation implications.

(c) Funding options and costs associated with operating the facility, including means of funding sinkhole insurance through premiums that are adequate to fund covered losses.

(d) Applicability of the experience of similar facilities of other states.

(e) Other economic impact considerations pertinent to a facility.

(f) Alternative dispute resolution mechanisms.

(g) The impact of all present requirements in the Florida Insurance Code on affordability and availability of sinkhole insurance and recommendations to address such impacts.

(4) The study shall be funded from a budget of no more than $300,000, which will be funded by assessments on insurers issuing property insurance in this state. Such assessments shall be collected by the office and shall be prorated among such insurers according to a formula whereby each insurer shall pay a fraction of such budget, the numerator of which shall be such insurer's direct earned premiums for property insurance in this state and the denominator of which shall be the total direct earned premiums for property insurance in this state for calendar year 2003.

Section 160. Section 627.838, Florida Statutes, is amended to read:

627.838 Filing and approval of forms; service charges.—

(1) No premium finance agreement form or related form shall be used in this state by a premium finance company unless it has been filed with and approved by the office. Every filing shall be made within 30 days of issuance or use.

(2) Each premium finance company shall file with the office the service charge and interest rate plan, including all modifications thereto, for informational purposes only. Every filing shall be made within 30 days of its effective date.

~~(3) Each filing shall be accompanied by the filing fee specified in s. 627.849.~~

Section 161. Paragraph (e) of subsection (1) of section 627.848, Florida Statutes, is amended to read:

627.848 Cancellation of insurance contract upon default.—

(1) When a premium finance agreement contains a power of attorney or other authority enabling the premium finance company to cancel any insurance contract listed in the agreement, the insurance contract shall not be canceled unless cancellation is in accordance with the following provisions:

(e) Whenever *a financed* ~~an~~ insurance contract is canceled ~~in accordance with this section~~, the insurer shall*, within 30 days of the cancellation date,* ~~promptly~~ return the unpaid balance due under the finance contract, up to the gross amount available upon the cancellation of the policy, to the premium finance company and any remaining unearned premium to the agent or the insured, or both, for the benefit of the insured or insureds. The insurer shall*, within 30 days of the cancellation date,* notify the insured and the agent of the amount of unearned premium returned to the premium finance company and the amount of unearned commission held by the agent. *The premium finance company shall, within 15 days after the account has been overpaid, either refund to the insured for the insured's benefit any refund due on his or her account or, if the refund is sent or credited to the agent, return or credit to the agent the amount of the overpayment and notify the insured of the refunded amount.* ~~The premium finance company within 15 days shall notify the insured and the agent of the amount of unearned premium.~~ Within 15 days of receipt of notification from the premium finance company, the agent shall return such amount including any unearned commission to the insured or with the written approval of the insured apply such amount to the purchase of other insurance products regulated by the office. The commission may adopt rules necessary to implement the provisions of this subsection.

Section 162. Subsection (1) of section 627.849, Florida Statutes, is amended to read:

627.849 Fees.—

(1) The office shall collect in advance, and the persons so served shall pay to it in advance, the following fees:

(a) Annual license fee $250

(b) Investigation fee 100

(c) Annual report filing fee 25

~~(d) Form filing fee . . . . . 10~~

Section 163. *Analysis of factors affecting premium levels and availability of personal lines property and casualty insurance to consumers in Florida.—*

(1) The Legislative Auditing Committee shall enter into a contract with the Florida State University College of Business Department of Risk Management and Insurance to provide, no later than February 1, 2005, a detailed analysis of factors affecting costs and potential assessments on consumers, and availability, of personal lines property and casualty insurance in Florida generally and in those areas in which coverage is underwritten by the Citizens Property and Casualty Insurance Company. The analysis shall include an evaluation of such factors and recommendations appropriate to moderate or enhance their impact on premiums potential assessments and availability of such insurance. Such factors shall include, but are not limited to:

(a) The factors affecting the level of competition and premium levels specifically, including the impact of rate regulation and possible rating law reforms, and including reforms that have succeeded or failed in other states.

(b) The cost and benefits of required coverages and of restrictions on optional coverages that could otherwise be made available to consumers.

(c) Such other information as may be useful to the Legislature in determining how to increase availability and, over the short and long term, to moderate costs and potential consumer assessments.

(2) The study shall be funded from a budget of no more than $250,000, which shall be funded by assessments on insurers issuing personal lines property and casualty insurance in the state. Such assessments shall be collected by the Office of Insurance Regulation and shall be prorated among such insurers according to a formula whereby each insurer shall pay a fraction of such budget, the numerator of which shall be such insurer's direct earned premiums for personal lines property and casualty insurance in the state and the denominator of which shall be the total direct earned premiums for personal lines property and casualty insurance in the state for calendar year 2003.

(3) The Department of Financial Services, the Office of Insurance Regulation, and insurers shall cooperate with the Florida State University College of Business Department of Risk Management and Insurance conducting the analysis and shall provide such information as the Florida State University College of Business Department of Risk Management and Insurance may request in the format requested by the university.

Section 164. *Section 625.131, Florida Statutes, is repealed.*

Section 165. *Nothing in this act shall be construed to create or be the basis of a civil action. Nothing in this act shall be construed as limiting settlement or adjustment of claims by methods that are otherwise permissible under Florida law.*

Section 166. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2004.

And the title is amended as follows:

On page 13, lines 10 and 11, delete "providing an effective date." and insert: amending s. 20.121, F.S.; requiring the Division of Consumer Services of the Department of Financial Services to designate an employee as primary contact for consumers on issues involving sinkholes; authorizing the department to issue an order of conditional release from a stop-work order if an employer complies with coverage requirements and a penalty payment agreement; amending s. 501.137, F.S.; requiring an insurer to reinstate, under certain circumstances, an insurance policy that is cancelled due to failure of the lender to pay a premium for which sufficient escrow funds are on deposit; requiring that the lender reimburse the property owner for any penalties or fees paid for purposes of reinstating the policy; requiring the lender to pay the increased cost of insurance premiums for a specified period of time under certain conditions; amending s. 624.610, F.S.; revising the requirements of a trust fund for a single assuming insurer; amending s. 625.081, F.S.; providing an exception for credit disability insurance from a health insurance active life reserve requirement; amending s. 625.121, F.S.; providing for valuation of life insurance policies; amending s. 626.321, F.S.; limiting the types of business that may be transacted by personal lines agents; creating s. 626.9743, F.S., relating to claim settlement practices for motor vehicle insurance; prescribing standards to be followed by insurers; creating s. 626.9744, F.S., relating to claim settlement practices for homeowners' insurance; prescribing standards to be followed by insurers; amending s. 627.311, F.S.; allowing the automobile insurance joint

underwriting plan to require additional proof from insureds regarding cancellation of coverage; allowing additional time for the investigation of claims against the plan; providing for expiration of the provision; amending s. 627.4091, F.S.; providing additional disclosure requirements with respect to a refusal to insure; amending s. 627.4133, F.S.; requiring property insurers to reinstate a canceled policy as required by s. 501.137, F.S.; restricting the use of certain claims as a cause for cancellation or nonrenewal; amending s. 627.476, F.S.; authorizing the use of certain mortality tables for purposes of the Standard Nonforfeiture Law for Life Insurance; creating s. 627.7077, F.S.; providing for a feasibility study for a proposed Florida Sinkhole Insurance Facility; amending s. 627.838, F.S.; deleting a filing fee; amending s. 627.848, F.S.; specifying provisions for cancellation of insurance contracts; amending s. 627.849, F.S., to conform to the elimination of a filing fee; providing for a study and report by the Florida State University College of Business on personal lines property and casualty insurance; repealing s. 625.131, F.S., relating to credit life and disability policies; providing for construction of the act; providing effective dates.

MOTION

On motion by Senator Alexander, the rules were waived to allow the following amendment to be considered:

Senator Alexander moved the following amendment:

Amendment 2 (350914)(with title amendment)—On page 24, between lines 18 and 19, insert:

Section 9. Effective July 1, 2005, section 215.31, Florida Statutes, is amended to read:

215.31 State funds; deposit in State Treasury.—

(1) Revenue, including licenses, fees, imposts, or exactions collected or received under the authority of the laws of the state by each and every state official, office, employee, bureau, division, board, commission, institution, agency, or undertaking of the state or the judicial branch shall be promptly deposited in the State Treasury, and immediately credited to the appropriate fund as herein provided, properly accounted for by the Department of Financial Services as to source and no money shall be paid from the State Treasury except as appropriated and provided by the annual General Appropriations Act, or as otherwise provided by law.

(2) Every state official, office, employee, bureau, division, board, commission, institution, agency, or undertaking of the state or the judicial branch which enters into a settlement of an action or a claim brought on behalf of the state against any person shall ensure that all funds received or paid under the settlement are promptly deposited into the State Treasury. However, funds designated in the settlement for restitution to affected individuals shall be promptly transmitted to the intended beneficiaries. Funds due and owing to the state under a settlement may not be maintained outside the State Treasury unless otherwise specifically authorized by law.

And the title is amended as follows:

On page 2, line 13, after the first semicolon (;) insert: amending s. 215.31, F.S.; requiring state agencies and other affiliated entities to deposit any settlement proceeds resulting from a claim brought on behalf of the state into the State Treasury; providing exceptions;

MOTION

On motion by Senator Smith, the rules were waived to allow the following amendment to be considered:

Senator Smith moved the following amendment to **Amendment 2**:

Amendment 2A (600444)(with title amendment)—On page 2, line 13, insert:

(3) Nothing in this section shall apply to pretrial diversion programs used by a state attorney's office.

And the title is amended as follows:

On page 2, line 24, insert: providing applicability;

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendment to be considered:

Senator Campbell moved the following substitute amendment for **Amendment 2A**:

Amendment 2B (171544)(with title amendment)—On page 2, line 13, insert:

(3) Nothing in this section shall apply to pretrial diversion programs used by a state attorney's office.

(4) Nothing in this section shall apply to settlements entered into by the Attorney General which do not result in the return of money owed to the state.

And the title is amended as follows:

On page 2, line 24, insert: providing applicability;

On motion by Senator Posey, further consideration of **CS for CS for SB 2994** with pending **Amendment 2 (350914)**, **Amendment 2A (600444)** and **Substitute Amendment 2B (171544)** was deferred.

Consideration of **CS for SB 2548** and **CS for CS for SB 1700** was deferred.

CS for CS for SB 2616—A bill to be entitled An act relating to water management district employees; creating s. 373.6055, F.S.; requiring water management districts with structure or facilities identified as critical infrastructure by the Regional Security Task Force to conduct fingerprint-based criminal history checks of current or prospective employees and other persons allowed regular access to restricted access areas pursuant to applicable security plans; authorizing water management districts with structures or facilities that are not identified as critical infrastructure by the Regional Security Task Force to conduct fingerprint-based criminal history checks of current or prospective employees and other persons allowed regular access to restricted access areas pursuant to applicable security plans; requiring additional criminal history checks; requiring that fingerprints of applicants and employees be submitted to the Department of Law Enforcement and the Federal Bureau of Investigation for processing; providing for costs of criminal history checks to be paid by water management districts, other employing entities, or by the individuals checked; requiring that a water management district's security plan identify criminal history convictions or criminal history factors that disqualify applicants for employment and restricted area access; authorizing the use of such factors to disqualify certain employees; authorizing water management districts to establish procedures to appeal a denial of employment or access under certain circumstances; authorizing each water management district to grant temporary waivers to meet special or emergency needs of the water management district; providing offenses that disqualify a person from employment or access to a restricted access area; requiring that an individual remain free from subsequent convictions for 7 years before employment or authorized access to a restricted access area; authorizing each water management district to develop security plans; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Atwater, **CS for CS for SB 2616** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Alexander	Cowin	Hill
Argenziano	Crist	Jones
Aronberg	Dawson	Klein
Atwater	Diaz de la Portilla	Lawson
Bennett	Dockery	Lee
Bullard	Fasano	Lynn
Campbell	Garcia	Margolis
Carlton	Geller	Miller
Clary	Haridopolos	Peaden

Posey	Smith	Webster
Pruitt	Villalobos	Wilson
Saunders	Wasserman Schultz	Wise
Siplin		

Nays—None

Vote after roll call:

Yea—Constantine, Sebesta

Consideration of **SB 224** was deferred.

CS for CS for SB 2026—A bill to be entitled An act relating to regulation of professions and occupations under the Department of Business and Professional Regulation; amending s. 455.32, F.S.; revising the Management Privatization Act; providing definitions; authorizing the department, pursuant to board, commission, or council request, to establish and contract with a nonprofit corporation to perform support services specified pursuant to contract for the applicable profession; requiring development of a business case subject to executive and legislative approval; providing corporation organization, powers, duties, and staff; authorizing per diem and reimbursement for travel expenses; requiring adherence to the code of ethics for public officers and employees; providing sovereign immunity; providing for corporation boards of directors and for contract managers; providing contract requirements; establishing financing, reporting, recordkeeping, and audit requirements; providing for quarterly assessment and annual certification of contract compliance; providing requirements in the event any provision of the section is held unconstitutional; amending s. 455.2177, F.S.; revising requirements for the monitoring of continuing education compliance; removing provisions relating to privatization and dispute resolution; revising penalties for failure to comply with continuing education requirements; revising requirements for waiver of such monitoring; providing rulemaking authority; amending s. 455.2178, F.S.; revising reporting requirements for continuing education providers; removing provisions relating to private vendors; revising penalties for noncompliant continuing education providers; providing for conduct of investigations and prosecutions of noncompliant continuing education providers; providing rulemaking authority; amending s. 455.2179, F.S.; revising continuing education provider and course approval procedures; revising penalties for failing to teach approved course content; providing for conduct of investigations and prosecutions of noncompliant continuing education providers; providing rulemaking authority; amending s. 455.2281, F.S., relating to unlicensed activities; removing a cross-reference to conform; amending s. 481.205, F.S., relating to the Board of Architecture and Interior Design; removing a cross-reference to conform; amending s. 509.013, F.S.; defining the term "third party provider" for purposes of public lodging and public food service establishments; amending s. 509.049, F.S.; revising provisions regarding approval of foods safety training programs and responsibilities of public food service establishments, employees, and third party providers of training; revising rulemaking authority; providing penalties; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Pruitt, **CS for CS for SB 2026** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Alexander	Dawson	Lynn
Argenziano	Diaz de la Portilla	Margolis
Aronberg	Dockery	Miller
Atwater	Fasano	Peaden
Bennett	Garcia	Posey
Bullard	Geller	Pruitt
Campbell	Haridopolos	Saunders
Carlton	Hill	Sebesta
Clary	Jones	Siplin
Constantine	Lawson	Smith
Cowin	Lee	Villalobos
Wasserman Schultz	Wilson	Wise
Webster		

Nays—None

Vote after roll call:

Yea—Crist, Klein

Consideration of **CS for SB 2158** was deferred.

CS for SB 2054—A bill to be entitled An act relating to the designation and registration of sexual predators and sexual offenders; amending s. 775.21, F.S.; amending the definition of the term "conviction"; providing that an offender who has been designated as a sexually violent predator under the civil commitment proceedings provided in ch. 394, F.S., meets the criteria for designation as a sexual predator under the Florida Sexual Predators Act; providing that such offender shall be subject to the registration and notification requirements of the act; requiring the committing court of such offender to make a written finding that the offender is a sexual predator for purposes of the act; requiring the clerk to transmit a copy of the committing court's order to the Department of Law Enforcement within a time certain; clarifying circumstances related to the registration requirements applicable to sexual predators; clarifying that registration requirements apply each time the driver's license or identification card of a sexual predator is subject to renewal and also apply after each change in specified information; specifying registration and reporting requirements for sexual predators in circumstances where the predator has vacated or intends to vacate a permanent residence; specifying reporting requirements in circumstances where the sexual predator remains at or returns to a permanent residence; revising and clarifying the circumstances in which criminal penalties apply to sexual predators for acts or omissions related to registration; specifying venue for the prosecution of a sexual predator in circumstances involving acts or omissions concerning the failure to register as required; providing that an arrest, information, complaint, or arraignment related to charges of failure to register constitutes actual notice of the duty to register in certain circumstances; providing that the failure of a sexual predator to immediately register following such notice constitutes grounds for a subsequent charge; requiring any sexual predator who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to immediately register as required; providing that a sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register; providing that registration following arrest, service, or arraignment related to a charge of failure to register is not a defense and does not relieve the sexual predator of criminal liability for the failure to register; conforming a cross-reference; amending s. 943.0435, F.S.; amending the definition of the term "convicted"; clarifying that registration requirements apply each time the driver's license or identification card of a sexual offender is subject to renewal and also apply after each change in specified information; specifying registration and reporting requirements for sexual offenders in circumstances where the offender has vacated or intends to vacate a permanent residence; specifying reporting requirements in circumstances where the sexual offender remains at or returns to a permanent residence; revising and clarifying the circumstances in which criminal penalties apply to sexual offenders for acts or omissions related to registration; specifying venue for the prosecution of a sexual offender in circumstances involving acts or omissions concerning the failure to register as required; providing that an arrest, information, complaint, or arraignment related to charges of failure to register constitutes actual notice of the duty to register in certain circumstances; providing that the failure of a sexual offender to immediately register following such notice constitutes grounds for a subsequent charge; requiring any sexual offender who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to immediately register as required; providing that a sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register; providing that registration following arrest, service, or arraignment related to a charge of failure to register is not a defense and does not relieve the sexual offender of criminal liability for the failure to register; revising a cross-reference; amending s. 944.606, F.S.; amending the definition of the term "convicted"; amending s. 944.607, F.S.; amending the definition of the term "conviction"; clarifying circumstances relating to the registration requirements applicable to sexual offenders;

revising and clarifying the circumstances in which criminal penalties apply to sexual offenders for acts or omissions related to registration; specifying venue for the prosecution of a sexual offender in circumstances involving acts or omissions concerning the failure to register as required; providing that an arrest, information, complaint, or arraignment related to charges of failure to register constitutes actual notice of the duty to register in certain circumstances; providing that the failure of a sexual offender to immediately register following such notice constitutes grounds for a subsequent charge; requiring any sexual offender who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register to immediately register as required; providing that a sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register; providing that registration following arrest, service, or arraignment related to a charge of failure to register is not a defense and does not relieve the sexual offender of criminal liability for the failure to register; reenacting s. 775.13(5), F.S., relating to registration of convicted felons, to incorporate the amendment to ss. 775.21, 943.0435, and 944.607, F.S., in references thereto; reenacting s. 943.0436(2), F.S., relating to laws governing sexual predators and sexual offenders, to incorporate the amendments to ss. 943.0435, 944.606, and 944.607, F.S., in references thereto; reenacting s. 775.24(2), F.S., relating to laws governing sexual predators and sexual offenders, to incorporate the amendments to ss. 943.0435, 944.606, and 944.607, F.S., in references thereto; reenacting s. 775.25, F.S., relating to prosecutions for acts or omissions, to incorporate the amendments to ss. 775.21, 943.0435, 944.606, and 944.607, F.S., in references thereto; reenacting s. 775.261(3)(b), F.S., relating to the Florida Career Offender Registration Act, to incorporate the amendments to ss. 775.21, 943.0435, and 944.607, F.S., in references thereto; reenacting s. 921.0022(3)(f), F.S., relating to the Criminal Punishment Code, to incorporate the amendments to ss. 775.21 and 943.0435, F.S., in references thereto; reenacting s. 944.608(7), F.S., relating to notification to the Department of Law Enforcement of information on career offenders, to incorporate the amendments to ss. 775.21 and 944.607, F.S., in references thereto; reenacting s. 39.806(1)(d), F.S., relating to grounds for termination of parental rights, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 63.089(4)(b), F.S., relating to proceeding to termination of parental rights pending adoption, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 63.092(3), F.S., relating to reporting to the court of intended placement by an adoption entity, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 944.609(4), F.S., relating to notification of career offenders upon release to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 947.1405(2)(c), F.S., relating to the conditional release program, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 948.12, F.S., relating to supervision of postprison release of violent offenders, to incorporate the amendments to s. 775.21, F.S., in references thereto; providing an effective date.

—was read the third time by title.

On motion by Senator Campbell, **CS for SB 2054** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for CS for SB 2262—A bill to be entitled An act relating to the prescription of psychotropic medications to dependent minors; amending s. 743.0645, F.S.; defining the term "psychotropic medication"; creating the Center for Juvenile Psychotropic Studies within the Department of Psychiatry of the College of Medicine of the University of Florida; providing the purpose of the center; providing for the appointment of a director; creating an advisory board; providing for board membership; requiring the center to work with the Department of Children and Family Services, the Department of Juvenile Justice, the Agency for Health Care Administration, and the Department of Health; requiring certain data relating to dependent minors for whom psychotropic medications have been prescribed to be made available to the center, as legally allowed; requiring the center to report to legislative leaders by a specified date; providing for future repeal; amending s. 39.401, F.S.; providing that the refusal of a parent, legal guardian, or other person responsible for a child's welfare to administer or consent to the administration of a psychotropic medication does not by itself constitute grounds for taking the child into custody; providing an exception; creating s. 402.3127, F.S.; prohibiting the unauthorized administration of medication by personnel associated with child care entities; providing an exception for emergency medical conditions when the child's parent or legal guardian is unavailable; defining the term "emergency medical condition"; providing penalties for violations; amending s. 1006.062, F.S.; requiring district school boards to adopt rules prohibiting district school board personnel from recommending the use of psychotropic medications for any student; allowing such personnel to recommend that a medical practitioner evaluate a student and to consult with such practitioners; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Smith, **CS for CS for SB 2262** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

SB 224—A bill to be entitled An act relating to imposition of a death sentence; creating s. 921.1415, F.S.; providing that only criminals who were 18 years of age or older at the time the crime was committed may be sentenced to death; amending s. 775.082, F.S., to conform; providing an effective date.

—was read the third time by title.

MOTION

On motion by Senator Crist, the rules were waived to allow the following amendment to be considered:

Senator Crist moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (241538)(with title amendment)—On page 2, line 7, before the period (.) insert: and shall apply only to offenses committed on or after that date

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: providing applicability;

On motion by Senator Crist, **SB 224** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26

Atwater	Garcia	Peaden
Campbell	Geller	Saunders
Carlton	Hill	Sebesta
Clary	Jones	Siplin
Constantine	Klein	Smith
Cowin	Lawson	Villalobos
Crist	Lee	Wasserman Schultz
Dawson	Margolis	Wilson
Fasano	Miller	

Nays—12

Alexander	Bullard	Lynn
Argenziano	Diaz de la Portilla	Posey
Aronberg	Dockery	Webster
Bennett	Haridopolos	Wise

Vote after roll call:

Yea—Pruitt

CS for CS for SB 1700—A bill to be entitled An act relating to financial impact statements for proposed constitutional amendments; amending s. 15.21, F.S.; requiring the Secretary of State to submit certain proposed constitutional amendments to the Financial Impact Estimating Conference; amending s. 16.061, F.S.; requiring the Attorney General to immediately petition the Supreme Court for review of certain financial impact statements; deleting duties of the Attorney General with respect to constitutional amendments proposed other than by initiative; amending s. 100.371, F.S.; revising the times within which the Financial Impact Estimating Conference must complete its analysis and financial impact statement for amendments proposed by initiative; providing for open meetings; establishing the Financial Impact Estimating Conference for certain purposes; specifying principals of the conference; revising criteria for financial impact statements; providing for redrafting of such statements by the conference under certain circumstances; requiring the Financial Impact Estimating Conference to produce a financial information statement and summary; specifying statement requirements; providing for distribution and publication of the financial information statement and summary; repealing s. 100.381, F.S., relating to fiscal impact statement requirements for amendments proposed other than by initiative; amending s. 101.161, F.S.; prescribing placement of the financial impact statement on the ballot; amending s. 101.62, F.S., relating to absentee ballots, to conform; amending s. 216.136, F.S.; conforming provisions to changes made by the act; providing procedures for commencing the financial impact statement development and review process for certain proposed initiatives; providing an effective date.

—as amended April 26 was read the third time by title.

MOTION

On motion by Senator Klein, the rules were waived to allow the following amendment to be considered:

Senator Klein moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (191990)(with title amendment)—On page 3, line 5 through page 10, line 20, delete those lines and insert:

16.061 Proposed constitutional revisions or amendments.—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161 and the compliance of the *financial* ~~fiscal~~ impact statement with ss. 100.371 and 101.161. For all other proposed revisions or amendments to the State Constitution, the Attorney General shall, upon the *Financial Impact* ~~Revenue~~ Estimating Conference finalizing the *financial* ~~fiscal~~ impact statement, petition the Supreme Court requesting an advisory opinion regarding compliance of the text of the *financial* ~~fiscal~~ impact statement with ss. 100.371, 100.381, and 101.161. The petition may enumerate any specific factual issues *that* ~~which~~ the Attorney General believes would require a judicial determination.

(2) A copy of the petition shall be provided to the Secretary of State and the principal officer of the sponsor.

(3) Any *financial* ~~fiscal~~ impact statement that the court finds not to be in accordance with s. 100.371, s. 100.381, or s. 101.161 shall be remanded solely to the *Financial Impact* ~~Revenue~~ Estimating Conference for redrafting.

Section 3. Subsections (6) and (7) of section 100.371, Florida Statutes, are amended to read:

100.371 Initiatives; procedure for placement on ballot.—

(6)(a) Within 45 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State or, *within 30 days after such receipt if receipt occurs 120 days or less before the election at which the question of ratifying the amendment will be presented* ~~for any initiative approved by the Florida Supreme Court for the general election ballot for 2002, within 45 days after the effective date of this subsection, whichever occurs later~~, the *Financial Impact* ~~Revenue~~ Estimating Conference shall complete an analysis and *financial* ~~fiscal~~ impact statement to be placed on the ballot of the estimated increase or decrease in any revenues or costs to state or local governments resulting from the proposed *amendment or revision* ~~initiative~~. *The Financial Impact Estimating Conference shall submit the financial impact statement to the Attorney General and Secretary of State.*

(b)1. The *Financial Impact* ~~Revenue~~ Estimating Conference shall provide an opportunity for any proponents or opponents of *a proposed amendment or revision of the State Constitution* ~~the initiative~~ to submit information and may solicit information or analysis from any other entities or agencies, including the Office of Economic and Demographic Research. *All meetings of the Financial Impact Estimating Conference shall be open to the public as provided in chapter 286.*

2. The Financial Impact Estimating Conference is established to review, analyze, and estimate the financial impact of proposed amendments to or revisions of the State Constitution. The Financial Impact Estimating Conference shall consist of four principals: one person from the Executive Office of the Governor; the coordinator of the Office of Economic and Demographic Research, or his or her designee; one person from the professional staff of the Senate; and one person from the professional staff of the House of Representatives. Each principal shall have appropriate fiscal expertise in the subject matter of the initiative. A Financial Impact Estimating Conference may be appointed for each initiative.

3.~~(b)1.~~ *Principals* ~~Members~~ of the *Financial Impact* ~~Revenue~~ Estimating Conference shall reach a consensus or majority concurrence on a clear and unambiguous *financial* ~~fiscal~~ impact statement, no more than *75* ~~50~~ words in length *and immediately submit the statement to the Attorney General*. Nothing in this subsection prohibits the *Financial Impact* ~~Revenue~~ Estimating Conference from setting forth a range of potential impacts in the *financial* ~~fiscal~~ impact statement. Any *financial* ~~fiscal~~ impact statement that a court finds not to be in accordance with this section, s. 100.381, or s. 101.161 shall be remanded solely to the *Financial Impact* ~~Revenue~~ Estimating Conference for redrafting. The *Financial Impact* ~~Revenue~~ Estimating Conference shall redraft the *financial* ~~fiscal~~ impact statement within 15 days.

4.~~2.~~ If the members of the *Financial Impact* ~~Revenue~~ Estimating Conference are unable to agree on the statement required by this subsection, *or if the Supreme Court has rejected the initial submission by the Financial Impact Estimating Conference and no redraft has been approved by the Supreme Court by 5 p.m. on the 75th day before the election,* the following statement shall appear on the ballot pursuant to s. 101.161(1): "The *financial* ~~fiscal~~ impact of this measure, if any, cannot be reasonably determined at this time."

(c) The *financial* ~~fiscal~~ impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).

(d)1. Any financial impact statement that the Supreme Court finds not to be in accordance with this subsection shall be remanded solely to

the Financial Impact Estimating Conference for redrafting, provided the court's advisory opinion is rendered at least 75 days before the election at which the question of ratifying the amendment will be presented. The Financial Impact Estimating Conference shall prepare and adopt a revised financial impact statement no later than 5 p.m. on the 15th day after the date of the court's opinion.

2. If, by 5 p.m. on the 75th day before the election, the Supreme Court has not issued an advisory opinion on the initial financial impact statement prepared by the Financial Impact Estimating Conference for an amendment or revision that otherwise meets the legal requirements for ballot placement, the financial impact statement shall be deemed approved for placement on the ballot.

3. In addition to the financial impact statement required by this subsection, the Financial Impact Estimating Conference shall draft a financial information statement. The financial information statement should describe in greater detail than the financial impact statement any projected increase or decrease in revenues or costs that the state or local governments would likely experience if the ballot measure were approved. If appropriate, the financial information statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. The financial information statement must include both a summary of not more than 500 words and additional detailed information that includes the assumptions that were made to develop the financial impacts, workpapers, and any other information deemed relevant by the Financial Impact Estimating Conference.

4. The Department of State shall have printed, and shall furnish to each supervisor of elections, a copy of the summary from the financial information statements. The supervisors shall have the summary from the financial information statements available at each polling place and at the main office of the supervisor of elections upon request.

5. The Secretary of State and the Office of Economic and Demographic Research shall make available on the Internet each financial information statement in its entirety. In addition, each supervisor of elections whose office has a website shall post the summary from each financial information statement on the website. Each supervisor shall include the Internet addresses for the information statements on the Secretary of State's and the Office of Economic and Demographic Research's websites in the publication or mailing required by s. 101.20.

(7) The Department of State may adopt rules in accordance with s. 120.54 to carry out the provisions of subsections *(1)-(6)* ~~(1)-(5) of this section~~.

Section 4. Section 100.381, Florida Statutes, is amended to read:

100.381 Constitutional amendments or revisions other than initiatives; *financial* ~~fiscal~~ impact statement.—For any amendment or revision proposed pursuant to Art. XI of the State Constitution other than an initiative, the *Financial Impact* ~~Revenue~~ Estimating Conference shall prepare a *financial* ~~fiscal~~ impact statement as provided in s. 100.371(6) no later than 80 days before the election on the proposed amendment or revision. The *financial* ~~fiscal~~ impact statement must be separately contained and be set forth after the ballot summary as required in s. 101.161(1).

Section 5. Subsection (1) of section 101.161, Florida Statutes, is amended to read:

101.161 Referenda; ballots.—

(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The wording of the substance of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the joint resolution, constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. Except for amendments and ballot language proposed by joint resolution, the substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. In addition, *for every proposed amendment or revision of the State Constitution,* the ballot shall include*, following the ballot summary,* a separate *financial* ~~fiscal~~ impact statement concerning the measure prepared by the *Financial Impact* ~~Revenue~~ Estimating Conference in accordance with s. 100.371(6) or s. 100.381. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

Section 6. Paragraph (a) of subsection (4) of section 101.62, Florida Statutes, is amended to read:

101.62 Request for absentee ballots.—

(4)(a) To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the first primary election, mail an absentee ballot. Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an advance absentee ballot to those persons requesting ballots for such elections. The advance absentee ballot for the second primary shall be the same as the first primary absentee ballot as to the names of candidates, except that for any offices where there are only two candidates, those offices and all political party executive committee offices shall be omitted. Except as provided in *ss.* ~~s.~~ 99.063(4) *and 100.371(6)*, the advance absentee ballot for the general election shall be as specified in s. 101.151, except that in the case of candidates of political parties where nominations were not made in the first primary, the names of the candidates placing first and second in the first primary election shall be printed on the advance absentee ballot. The advance absentee ballot or advance absentee ballot information booklet shall be of a different color for each election and also a different color from the absentee ballots for the first primary, second primary, and general election. The supervisor shall mail an advance absentee ballot for the second primary and general election to each qualified absent elector for whom a request is received until the absentee ballots are printed. The supervisor shall enclose with the advance second primary absentee ballot and advance general election absentee ballot an explanation stating that the absentee ballot for the election will be mailed as soon as it is printed; and, if both the advance absentee ballot and the absentee ballot for the election are returned in time to be counted, only the absentee ballot will be counted. The Department of State may prescribe by rule the requirements for preparing and mailing absentee ballots to absent qualified electors overseas.

Section 7. Paragraph (a) of subsection (3) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(3) REVENUE ESTIMATING CONFERENCE.—

(a) Duties.—The Revenue Estimating Conference shall develop such official information with respect to anticipated state and local government revenues as the conference determines is needed for the state planning and budgeting system. Any principal may request the conference to review and estimate revenues for any trust fund. ~~Also, the conference shall prepare fiscal impact statements for constitutional amendments pursuant to s. 100.371(6).~~

Section 8. *The Secretary of State shall immediately submit to the Financial Impact Estimating Conference any active initiative petition that met the requirements of section 15.21, Florida Statutes, or any joint resolution filed with the Secretary of State before the effective date of this act.*

And the title is amended as follows:

On page 1, line 7 through page 2, line 10, delete those lines and insert: Impact Estimating Conference; amending s. 16.061, F.S.; requiring the Attorney General to immediately petition the Supreme Court for review of certain financial impact statements; amending s. 100.371, F.S.; revising the times within which the Financial Impact Estimating Conference must complete its analysis and financial impact statement for proposed amendments or revisions; providing for open meetings; establishing the Financial Impact Estimating Conference for certain purposes; specifying principals of the conference; revising criteria for financial impact statements; providing for redrafting of such statements by the conference under certain circumstances; requiring the Financial Impact Estimating Conference to produce a financial information statement and summary; specifying statement requirements; providing for distribution and publication of the financial information statement and summary; amending s. 100.381, F.S.; conforming to changes

made by the act; amending s. 101.161, F.S.; prescribing placement of the financial impact statement on the ballot; amending s. 101.62, F.S., relating to absentee ballots, to conform; amending s. 216.136, F.S.; conforming provisions to changes made by the act; providing procedures for commencing the financial impact statement development and review process for certain proposed amendments or revisions; providing an effective

MOTION

On motion by Senator Cowin, the rules were waived to allow the following amendment to be considered:

Senator Cowin moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (190598)(with title amendment)—On page 10, between lines 20 and 21, insert:

Section 9. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 10, after the semicolon (;) insert: providing severability;

On motion by Senator Cowin, **CS for CS for SB 1700** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Geller	Saunders
Atwater	Haridopolos	Sebesta
Bennett	Hill	Siplin
Bullard	Jones	Smith
Campbell	Klein	Villalobos
Carlton	Lawson	Wasserman Schultz
Clary	Lee	Webster
Constantine	Lynn	Wilson
Cowin	Margolis	Wise
Crist	Miller	
Diaz de la Portilla	Peaden	

Nays—None

Vote after roll call:

Yea—Garcia

The Senate resumed consideration of—

CS for CS for SB 2994—A bill to be entitled An act relating to the Department of Financial Services; creating s. 17.0416, F.S.; authorizing the Chief Financial Officer to provide certain services on a fee basis under certain circumstances; requiring the Department of Financial Services to deposit fees collected into the General Revenue Fund; authorizing the department to recover expenses by a budget amendment; authorizing the department to adopt rules; amending s. 17.16, F.S.; providing that the office of the Chief Financial Officer may have an official seal; amending s. 17.57, F.S.; authorizing the Chief Financial Officer to use reverse repurchase agreements in investment transactions; amending s. 17.59, F.S.; revising collateral safekeeping requirements; amending s. 17.61, F.S.; authorizing entities created under the State Constitution to invest funds; amending s. 20.121, F.S.; providing that the Chief Financial Officer may be referred to as the "Treasurer"; providing that the Department of Financial Services, rather than the Office of Insurance Regulation, is responsible for regulation of insurance adjusters; providing that the Director of the Office of Insurance Regulation may be known as the Commissioner of Insurance Regulation; providing that the Director of the Office of Financial Regulation may be known as the Commissioner of Financial Regulation; amending s. 110.1227, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an actuary to the Florida Employee Long-Term-Care Plan Board of Directors; amending s. 112.215, F.S.; redefining the term "employee" to include any state university board of trustees; providing for the Government Employees' Deferred Compensation Plan to be funded indirectly from fees charged by investment providers to plan participants; replacing the term "plan provider" with the term "investment option provider"; amending s. 215.95, F.S.; revising the membership of the Florida Financial Management Information Board; amending s. 215.96, F.S.; revising the membership of the coordinating council to the Florida Financial Management Information Board; extending the date of future repeal of the law requiring the board to facilitate the integration of certain administrative and financial management systems and establishing the Enterprise Resource Planning Integration Task Force; amending s. 287.064, F.S.; authorizing the financing of a guaranteed energy performance savings contract pursuant to a master equipment financing agreement; providing certain terms and restrictions; amending s. 408.05, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an employee to the State Comprehensive Health Information System Advisory Council; amending s. 501.212, F.S.; specifying persons, causes of action, or activities that are exempt from part II of chapter 501, F.S., the Deceptive and Unfair Trade Practice Act; amending s. 516.35, F.S.; correcting a reference to the agency that licenses the sale of credit insurance; amending s. 624.4622, F.S.; providing that a local government self-insurance fund must initially be organized as a commercial self-insurance fund or a group self-insurance fund and, for a specified period, must comply with the requirements for such a fund; providing that a local government self-insurance fund comply with specified provisions relating to financial statements; amending ss. 624.313, 624.317, 624.501, 626.016, 626.112, 626.161, 626.171, 626.181, 626.191, 626.211, 626.221, 626.231, 626.241, 626.251, 626.261, 626.266, 626.271, 626.281, 626.2817, 626.291, 626.301, 626.371, 626.381, 626.431, 626.461, 626.471, 626.521, 626.541, 626.551, 626.611, 626.621, 626.631, 626.641, 626.661, 626.681, 626.691, 626.692, 626.8582, 626.8584, 626.859, 626.863, 626.865, 626.866, 626.867, 626.869, 626.8695, 626.8696, 626.8697, 626.8698, 626.870, 626.871, 626.872, 626.873, 626.8732, 626.8734, 626.8736, 626.8738, 626.874, 626.878, F.S.; transferring and renumbering s. 627.7012, F.S., as s. 626.879, F.S., and amending such section; making conforming changes to authorize the Department of Financial Services, rather than the Office of Insurance Regulation, to regulate insurance adjusters; amending s. 626.9543, F.S.; specifying that the Department of Financial Services, rather than the former Department of Insurance, administers the Holocaust Victims Insurance Act; amending s. 626.989, F.S.; correcting references to the Bureau of Workers' Compensation Insurance Fraud with regard to the required annual report of the Department of Financial Services related to workers' compensation fraud; amending s. 627.0628, F.S.; providing that the Director of the Office of Insurance, rather than the Chief Financial Officer, shall appoint an employee of the office who is an actuary to the Florida Commission on Hurricane Loss Projection Methodology; amending s. 627.6699, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall be a member of the board of the Small Employer Health Reinsurance Program; providing that the transfer of the regulation of adjusters from the Office of Insurance Regulation to the Department of Financial Services does not affect any administrative or judicial action prior to or pending on the effective date of the act; providing that any action approved or authorized by the Financial Services Commission or the Office of Insurance Regulation continues to be effective until the Department of Financial Services otherwise prescribes; providing that the rules of the Financial Services Commission related to adjusters shall become rules of the Department of Financial Services; amending s. 626.99245, F.S.; providing that the regulation of certain viatical settlement agreements and providers is within the exclusive jurisdiction of the Office of Insurance Regulation under part X of ch. 626; amending s. 494.0025, F.S.; prohibiting the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent; amending s. 516.07, F.S.; providing that the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent is grounds for denial of license or for disciplinary action; amending s. 520.995, F.S.; providing that the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent is grounds for disciplinary action; amending s. 626.9541, F.S.; providing that the deceptive use of a name is an unfair

method of competition and an unfair or deceptive act or practice; amending s. 655.005, F.S.; revising certain definitions relating to financial institutions to include the term "international branch"; amending s. 655.0322, F.S.; revising the definition of the term "financial institution" to include an international branch; amending s. 655.0385, F.S.; clarifying requirements for notification of the appointment of an executive director or equivalent by state financial institutions; requiring a nonrefundable fee to accompany notification; amending s. 655.045, F.S.; providing an exemption from audit requirements; amending s. 655.059, F.S.; providing for the inspection and examination of financial institution records and books pursuant to subpoena; providing for reimbursement of reasonable costs and fees for compliance; providing for setting the reimbursement amount when charges are contested; amending s. 655.921, F.S.; prohibiting certain out-of-state financial institutions from locating branch offices in the state in order to qualify for certain exempt transactions; deleting provisions relating to authorization of offices in the state; amending s. 655.922, F.S.; clarifying provisions authorizing financial institutions under another state's financial codes to transact business in this state; expanding the names or titles under which only a financial institution may transact business; prohibiting the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent; requiring the Financial Services Commission to adopt rules; amending s. 655.94, F.S.; deleting a prohibition against certain notary publics being involved in opening safety deposit boxes for nonpayment of rent; requiring use of certified mail instead of registered mail; amending. s. 658.16, F.S.; providing criteria for a bank or trust company chartered as a limited liability company to be considered "incorporated" under the financial institutions codes; providing definitions; amending s. 658.23, F.S.; correcting terminology; deleting a requirement for a current copy of the bylaws of a bank or trust company to be on file with the Office of Financial Regulation; amending s. 658.26, F.S.; providing for state banks to relocate offices upon approval; providing that certain financial institutions may establish or relocate an office upon written notification; providing requirements for notification and a fee; requiring an application for relocation of a main office outside the state; exempting applications from publication in the Florida Administrative Weekly; modifying requirements for applications for branch offices by a bank ineligible for branch notification; deleting a requirement that such applications be published in the Florida Administrative Weekly and be subject to ch. 120, F.S.; requiring a relocation application to be filed with the Office of Financial Regulation; providing for a filing fee, investigations, and restrictions relating to such applications; amending s. 658.33, F.S.; adding to the list of persons who must meet certain qualification levels; providing for a waiver of qualification requirements; amending s. 658.37, F.S.; prohibiting an imminently insolvent bank from paying dividends; amending s. 658.48, F.S.; specifying limitations on making loans and extending credit by a bank declared to be imminently insolvent; amending s. 658.67, F.S.; providing multiple dates for the assessment of the value of property acquisition as security; amending s. 658.73, F.S.; delineating which entities or individuals must pay a fee for a certificate of good standing; amending s. 663.16, F.S.; revising definitions to include the term "branch" and to reduce the percentage of voting stock necessary for consideration as control; amending s. 663.304, F.S.; deleting a requirement for reservation of a proposed corporate name with the Department of State; amending s. 665.034, F.S.; revising a percentage designating control of an association; amending s. 674.406, F.S.; reducing the time that banks must retain receipts of items; reducing the time within which one must report unauthorized signatures; providing a time limitation within which to assert claims against a bank for an unauthorized endorsement; repealing s. 658.68, F.S., relating to liquidity requirements for a state bank; amending s. 627.4133, F.S.; providing for an effective date of certain policy cancellations by insureds; amending s. 717.101, F.S.; providing definitions; amending ss. 717.106, 717.107, 717.109, and 717.116, F.S.; revising criteria for presuming as unclaimed certain bank deposits and funds in financial organizations, funds owing under life insurance policies, funds held by business associations, and property held in a safe-deposit box or other safekeeping repository, respectively; amending s. 717.117, F.S.; revising reporting requirements for unclaimed property; presuming certain accounts as unclaimed under certain circumstances; providing that certain intangible property is exempt from being reported as unclaimed property under certain conditions; amending s. 717.118, F.S.; providing requirements for notification of apparent owners of unclaimed property; amending s. 717.119, F.S.; revising requirements for delivery of certain unclaimed property; providing penalties for late deliveries; amending s. 717.1201, F.S.; revising certain holder payment and repayment requirements; amending s. 717.122, F.S.; revising certain public sale requirements; authorizing the Department of Financial Services to deduct certain auction fees, costs, and expenses; prohibiting actions or proceedings against the department for certain decisions relating to auctions of unclaimed property; specifying that certain sales of unclaimed property are not subject to the sales tax; amending s. 717.123, F.S.; increasing a maximum amount of funds the department may retain from certain funds received; amending s. 717.124, F.S.; providing additional requirements for filing unclaimed property claims; providing for the return or withdrawal of certain claims under certain circumstances; specifying a time period for department determination of claims; authorizing the department to deny claims under certain circumstances; specifying an exclusive remedy for subsequent claimants; revising requirements for a power of attorney; requiring direct delivery of safe-deposit boxes under certain circumstances; revising payment of fees and costs requirements; creating s. 717.12403, F.S.; providing presumptions for certain unclaimed demand, savings, or checking accounts in financial institutions with more than one beneficiary; creating s. 717.12404, F.S.; providing requirements for claims for property reported in the name of an active or dissolved corporation for which the last annual report is unavailable; creating s. 717.12405, F.S.; providing requirements; for claims by estates; amending s. 717.1241, F.S.; revising requirements for remittance of property subject to conflicting claims; amending s. 717.1242, F.S.; clarifying legislative intent relating to filing certain claims; creating s. 717.1244, F.S.; providing criteria for department determinations of claims; amending s. 717.126, F.S.; providing a criterion for proof of entitlement; specifying venue in certain unclaimed property actions; creating s. 717.1261, F.S.; requiring a death certificate in claiming entitlement to certain unclaimed property; creating s. 717.1262, F.S.; requiring certain court documents in claiming entitlement to certain unclaimed property; amending s. 717.1301, F.S.; revising certain fee and expense requirements for investigations or examinations; providing for interest on such amounts under certain circumstances; amending s. 717.1315, F.S.; clarifying a record retention requirement for owner representatives; amending s. 717.132, F.S.; specifying criteria for certain corrective actions; creating s. 717.1322, F.S.; specifying grounds for certain disciplinary actions; providing for certain disciplinary actions; providing penalties; authorizing the department to adopt rules with regard to disciplinary guidelines; creating s. 717.1331, F.S.; providing for department actions against certain lienholders under certain circumstances; creating s. 717.1333, F.S.; providing for admitting certain documents into evidence in certain actions; amending s. 717.134, F.S.; authorizing the department to impose and collect penalties for failing to report certain information; authorizing the department waive such penalties under certain circumstances; creating s. 717.1341, F.S.; prohibiting receipt of unentitled unclaimed property; providing for liability for such property under certain circumstances; authorizing the department to maintain certain civil or administrative actions; providing for fines, costs, and attorney fees; prohibiting filing claims for unentitled unclaimed property; providing criminal penalties; amending s. 717.135, F.S.; revising requirements for agreements to recover certain property; providing an agreement form; creating s. 717.1351, F.S.; providing requirements for acquisition of unclaimed property by certain persons; providing certain contract requirements; providing a contract form; creating s. 717.1400, F.S.; requiring certain licensed persons to register with the department for certain purposes; providing registration requirements; providing for denial of registration under certain circumstances; providing registration limitations; amending s. 212.02, F.S.; revising a definition to conform; amending ss. 322.142 and 395.3025, F.S.; providing for disclosure of certain confidential information to the department under certain circumstances; amending s. 723.103, F.S.; authorizing the court, under specified conditions, to extend the right of succession to surviving heirs when the decent's lineage cannot be fully documented because it includes a Holocaust victim; limiting the application of statutes of limitation under certain circumstances; defining the term "Holocaust victim"; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 2 (350914)** by Senator Alexander, pending **Amendment 2A (600444)** by Senator Smith, and pending **Substitute Amendment 2B (171544)** by Senator Campbell were withdrawn.

MOTION

On motion by Senator Atwater, the rules were waived to allow the following amendment to be considered:

Senator Atwater moved the following amendment which was adopted by two-thirds vote:

Amendment 3 (835440)(with title amendment)—On page 166, between lines 14 and 15, insert:

Section 146. Section 627.4554, Florida Statutes, is created to read:

627.4554 Annuity investments by seniors.—

(1) PURPOSE; CONSTRUCTION.—

(a) The purpose of this section is to set forth standards and procedures for recommendations to senior consumers which result in a transaction involving annuity products to appropriately address the insurance needs and financial objectives of senior consumers at the time of the transaction.

(b) Nothing in this section shall be construed to create or imply a private cause of action for a violation of this section.

(2) APPLICATION.—This section applies to any recommendation to purchase or exchange an annuity made to a senior consumer by an insurance agent, or an insurer where no agent is involved, that results in the purchase or exchange recommended.

(3) DEFINITIONS.—For purposes of this section:

(a) "Annuity" means a fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual annuity or a group annuity.

(b) "Recommendation" means advice provided by an insurance agent, or an insurer if no insurance agent is involved, to an individual senior consumer which results in a purchase or exchange of an annuity in accordance with that advice.

(c) "Senior consumer" means a person 65 years of age or older. In the event of a joint purchase by more than one party, a purchaser is considered to be a senior consumer if any of the parties is age 65 or older.

(4) DUTIES OF INSURERS AND INSURANCE AGENTS.—

(a) In recommending to a senior consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, an insurance agent, or an insurer if no insurance agent is involved, shall have reasonable grounds for believing that the recommendation is suitable for the senior consumer on the basis of the facts disclosed by the senior consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

(b) Before executing a purchase or exchange of an annuity resulting from a recommendation to a senior consumer, an insurance agent, or an insurer if no insurance agent is involved, shall make reasonable efforts to obtain information concerning the senior consumer's financial status, tax status, and investment objectives and such other information used or considered to be reasonable by the insurance agent, or the insurer if no agent is involved, in making the recommendation.

(c)1. Except as provided under subparagraph 2., an insurance agent, or an insurer if no insurance agent is involved, shall not have any obligation to a senior consumer under paragraph (a) related to any recommendation if the senior consumer:

a. Refuses to provide relevant information requested by the insurer or insurance agent;

b. Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance agent; or

c. Fails to provide complete or accurate information.

2. An insurer or insurance agent's recommendation subject to subparagraph 1. shall be reasonable under all the circumstances actually known to the insurer or insurance agent at the time of the recommendation.

(d)1. An insurer or insurance agent shall ensure that a system to supervise recommendations which is reasonably designed to achieve compliance with this section is established and maintained by complying with subparagraphs 3., 4., and 5., or shall establish and maintain such a system, including, but not limited to:

a. Maintaining written procedures.

b. Conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this section.

2. A managing general agent and an insurance agency shall adopt a system established by an insurer to supervise recommendations of its insurance agents which is reasonably designed to achieve compliance with this section or shall establish and maintain such a system, including, but not limited to:

a. Maintaining written procedures.

b. Conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this section.

3. An insurer may contract with a third party, including a managing general agent or an insurance agency, to establish and maintain a system of supervision as required by subparagraph 1. with respect to insurance agents under contract with or employed by the third party.

4. An insurer shall make reasonable inquiry to ensure that such third party contracting under subparagraph 3. is performing the functions required under subparagraph 1. and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by:

a. Annually obtaining a certification from a third party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions.

b. Based on reasonable selection criteria, periodically selecting third parties contracting under subparagraph 3. for a review to determine whether the third parties are performing the required functions. The insurer shall perform any procedures necessary to conduct the review which are reasonable under the circumstances.

5. An insurer that contracts with a third party pursuant to subparagraph 3. and complies with the requirements specified in subparagraph 4. is deemed to have fulfilled its responsibilities under subparagraph 1.

6. An insurer, managing general agent, or insurance agency is not required by subparagraph 1. or subparagraph 2. to:

a. Review or provide for review of all transactions solicited by an insurance agent; or

b. Include in its system of supervision an insurance agent's recommendations to senior consumers of products other than the annuities offered by the insurer, managing general agent, or insurance agency.

7. A managing general agent or insurance agency contracting with an insurer pursuant to subparagraph 3. shall promptly, when requested by the insurer pursuant to subparagraph 4., provide a certification as described in subparagraph 4. or provide a clear statement that the managing general agent or insurance agency is unable to meet the certification criteria.

8. A person may not provide a certification under sub-subparagraph 4.a. unless the person is a senior manager with responsibility for the delegated functions and has a reasonable basis for making the certification.

(5) MITIGATION OF RESPONSIBILITY.—

(a) The office may order an insurer to take reasonably appropriate corrective action for any senior consumer harmed by a violation of this section by the insurer or the insurer's insurance agent.

(b) The department may order:

1. An insurance agent to take reasonably appropriate corrective action for any senior consumer harmed by a violation of this section by the insurance agent.

2. A managing general agency or insurance agency that employs or contracts with an insurance agent to sell or solicit the sale of annuities to senior consumers to take reasonably appropriate corrective action for

any senior consumer harmed by a violation of this section by the insurance agent.

(c) Any applicable penalty under the Florida Insurance Code for a violation of paragraph (4)(a), paragraph (4)(b), or subparagraph (4)(c)2. may be reduced or eliminated, according to a schedule adopted by the office or the department, as appropriate, if corrective action for the senior consumer was taken promptly after a violation was discovered.

(6) RECORDKEEPING.—

(a) Insurers, managing general agents, insurance agencies, and insurance agents shall maintain or be able to make available to the department or office, as appropriate, records of the information collected from the senior consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance agent.

(b) Records required to be maintained by this regulation may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces the actual document.

(7) EXEMPTIONS.—Unless otherwise specifically included, this section does not apply to recommendations involving:

(a) Direct-response solicitations where there is no recommendation based on information collected from the senior consumer pursuant to this section.

(b) Contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act;

2. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code of 1986, as amended, if established or maintained by an employer;

3. A government or church plan defined in Section 414 of the Internal Revenue Code of 1986, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the Internal Revenue Code of 1986, as amended;

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

5. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

6. Prepaid funeral contracts.

(8) APPLICATION TO VARIABLE ANNUITIES.—Compliance with the National Association of Securities Dealers Conduct Rules in effect on January 1, 2004, shall satisfy the requirements under this section for the recommendation of variable annuities. This section does not limit the department's ability to enforce the provisions of this section with respect to insurance agents, insurance agencies, and managing general agents, or the office's ability to enforce the provisions of this section with respect to insurers.

And the title is amended as follows:

On page 13, line 10, after the semicolon (;) insert: creating s. 627.4554, F.S.; providing a purpose; providing application; providing definitions; specifying duties of insurers and insurance agents relating to making annuity investment recommendations to senior consumers; providing requirements; limiting responsibility of insurers or insurance agents under certain circumstances; requiring a system of compliance and supervision; providing for enforcement by the Office of Insurance Regulation and the Department of Financial Services; authorizing the office and the department to issue orders to mitigate certain responsibilities of insurers or insurance agents; providing for reduction or elimination of certain penalties under certain circumstances; providing recordkeeping requirements; providing an exemption from application for variable annuities;

On motion by Senator Posey, **CS for CS for SB 2994** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Alexander	Fasano	Posey
Argenziano	Garcia	Pruitt
Aronberg	Geller	Saunders
Atwater	Haridopolos	Sebesta
Bennett	Hill	Siplin
Bullard	Jones	Smith
Campbell	Klein	Villalobos
Carlton	Lawson	Wasserman Schultz
Clary	Lee	Webster
Constantine	Lynn	Wilson
Cowin	Margolis	Wise
Diaz de la Portilla	Miller	
Dockery	Peaden	

Nays—1

Crist

Votes Recorded:

April 29, 2004: Yea to Nay—Cowin

THE PRESIDENT PRESIDING

RECESS

The President declared the Senate in recess at 1:18 p.m. to reconvene at 2:18 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:46 p.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

BILLS ON THIRD READING, continued

Consideration of **HB 1629**, **CS for SB 2060** and **CS for SB 1074** was deferred.

HB 1629—A bill to be entitled An act relating to affordable health care; providing a popular name; providing purpose; amending s. 381.026, F.S.; requiring certain licensed facilities to provide public Internet access to certain financial information; providing a definition; amending s. 381.734, F.S.; including participation by health care providers, small businesses, and health insurers in the Healthy Communities, Healthy People Program; requiring the Department of Health to provide public Internet access to certain public health programs; requiring the department to monitor and assess the effectiveness of such programs; requiring a report; requiring the Office of Program Policy and Government Accountability to evaluate the effectiveness of such programs; requiring a report; amending s. 395.1041, F.S.; authorizing hospitals to develop certain emergency room diversion programs; amending s. 395.1055, F.S.; requiring licensed facilities to make certain patient charge and

performance outcome data available on Internet websites; amending s. 395.1065, F.S.; authorizing the Agency for Health Care Administration to charge a fine for failure to provide such information; amending s. 395.301, F.S.; requiring certain licensed facilities to provide prospective patients certain estimates of charges for services; requiring such facilities to provide patients with certain bill verification information; providing for a fine for failure to provide such information; providing charge limitations; requiring such facilities to establish a patient question review and response methodology; providing requirements; requiring certain licensed facilities to provide public Internet access to certain financial information; requiring posting of a notice of the availability of such information; amending s. 408.061, F.S.; requiring the Agency for Health Care Administration to require health care facilities, health care providers, and health insurers to submit certain information; providing requirements; requiring the agency to adopt certain risk and severity adjustment methodologies; requiring the agency to adopt certain rules; requiring certain information to be certified; amending s. 408.062, F.S.; requiring the agency to conduct certain health care costs and access research, analyses, and studies; expanding the scope of such studies to include collection of pharmacy retail price data, use of emergency departments, physician information, and Internet patient charge information availability; requiring a report; requiring the agency to conduct additional data-based studies and make recommendations to the Legislature; requiring the agency to develop and implement a strategy to adopt and use electronic health records; authorizing the agency to develop rules to protect electronic records confidentiality; requiring a report to the Governor and Legislature; amending s. 408.05, F.S.; requiring the agency to develop a plan to make performance outcome and financial data available to consumers for health care services comparison purposes; requiring submittal of the plan to the Governor and Legislature; requiring the agency to update the plan; requiring the agency to make the plan available electronically; providing plan requirements; amending s. 409.9066, F.S.; requiring the agency to provide certain information relating to the Medicare prescription discount program; amending s. 408.7056, F.S.; renaming the Statewide Provider and Subscriber Assistance Program as the Subscriber Assistance Program; revising provisions to conform; expanding certain records availability provisions; revising membership provisions relating to a subscriber grievance hearing panel; revising a list of grievances the panel may consider; providing hearing procedures; amending s. 641.3154, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 641.511, F.S., to conform to the renaming of the Subscriber Assistance Program; adopting and incorporating by reference the Employee Retirement Income Security Act of 1974, as implemented by federal regulations; amending s. 641.58, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 408.909, F.S.; expanding a definition of "health flex plan entity" to include public-private partnerships; making a pilot health flex plan program apply permanently statewide; providing additional program requirements; creating s. 381.0271, F.S.; providing definitions; creating the Florida Patient Safety Corporation; authorizing the corporation to create additional not-for-profit corporate subsidiaries for certain purposes; specifying application of public records and public meetings requirements; exempting the corporation and subsidiaries from public procurement provisions; providing purposes; providing for a board of directors; providing for membership; authorizing the corporation to establish certain advisory committees; providing for organization of the corporation; providing for meetings; providing powers and duties of the corporation; requiring the corporation to collect, analyze, and evaluate patient safety data and related information; requiring the corporation to establish a reporting system to identify and report near misses relating to patient safety; requiring the corporation to work with state agencies to develop electronic health records; providing for an active library of evidence-based medicine and patient safety practices; requiring the corporation to develop and recommend core competencies in patient safety and public education programs; requiring an annual report; providing report requirements; authorizing the corporation to seek funding and apply for grants; requiring the Office of Program Policy Analysis and Government Accountability, the Department of Health, and the Agency for Health Care Administration to develop performance standards to evaluate the corporation; amending s. 409.91255, F.S.; expanding assistance to certain health centers to include community emergency room diversion programs and urgent care services; amending s. 627.410, F.S.; requiring insurers to file certain rates with the Office of Insurance Regulation; creating s. 627.64872, F.S.; providing legislative intent; creating the Florida Health Insurance Plan for certain purposes; providing definitions; providing exclusions; providing requirements for operation of the plan; providing for a board of directors; providing for appointment of members; providing for terms; specifying service without compensation; providing for travel and per diem expenses; requiring a plan of operation; providing requirements; providing for powers of the plan; requiring reports to the Governor and Legislature; providing for an actuarial study; providing certain immunity from liability for plan obligations; authorizing the board to provide for indemnification of certain costs; requiring an annually audited financial statement; providing for eligibility for coverage under the plan; providing criteria, requirements, and limitations; specifying certain activity as an unfair trade practice; providing for a plan administrator; providing criteria; providing requirements; providing term limits for the plan administrator; providing duties; providing for paying the administrator; providing for premium rates for plan coverage; providing rate limitations; providing for sources of additional revenue; specifying benefits under the plan; providing criteria, requirements, and limitations; providing for nonduplication of benefits; providing for annual and maximum lifetime benefits; providing for tax exempt status; providing for abolition of the Florida Comprehensive Health Association upon implementation of the plan; providing for continued operation of the Florida Comprehensive Health Association until adoption of a plan of operation for the Florida Health Insurance Plan; providing for enrollment in the plan of persons enrolled in the association; requiring insurers to pay certain assessments to the board for certain purposes; providing criteria, requirements, and limitations for such assessments; providing for repeal of ss. 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, and 627.6498, F.S., relating to the Florida Comprehensive Health Association, upon implementation of the plan; amending s. 627.662, F.S.; providing for application of certain claim payment methodologies to certain types of insurance; providing for certain actions relating to inappropriate utilization of emergency care; amending s. 627.6699, F.S.; revising provisions requiring small employer carriers to offer certain health benefit plans; preserving a right to open enrollment for certain small groups; requiring small employer carriers to file and provide coverage under certain high deductible plans; including high deductible plans and health reimbursement arrangements under certain required plan provisions; creating the Small Employers Access Program; providing legislative intent; providing definitions; providing participation eligibility requirements and criteria; requiring the Office of Insurance Regulation to administer the program by selecting an insurer through competitive bidding; providing requirements; specifying insurer qualifications; providing duties of the insurer; providing a contract term; providing insurer reporting requirements; providing application requirements; providing for benefits under the program; requiring the office to annually report to the Governor and Legislature; creating ss. 627.6405 and 641.31097, F.S.; providing for decreasing inappropriate use of emergency care; providing legislative findings and intent; requiring health maintenance organizations and providers to provide certain information electronically and develop community emergency department diversion programs; authorizing health maintenance organizations to require higher copayments for certain uses of emergency departments; amending s. 627.9175, F.S.; requiring certain health insurers to annually report certain coverage information to the office; providing requirements; deleting certain reporting requirements; retitling ch. 636, F.S.; designating ss. 636.002-636.067, F.S., as pt. I of ch. 636, F.S.; providing a part title; amending s. 636.003, F.S.; revising the definition of "prepaid limited health service organization" to exclude discount medical plan organizations; creating pt. II of ch. 636, F.S., consisting of ss. 636.202-636.244, F.S.; providing a part title; providing definitions; providing for regulation and operation of discount medical plan organizations; requiring corporate licensure before doing business as a discount medical plan; specifying application requirements; requiring license fees; providing for expiration and renewal of licenses; requiring such organizations to establish an Internet website; requiring publication of certain information on the website; specifying collection and deposit of the licensing fee; authorizing the office to examine or investigate the business affairs of such organizations; requiring examinations and investigations; authorizing the office to order production of documents and take statements; requiring organizations to pay certain expenses; specifying grounds for denial or revocation under certain circumstances; authorizing discount medical plan organizations to charge certain fees under certain circumstances; providing reimbursement requirements; prohibiting certain activities; requiring certain disclosures to prospective members; requiring provider agreements to provide services under a medical discount plan; providing agreement requirements; requiring forms and rates to be filed with the office; requiring annual reports to be filed with the office; providing requirements; providing for fines and administrative sanctions for failing to file annual

reports; establishing minimum capital requirements; providing for suspension or revocation of licenses under certain circumstances; providing for suspension of enrollment of new members under certain circumstances; providing terms of suspensions; requiring notice of any change of an organization's name; requiring discount medical plan organizations to maintain provider names listings; specifying marketing requirements of discount medical plans; providing limitations; specifying fee disclosure requirements for bundling discount medical plans with other insurance products; authorizing the commission to adopt rules; applying insurer service of process requirements on discount medical plan organizations; requiring a security deposit; prohibiting levy on certain deposit assets or securities under certain circumstances; providing criminal penalties; authorizing the office to seek certain injunctive relief under certain circumstances; providing limitations; providing for civil actions for damages for certain violations; providing for awards of court costs and attorney fees; specifying application of unauthorized insurer provisions of law to unlicensed discount medical plan organizations; creating ss. 627.65626 and 627.6402, F.S.; providing for insurance rebates for healthy lifestyles; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; amending s. 641.31, F.S.; authorizing health maintenance organizations offering certain point-of-service riders to offer such riders to certain employers for certain employees; providing requirements and limitations; providing for application of certain claim payment methodologies to certain types of insurance; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; creating s. 626.593, F.S.; providing fee and commission limitations for health insurance agents; requiring a written contract for compensation; providing contract requirements; requiring a rebate of commission under certain circumstances; amending ss. 626.191 and 626.201, F.S.; clarifying certain application requirements; preserving certain rights to enrollment in certain health benefit coverage programs for certain groups under certain circumstances; creating s. 465.0244, F.S.; requiring each pharmacy to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice of the availability of such information; amending s. 627.6499, F.S.; requiring each health insurer to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; amending s. 641.54, F.S.; requiring health maintenance organizations to make certain insurance financial information available to subscribers; requiring health maintenance organizations to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; repealing s. 408.02, F.S., relating to the development, endorsement, implementation, and evaluation of patient management practice parameters by the Agency for Health Care Administration; providing appropriations; providing effective dates.

—was read the third time by title.

SENATOR WEBSTER PRESIDING

THE PRESIDENT PRESIDING

On motion by Senator Peaden, further consideration of **HB 1629** was deferred.

CS for SB 2060—A bill to be entitled An act relating to alcoholic beverage licenses; amending s. 565.02, F.S.; authorizing the issuance of a non-quota license to certain sporting and recreational lodges; requiring that serving hours conform to certain local ordinances; providing rulemaking authority; providing an effective date.

—was read the third time by title.

On motion by Senator Smith, **CS for SB 2060** was passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Aronberg	Bullard
Alexander	Atwater	Clary
Argenziano	Bennett	Constantine
Cowin	Hill	Saunders
Crist	Jones	Sebesta
Dawson	Lawson	Siplin
Diaz de la Portilla	Lee	Smith
Dockery	Lynn	Villalobos
Fasano	Margolis	Wasserman Schultz
Garcia	Miller	Wilson
Geller	Peaden	
Haridopolos	Pruitt	

Nays—6

Campbell	Klein	Webster
Carlton	Posey	Wise

Vote after roll call:

Nay to Yea—Campbell

The Senate resumed consideration of—

HB 1629—A bill to be entitled An act relating to affordable health care; providing a popular name; providing purpose; amending s. 381.026, F.S.; requiring certain licensed facilities to provide public Internet access to certain financial information; providing a definition; amending s. 381.734, F.S.; including participation by health care providers, small businesses, and health insurers in the Healthy Communities, Healthy People Program; requiring the Department of Health to provide public Internet access to certain public health programs; requiring the department to monitor and assess the effectiveness of such programs; requiring a report; requiring the Office of Program Policy and Government Accountability to evaluate the effectiveness of such programs; requiring a report; amending s. 395.1041, F.S.; authorizing hospitals to develop certain emergency room diversion programs; amending s. 395.1055, F.S.; requiring licensed facilities to make certain patient charge and performance outcome data available on Internet websites; amending s. 395.1065, F.S.; authorizing the Agency for Health Care Administration to charge a fine for failure to provide such information; amending s. 395.301, F.S.; requiring certain licensed facilities to provide prospective patients certain estimates of charges for services; requiring such facilities to provide patients with certain bill verification information; providing for a fine for failure to provide such information; providing charge limitations; requiring such facilities to establish a patient question review and response methodology; providing requirements; requiring certain licensed facilities to provide public Internet access to certain financial information; requiring posting of a notice of the availability of such information; amending s. 408.061, F.S.; requiring the Agency for Health Care Administration to require health care facilities, health care providers, and health insurers to submit certain information; providing requirements; requiring the agency to adopt certain risk and severity adjustment methodologies; requiring the agency to adopt certain rules; requiring certain information to be certified; amending s. 408.062, F.S.; requiring the agency to conduct certain health care costs and access research, analyses, and studies; expanding the scope of such studies to include collection of pharmacy retail price data, use of emergency departments, physician information, and Internet patient charge information availability; requiring a report; requiring the agency to conduct additional data-based studies and make recommendations to the Legislature; requiring the agency to develop and implement a strategy to adopt and use electronic health records; authorizing the agency to develop rules to protect electronic records confidentiality; requiring a report to the Governor and Legislature; amending s. 408.05, F.S.; requiring the agency to develop a plan to make performance outcome and financial data available to consumers for health care services comparison purposes; requiring submittal of the plan to the Governor and Legislature; requiring the agency to update the plan; requiring the agency to make the plan available electronically; providing plan requirements; amending s. 409.9066, F.S.; requiring the agency to provide certain information relating to the Medicare prescription discount program; amending s. 408.7056, F.S.; renaming the Statewide Provider and Subscriber Assistance Program as the Subscriber Assistance Program; revising provisions to conform; expanding certain records availability provisions; revising membership provisions relating to a subscriber grievance hearing panel; revising a list of grievances the panel may consider; providing hearing procedures; amending s. 641.3154, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 641.511, F.S., to conform to the renaming of the Subscriber Assistance

Program; adopting and incorporating by reference the Employee Retirement Income Security Act of 1974, as implemented by federal regulations; amending s. 641.58, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 408.909, F.S.; expanding a definition of "health flex plan entity" to include public-private partnerships; making a pilot health flex plan program apply permanently statewide; providing additional program requirements; creating s. 381.0271, F.S.; providing definitions; creating the Florida Patient Safety Corporation; authorizing the corporation to create additional not-for-profit corporate subsidiaries for certain purposes; specifying application of public records and public meetings requirements; exempting the corporation and subsidiaries from public procurement provisions; providing purposes; providing for a board of directors; providing for membership; authorizing the corporation to establish certain advisory committees; providing for organization of the corporation; providing for meetings; providing powers and duties of the corporation; requiring the corporation to collect, analyze, and evaluate patient safety data and related information; requiring the corporation to establish a reporting system to identify and report near misses relating to patient safety; requiring the corporation to work with state agencies to develop electronic health records; providing for an active library of evidence-based medicine and patient safety practices; requiring the corporation to develop and recommend core competencies in patient safety and public education programs; requiring an annual report; providing report requirements; authorizing the corporation to seek funding and apply for grants; requiring the Office of Program Policy Analysis and Government Accountability, the Department of Health, and the Agency for Health Care Administration to develop performance standards to evaluate the corporation; amending s. 409.91255, F.S.; expanding assistance to certain health centers to include community emergency room diversion programs and urgent care services; amending s. 627.410, F.S.; requiring insurers to file certain rates with the Office of Insurance Regulation; creating s. 627.64872, F.S.; providing legislative intent; creating the Florida Health Insurance Plan for certain purposes; providing definitions; providing exclusions; providing requirements for operation of the plan; providing for a board of directors; providing for appointment of members; providing for terms; specifying service without compensation; providing for travel and per diem expenses; requiring a plan of operation; providing requirements; providing for powers of the plan; requiring reports to the Governor and Legislature; providing for an actuarial study; providing certain immunity from liability for plan obligations; authorizing the board to provide for indemnification of certain costs; requiring an annually audited financial statement; providing for eligibility for coverage under the plan; providing criteria, requirements, and limitations; specifying certain activity as an unfair trade practice; providing for a plan administrator; providing criteria; providing requirements; providing term limits for the plan administrator; providing duties; providing for paying the administrator; providing for premium rates for plan coverage; providing rate limitations; providing for sources of additional revenue; specifying benefits under the plan; providing criteria, requirements, and limitations; providing for nonduplication of benefits; providing for annual and maximum lifetime benefits; providing for tax exempt status; providing for abolition of the Florida Comprehensive Health Association upon implementation of the plan; providing for continued operation of the Florida Comprehensive Health Association until adoption of a plan of operation for the Florida Health Insurance Plan; providing for enrollment in the plan of persons enrolled in the association; requiring insurers to pay certain assessments to the board for certain purposes; providing criteria, requirements, and limitations for such assessments; providing for repeal of ss. 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, and 627.6498, F.S., relating to the Florida Comprehensive Health Association, upon implementation of the plan; amending s. 627.662, F.S.; providing for application of certain claim payment methodologies to certain types of insurance; providing for certain actions relating to inappropriate utilization of emergency care; amending s. 627.6699, F.S.; revising provisions requiring small employer carriers to offer certain health benefit plans; preserving a right to open enrollment for certain small groups; requiring small employer carriers to file and provide coverage under certain high deductible plans; including high deductible plans and health reimbursement arrangements under certain required plan provisions; creating the Small Employers Access Program; providing legislative intent; providing definitions; providing participation eligibility requirements and criteria; requiring the Office of Insurance Regulation to administer the program by selecting an insurer through competitive bidding; providing requirements; specifying insurer qualifications; providing duties of the insurer; providing a contract term; providing insurer reporting requirements; providing application requirements; providing for benefits under the program; requiring the office to annually report to the Governor and Legislature; creating ss. 627.6405 and 641.31097, F.S.; providing for decreasing inappropriate use of emergency care; providing legislative findings and intent; requiring health maintenance organizations and providers to provide certain information electronically and develop community emergency department diversion programs; authorizing health maintenance organizations to require higher copayments for certain uses of emergency departments; amending s. 627.9175, F.S.; requiring certain health insurers to annually report certain coverage information to the office; providing requirements; deleting certain reporting requirements; retitling ch. 636, F.S.; designating ss. 636.002-636.067, F.S., as pt. I of ch. 636, F.S.; providing a part title; amending s. 636.003, F.S.; revising the definition of "prepaid limited health service organization" to exclude discount medical plan organizations; creating pt. II of ch. 636, F.S., consisting of ss. 636.202-636.244, F.S.; providing a part title; providing definitions; providing for regulation and operation of discount medical plan organizations; requiring corporate licensure before doing business as a discount medical plan; specifying application requirements; requiring license fees; providing for expiration and renewal of licenses; requiring such organizations to establish an Internet website; requiring publication of certain information on the website; specifying collection and deposit of the licensing fee; authorizing the office to examine or investigate the business affairs of such organizations; requiring examinations and investigations; authorizing the office to order production of documents and take statements; requiring organizations to pay certain expenses; specifying grounds for denial or revocation under certain circumstances; authorizing discount medical plan organizations to charge certain fees under certain circumstances; providing reimbursement requirements; prohibiting certain activities; requiring certain disclosures to prospective members; requiring provider agreements to provide services under a medical discount plan; providing agreement requirements; requiring forms and rates to be filed with the office; requiring annual reports to be filed with the office; providing requirements; providing for fines and administrative sanctions for failing to file annual reports; establishing minimum capital requirements; providing for suspension or revocation of licenses under certain circumstances; providing for suspension of enrollment of new members under certain circumstances; providing terms of suspensions; requiring notice of any change of an organization's name; requiring discount medical plan organizations to maintain provider names listings; specifying marketing requirements of discount medical plans; providing limitations; specifying fee disclosure requirements for bundling discount medical plans with other insurance products; authorizing the commission to adopt rules; applying insurer service of process requirements on discount medical plan organizations; requiring a security deposit; prohibiting levy on certain deposit assets or securities under certain circumstances; providing criminal penalties; authorizing the office to seek certain injunctive relief under certain circumstances; providing limitations; providing for civil actions for damages for certain violations; providing for awards of court costs and attorney fees; specifying application of unauthorized insurer provisions of law to unlicensed discount medical plan organizations; creating ss. 627.65626 and 627.6402, F.S.; providing for insurance rebates for healthy lifestyles; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; amending s. 641.31, F.S.; authorizing health maintenance organizations offering certain point-of-service riders to offer such riders to certain employers for certain employees; providing requirements and limitations; providing for application of certain claim payment methodologies to certain types of insurance; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; creating s. 626.593, F.S.; providing fee and commission limitations for health insurance agents; requiring a written contract for compensation; providing contract requirements; requiring a rebate of commission under certain circumstances; amending ss. 626.191 and 626.201, F.S.; clarifying certain application requirements; preserving certain rights to enrollment in certain health benefit coverage programs for certain groups under certain circumstances; creating s. 465.0244, F.S.; requiring each pharmacy to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice of the availability of such information; amending s. 627.6499, F.S.; requiring each health insurer to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; amending s. 641.54, F.S.; requiring health maintenance organizations to make certain insurance financial information available to subscribers; requiring health maintenance organizations to

make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; repealing s. 408.02, F.S., relating to the development, endorsement, implementation, and evaluation of patient management practice parameters by the Agency for Health Care Administration; providing appropriations; providing effective dates.

—which was previously considered this day.

On motion by Senator Peaden, **HB 1629** was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

On motion by Senator Fasano, by two-thirds vote **HB 1831** was withdrawn from the Committees on Judiciary; and Criminal Justice.

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

HB 1831—A bill to be entitled An act relating to limitation of actions; amending s. 775.15, F.S.; authorizing the prosecution of specified sexual offenses in certain circumstances within 1 year after the identity of the accused is established through analysis of DNA evidence, in addition to the time limitations otherwise prescribed by law; providing for applicability; providing an effective date.

—a companion measure, was substituted for **CS for SB 1074** and by two-thirds vote read the second time by title. On motion by Senator Fasano, by two-thirds vote **HB 1831** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz de la Portilla	Miller
Alexander	Dockery	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise

Nays—None

On motion by Senator Fasano, by two-thirds vote **HB 1833** was withdrawn from the Committees on Natural Resources; Governmental Oversight and Productivity; and Rules and Calendar.

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

HB 1833—A bill to be entitled An act relating to an exemption from public records requirements; amending s. 253.034, F.S.; providing an exemption from public records requirements for a written valuation of state-owned land determined by the Board of Trustees of the Internal Improvement Trust Fund to be surplus land and related documents used to form the valuation or which pertain to the valuation; providing for limited duration of the exemption; authorizing the disclosure of appraisals, valuations, and valuation information under specified circumstances; providing for review and repeal; providing a statement of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for SB 2158** and by two-thirds vote read the second time by title. On motion by Senator Fasano, by two-thirds vote **HB 1833** was read the third time by title, passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Dawson	Miller
Alexander	Diaz de la Portilla	Peaden
Argenziano	Fasano	Posey
Aronberg	Garcia	Pruitt
Atwater	Geller	Saunders
Bennett	Haridopolos	Sebesta
Bullard	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise

Nays—1

Dockery

CS for CS for CS for SB 1174—A bill to be entitled An act relating to the 2005 Planning and Development Study Commission; creating the commission; providing for its membership and requirements for voting; providing for appointments by the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring the Secretary of Transportation, the Secretary of Community Affairs, the Secretary of Environmental Protection, the Commissioner of Agriculture, and the executive director of the Fish and Wildlife Conservation Commission, or their designees, to serve as ex officio nonvoting members; requiring the commission to review the state's growth management programs and laws and make recommendations; requiring public hearings; requiring the Department of Community Affairs to provide staff support; providing for expiration of the commission; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Bennett, further consideration of **CS for CS for CS for SB 1174** was deferred.

SB 1592—A bill to be entitled An act relating to education assessment instruments; amending s. 1008.23, F.S.; authorizing a student's parent and the accompanying student to review the questions and the student's answers to those questions on the criterion-referenced portion of the Florida Comprehensive Assessment Test; providing restrictions on the review; requiring the Department of Education to honor the requests within a certain time period; requiring that district school boards notify eligible parents; requiring the State Board of Education to adopt rules; authorizing reasonable attorney's fees and costs under certain circumstances; amending s. 1008.22, F.S.; delaying the date by which the Commissioner of Education must approve the use of specified standardized tests as an alternative to the grade 10 Florida Comprehensive Assessment Test (FCAT); allowing passage of the alternative tests to satisfy the assessment requirement for students graduating from high school in the 2003-2004 school year, subject to certain conditions; amending s. 1003.433, F.S.; allowing passage of alternate assessments in lieu of the grade 10 FCAT for certain transfer students subject to certain conditions beginning in the 2004-2005 school year; repealing s. 1008.301, F.S., relating to concordance studies by the State Board of Education; providing for applicability; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Siplin, **SB 1592** as amended was passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

CS for SB 1600—A bill to be entitled An act relating to prompt payment for construction services; amending s. 218.70, F.S.; providing a short title; amending s. 218.72, F.S.; redefining terms used in part VII of ch. 218, F.S.; amending s. 218.735, F.S.; revising provisions relating to timely payment for purchases of construction services; revising deadlines for payment; providing procedures for project closeout and payment of retainage; providing requirements for local government construction retainage; providing that ss. 218.72-218.76, F.S., apply to the payment of any payment request for retainage; providing exceptions; creating s. 255.0705, F.S.; providing a short title; amending s. 255.071, F.S.; revising deadlines for the payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects; creating ss. 255.072, 255.073, 255.074, 255.075, 255.076, 255.077, and 255.078, F.S.; providing definitions; providing for timely payment for purchases of construction services by a public entity; providing procedures for calculating payment due dates; providing procedures for handling improper payment requests; providing for the resolution of disputes; providing for project closeout and payment of retainage; providing that ss. 255.072-255.076, F.S., apply to the payment of any payment request for retainage; providing exceptions; amending s. 255.05, F.S.; making certain restrictions in bonds issued for public works projects unenforceable; providing requirements for certain notices of nonpayment served by a claimant who is not in privity with the contractor; revising the form for a public construction bond; requiring the payment provisions of all public construction bonds to be construed as statutory bonds; prohibiting conversion to common law bonds; deleting obsolete language; deleting a requirement that bond forms used by public owners reference certain notice and time limitation provisions; providing limitations on a claimant's institution of certain actions against a contractor or surety; amending s. 95.11, F.S., to conform a cross-reference; amending s. 713.015, F.S.; revising a direct contract provision requirement; amending s. 713.02, F.S.; protecting the rights of certain persons to enforce certain contract, lien, or bond remedies or contractual obligations under certain circumstances; precluding certain defenses; amending s. 713.04, F.S.; revising certain final payment requirements; amending s. 713.08, F.S.; requiring a claim of lien to be served on an owner; amending s. 713.13, F.S.; clarifying use of a payment bond as a transfer bond; amending s. 713.135, F.S., revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; amending s. 713.24, F.S.; preserving certain lien rights when filing a transfer bond after commencing certain lien enforcement proceedings; amending s. 713.345, F.S.; increasing certain criminal penalties for misapplication of construction funds; amending s. 713.3471, F.S.; revising a notice requirement concerning the disbursement of payments on construction loans; requiring that the notice be provided to the owner; providing for application of specified sections of the act to certain contracts and projects; providing an effective date.

—as amended April 26 was read the third time by title.

SENATOR WEBSTER PRESIDING

Senator Argenziano moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (115360)—On page 33, between lines 14 and 15, insert:

Nothing in this section shall be construed to adversely affect the lien and bond rights of lienors who are not in privity with the owner. This section does not apply when the owner is also a licensed contractor or a construction professional who is in the business of developing property.

MOTION

On motion by Senator Sebesta, the rules were waived to allow the following amendment to be considered:

Senator Sebesta moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (042340)—In title, on page 1, lines 2 and 3, delete those lines and insert: An act relating to construction contracting; amending s. 218.70,

On motion by Senator Sebesta, **CS for SB 1600** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **HB 1899**, **CS for SB 540** and **CS for SB 560** was deferred.

On motion by Senator Aronberg, by two-thirds vote **HB 635** was withdrawn from the Committees on Governmental Oversight and Productivity; and Rules and Calendar.

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

HB 635—A bill to be entitled An act relating to a public records exemption; amending s. 119.07, F.S.; providing an exemption from public records requirements for information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents of guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, and photograph of such child, the names and locations of schools attended by such child, and the names, home addresses, telephone numbers, and social security numbers of the parents or guardians of such child; providing for disclosure of such information by court order upon a showing of good cause; providing for retroactive effect of the exemption; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

—a companion measure, was substituted for **SB 2082** as amended and by two-thirds vote read the second time by title. On motion by Senator Aronberg, by two-thirds vote **HB 635** was read the third time by title, passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Sebesta
Bullard	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Margolis	

Nays—1

Posey

CS for SB 2674—A bill to be entitled An act relating to the statewide and local advocacy councils; amending s. 402.164, F.S.; providing definitions; amending s. 402.165, F.S.; requiring the Florida Statewide Advocacy Council to be located in the Executive Office of the Governor; removing the requirement for the Department of Children and Family Services to provide administrative support; revising the membership of the statewide advocacy council; providing priority consideration for certain candidates for the statewide council; requiring the Governor to select an executive director; providing that such director shall serve at the pleasure of the Governor; removing a restriction on the preparation of the annual budget; requiring the council to consult with the Governor before generating a complaint; revising council duties and responsibilities; directing the council to establish interagency agreements with certain state agencies; requiring copies of certain files, records, and reports to be provided to the council at the agency's expense; amending s. 402.166, F.S.; deleting references to administration by the department; providing clarification for duties performed by a local council; revising the period in which the Governor may approve or disapprove an appointment; removing authority to review certain programs; providing that the local council has the same authority to access records from facilities, programs, and clients as does the statewide advocacy council; amending s. 402.167, F.S.; directing each state agency that provides client services to provide certain information about the statewide advocacy and local councils; transferring the Florida Statewide Advocacy Council, certain positions, local councils, and a toll-free complaint line by a type two transfer from the Department of Children and Family Services to the Florida Statewide Advocacy Council; directing the department to identify positions to be transferred by a type two transfer to the Florida Statewide Advocacy Council for support of the local councils; providing an effective date.

—as amended April 26 was read the third time by title.

MOTION

On motion by Senator Wise, the rules were waived to allow the following amendments to be considered:

Senator Wise moved the following amendments which were adopted by two-thirds vote:

Amendment 1 (033380)—On page 3, delete line 7 and insert:

(c)~~(b)~~ "Client services" means *health and human* services *that* ~~which~~ are

Amendment 2 (940356)—On page 5, delete line 4 and insert: elected public official, each *candidate for* ~~member of~~ the statewide council

Amendment 3 (843488)—On page 21, delete line 18 and insert:

Section 6. This act shall take effect January 1, 2005.

On motion by Senator Wise, **CS for SB 2674** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

HB 1899—A bill to be entitled An act relating to construction defects; amending s. 558.001, F.S.; revising legislative findings and declarations; amending s. 558.002, F.S.; revising definitions; amending s. 558.003, F.S.; providing requirements for filing actions alleging construction defects; requiring abatement, upon timely motion, of certain actions filed that do not comply with certain requirements; amending s. 558.004, F.S.; revising requirements, procedures, criteria, and limitations in provisions relating to notice and opportunity to repair construction defects in certain structures; providing requirements and procedures for making, accepting, or rejecting settlement offers; providing for consequences of certain actions relating to settlement offers; specifying legal obligation to make certain repairs or monetary payments under certain circumstances; providing a mutual duty to exchange certain discoverable evidence; providing requirements and limitations; amending s. 558.005, F.S.; revising certain contract content provisions; providing a notice form; providing application; providing severability; providing an effective date.

—was read the third time by title.

On motion by Senator Bennett, **HB 1899** was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

CS for SB 540—A bill to be entitled An act relating to manatee protection; amending s. 370.12, F.S.; creating an exception from penalties for activities that are otherwise prohibited if the activity is reasonably necessary in order to prevent loss of human life or a vessel in distress or render necessary assistance to persons or a vessel in distress; directing that existing manatee protection rules be presumed adequate and additional rules unnecessary in a region where measurable biological goals are being achieved; providing that the presumption does not prevent the commission from amending existing rules or adopting new rules to address risks or circumstances affecting manatees within that region; defining the term "region" for purposes of the act; creating s. 370.1202, F.S.; requiring the Fish and Wildlife Conservation Commission to implement an enhanced manatee protection study; providing goals for manatee protection research relating to decisions based on sound science-based policies; directing the commission to contract with

Mote Marine Laboratory to conduct a manatee habitat and submerged aquatic vegetation assessment; providing requirements for the assessment; directing that reports be made to the Governor, Legislature, and commission which include recommendations based upon study results; requiring an annual audit; directing the Fish and Wildlife Conservation Commission to conduct a signage and boat speed assessment of the effectiveness of signs warning boaters of manatee slow-speed zones in the waters of this state; providing requirements for the assessment; directing the commission to prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives; directing the commission to make specific policy recommendations regarding signs in manatee slow-speed zones; authorizing the Fish and Wildlife Conservation Commission to develop and implement a genetic tagging program for manatees; amending s. 372.072, F.S.; requiring the Fish and Wildlife Conservation Commission to develop rules not later than July 1, 2005, which define how measurable biological goals will be used when evaluating the need for additional manatee protection rules; providing for a contract; providing an effective date.

—as amended April 26 was read the third time by title.

MOTION

On motion by Senator Wasserman Schultz, the rules were waived to allow the following amendment to be considered:

Senators Wasserman Schultz, Bennett and Geller offered the following amendment which was moved by Senator Wasserman Schultz and adopted by two-thirds vote:

Amendment 1 (830758)(with title amendment)—On page 3, lines 22-27 delete those lines and insert:

(u)1. Existing state manatee protection rules shall be given great weight in determining whether additional rules are necessary in a region where the measurable goals developed pursuant to s. 372.072 have been achieved. However, the commission may amend existing rules or adopt new rules to address risks or

And the title is amended as follows:

On page 1, lines 9-16, delete those lines and insert: distress; prescribing guidelines for considering existing manatee protection rules in relation to formulation of new rules; providing that the commission may amend existing rules or adopt new rules to address risks or circumstances affecting manatees within a

On motion by Senator Bennett, **CS for SB 540** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Alexander	Geller	Pruitt
Aronberg	Haridopolos	Saunders
Atwater	Hill	Sebesta
Bennett	Klein	Siplin
Bullard	Lawson	Smith
Carlton	Lee	Villalobos
Clary	Lynn	Wasserman Schultz
Dawson	Margolis	Webster
Diaz de la Portilla	Miller	Wilson
Dockery	Peaden	Wise
Garcia	Posey	

Nays—7

Argenziano	Cowin	Fasano
Campbell	Crist	Jones
Constantine		

CS for SB 560—A bill to be entitled An act relating to health care; providing legislative findings and intent; amending s. 456.072, F.S., relating to grounds for discipline, penalties, and enforcement applicable to health care practitioners; providing that a practitioner's failure to disclose his or her training in health care advertisements and in professional relationships with patients constitutes grounds for disciplinary action; providing exceptions; providing penalties; specifying that a reference to the section constitutes a general reference under the doctrine of incorporation by reference; amending s. 409.907, F.S.; requiring the agency to develop a uniform application process for Medicaid providers who serve recipients through Medicaid waiver programs; providing criteria; amending s. 468.352, F.S.; revising and providing definitions applicable to the regulation of respiratory therapy; amending s. 468.355, F.S.; revising provisions relating to respiratory therapy licensure and testing requirements; amending s. 468.368, F.S.; revising exemptions from respiratory therapy licensure requirements; repealing s. 468.356, F.S., relating to the approval of educational programs; repealing s. 468.357, F.S., relating to licensure by examination; amending s. 400.9905, F.S.; revising the definitions of "clinic" and "medical director" and defining "mobile clinic," "portable equipment provider," and "chief financial officer," for purposes of the Health Care Clinic Act; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.991, F.S.; requiring each mobile clinic to obtain a health care clinic license; requiring a portable equipment provider to obtain a health care clinic license for a single office and exempting such a provider from submitting certain information to the Agency for Health Care Administration; revising the date by which an initial application for a health care clinic license must be filed with the agency; revising the definition of "applicant"; amending s. 400.9935, F.S.; providing that an exemption from licensure is not transferable; providing that the agency may charge a fee of applicants for certificates of exemption; providing that the agency may deny an application or revoke a license under certain circumstances; amending s. 400.995, F.S.; providing that the agency may deny, revoke, or suspend specified licenses and impose fines for certain violations; providing that a temporary license expires after a notice of intent to deny an application is issued by the agency; providing that persons or entities made exempt under the act and which have paid the clinic licensure fee to the agency are entitled to a partial refund from the agency; providing that certain persons or entities are not in violation of part XIII of ch. 400, F.S., due to failure to apply for a clinic license by a specified date; providing that certain payments may not be denied to such persons or entities for failure to apply for or obtain a clinic license before a specified date; assigning responsibilities for ensuring billing; amending s. 395.1027, F.S.; requiring a hospital or other facility licensed under ch. 395, F.S., to release patient information to a regional poison control center under specified circumstances; providing an effective date.

—as amended April 26 was read the third time by title.

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendment to be considered:

Senator Bennett moved the following amendment which was adopted by two-thirds vote:

Amendment 1 (255434)—On page 23, line 24, delete "*in this section*" and insert: *herein*

MOTION

On motion by Senator Lynn, the rules were waived to allow the following amendment to be considered:

Senator Lynn moved the following amendment which was adopted by two-thirds vote:

Amendment 2 (470424)(with title amendment)—On page 29, between lines 29 and 30, insert:

Section 17. Subsections (1) and (2) and paragraph (a) of subsection (4) of section 627.64171, Florida Statutes, are amended to read:

627.64171 Coverage for length of stay and outpatient postsurgical care.—

(1) Any health insurance policy that is issued, amended, delivered, or renewed in this state which provides coverage for breast cancer treatment may not limit inpatient hospital coverage for *lymph-node dissections or* mastectomies to any period that is less than that determined by the treating physician to be medically necessary in accordance with

prevailing medical standards and after consultation with the insured patient.

(2) Any health insurance policy that provides coverage for mastectomies under subsection (1) must also provide coverage for outpatient postsurgical followup care in keeping with prevailing medical standards by a licensed health care professional qualified to provide postsurgical mastectomy care. The treating physician, after consultation with the insured patient, may choose that the outpatient care be provided at the most medically appropriate setting, which may include the hospital, treating physician's office, outpatient center, or home of the insured patient.

(4)(a) This section does not require an insured patient to have *a lymph-node dissection or a* ~~the~~ mastectomy in the hospital or stay in the hospital for a fixed period of time following *a lymph-node dissection or a* ~~the~~ mastectomy.

Section 18. Subsections (1) and (2) and paragraph (a) of subsection (4) of section 627.66121, Florida Statutes, are amended to read:

627.66121 Coverage for length of stay and outpatient postsurgical care.—

(1) Any group, blanket, or franchise accident or health insurance policy that is issued, amended, delivered, or renewed in this state which provides coverage for breast cancer treatment may not limit inpatient hospital coverage for *lymph-node dissections or* mastectomies to any period that is less than that determined by the treating physician to be medically necessary in accordance with prevailing medical standards and after consultation with the insured patient.

(2) Any group, blanket, or franchise accident or health insurance policy that provides coverage for mastectomies under subsection (1) must also provide coverage for outpatient postsurgical followup care in keeping with prevailing medical standards by a licensed health care professional qualified to provide postsurgical mastectomy care. The treating physician, after consultation with the insured patient, may choose that the outpatient care be provided at the most medically appropriate setting, which may include the hospital, treating physician's office, outpatient center, or home of the insured patient.

(4)(a) This section does not require an insured patient to have *a lymph-node dissection or a* ~~the~~ mastectomy in the hospital or stay in the hospital for a fixed period of time following *a lymph-node dissection or a* ~~the~~ mastectomy.

Section 19. Paragraphs (a) and (c) of subsection (31) of section 641.31, Florida Statutes, are amended to read:

641.31 Health maintenance contracts.—

(31)(a) Health maintenance contracts that provide coverage, benefits, or services for breast cancer treatment may not limit inpatient hospital coverage for *lymph-node dissections or* mastectomies to any period that is less than that determined by the treating physician under contract with the health maintenance organization to be medically necessary in accordance with prevailing medical standards and after consultation with the covered patient. Such contract must also provide coverage for outpatient postsurgical followup care in keeping with prevailing medical standards by a licensed health care professional under contract with the health maintenance organization qualified to provide postsurgical mastectomy care. The treating physician under contract with the health maintenance organization, after consultation with the covered patient, may choose that the outpatient care be provided at the most medically appropriate setting, which may include the hospital, treating physician's office, outpatient center, or home of the covered patient.

(c)1. This subsection does not require a covered patient to have *a lymph-node dissection or a* ~~the~~ mastectomy in the hospital or stay in the hospital for a fixed period of time following *a lymph-node dissection or a* ~~the~~ mastectomy.

2. This subsection does not prevent a contract from imposing deductibles, coinsurance, or other cost sharing in relation to benefits pursuant to this subsection, except that such cost sharing shall not exceed cost sharing with other benefits.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 17, after the semicolon (;) insert: amending ss. 627.64171, 627.66121, and 641.31, F.S.; providing requirements for the length of hospital stay relating to a lymph-node dissection which specified health insurers and health maintenance organizations must cover; limiting application; directing the Office of Program Policy Analysis and Government Accountability to study mammography and report to the Legislature;

MOTION

On motion by Senator Saunders, the rules were waived to allow the following amendment to be considered:

Senator Saunders moved the following amendment which was adopted by two-thirds vote:

Amendment 3 (110224)(with title amendment)—On page 13, line 21 through page 14, line 2, delete those lines and insert:

Section 3. Subsection (9) of section 409.907, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

409.907 Medicaid provider agreements.—The agency may make payments for medical assistance and related services rendered to Medicaid recipients only to an individual or entity who has a provider agreement in effect with the agency, who is performing services or supplying goods in accordance with federal, state, and local law, and who agrees that no person shall, on the grounds of handicap, race, color, or national origin, or for any other reason, be subjected to discrimination under any program or activity for which the provider receives payment from the agency.

(9) Upon receipt of a completed, signed, and dated application, and completion of any necessary background investigation and criminal history record check, the agency must either:

(a) Enroll the applicant as a Medicaid provider no earlier than the effective date of the approval of the provider application. With respect to providers who were recently granted a change of ownership and those who primarily provide emergency medical services transportation or emergency services and care pursuant to s. 395.1041 or s. 401.45, *or services provided by entities under s. 409.91255,* and out-of-state providers, upon approval of the provider application, the effective date of approval is considered to be the date the agency receives the provider application; or

(b) Deny the application if the agency finds that it is in the best interest of the Medicaid program to do so. The agency may consider the factors listed in subsection (10), as well as any other factor that could affect the effective and efficient administration of the program, including, but not limited to, the applicant's demonstrated ability to provide services, conduct business, and operate a financially viable concern; the current availability of medical care, services, or supplies to recipients, taking into account geographic location and reasonable travel time; the number of providers of the same type already enrolled in the same geographic area; and the credentials, experience, success, and patient outcomes of the provider for the services that it is making application to provide in the Medicaid program. The agency shall deny the application if the agency finds that a provider; any officer, director, agent, managing employee, or affiliated person; or any partner or shareholder having an ownership interest equal to 5 percent or greater in the provider if the provider is a corporation, partnership, or other business entity, has failed to pay all outstanding fines or overpayments assessed by final order of the agency or final order of the Centers for Medicare and Medicaid Services, not subject to further appeal, unless the provider agrees to a repayment plan that includes withholding Medicaid reimbursement until the amount due is paid in full.

And the title is amended as follows:

On page 1, line 15, after the second semicolon (;) insert: providing criteria for establishing the effective date of approval of certain applications to be a Medicaid provider;

On motion by Senator Bennett, **CS for SB 560** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise

Nays—None

Consideration of **CS for CS for SB 2842** was deferred.

CS for CS for CS for SB 512—A bill to be entitled An act relating to independent living transition services; amending s. 409.1451, F.S.; authorizing community-based providers to administer an independent living transition services system; providing that foster care includes the temporary placement through the Department of Juvenile Justice or Department of Corrections; providing legislative intent regarding assistance to older children in foster care; requiring the Department of Children and Family Services to provide certain skills assessment and training to such children; providing guidelines to develop such training; providing certain educational goals; revising provisions governing a young adult's preparation for independent living; requiring the department to conduct an assessment and inform the child of certain scholarships, grants, and awards; providing for the identification of and coordination of assistance to children with developmental disabilities and special mental health needs; providing that such assessment be included in a certain report during judicial review; removing life skills activities guidelines for young adults who were formerly in foster care; revising aftercare services; providing a limitation on the amount of an award; providing additional qualifications to receive the award; providing requirements and options for determining the amount of the award; providing that a young adult who is eligible to receive such award may reside with a foster family or group care provider beyond his or her age of majority; providing a limitation on the number of diplomas, certificates, or the equivalent an award recipient may receive; expanding the services available through the transitional support service to include mental health and disability services; providing a priority for transitional support services for young adults who do not receive a scholarship award; abolishing the independent living services workgroup; creating the Independent Living Services Advisory Council; providing duties and responsibilities; requiring an annual report; providing membership criteria; limiting the department's rulemaking authority; amending s. 39.701, F.S.; requiring a judicial review hearing within a certain timeframe for each child in foster care; requiring that the court certify that such child has received certain information; providing that the department may be held in contempt; requiring that information from the preindependent living assessment be provided to the courts; requiring the court to determine the child's preparation for independence; amending s. 1009.25, F.S.; revising requirements specifying the students who are exempt from paying tuition and fees; requiring the Auditor General to perform an audit of the program and submit a report; directing the Office of Program Policy and Government Accountability to develop recommendations for minimum system standards; requiring that the recommendations be provided to the department by November 30, 2004; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Lynn, **CS for CS for CS for SB 512** as amended was passed and certified to the House. The vote on passage was:

Yeas—39

Alexander	Aronberg	Bennett
Argenziano	Atwater	Bullard
Campbell	Geller	Posey
Carlton	Haridopolos	Pruitt
Clary	Hill	Saunders
Constantine	Jones	Sebesta
Cowin	Klein	Siplin
Crist	Lawson	Smith
Dawson	Lee	Villalobos
Diaz de la Portilla	Lynn	Wasserman Schultz
Dockery	Margolis	Webster
Fasano	Miller	Wilson
Garcia	Peaden	Wise

Nays—None

CS for CS for SB 2984—A bill to be entitled An act relating to condominium and community associations; amending s. 718.110, F.S.; providing for the applicability of amendments restricting certain rights of unit owners; amending s. 718.111, F.S.; providing immunity from liability for certain information provided by associations to prospective purchasers or lienholders under certain circumstances; amending s. 720.303, F.S.; requiring specific notice to be given to association members before certain assessments or rule changes may be considered at a meeting; amending s. 768.1325, F.S.; providing immunity from civil liability for community associations that provide automated defibrillator devices under certain circumstances; prohibiting insurers from requiring associations to purchase medical malpractice coverage as a condition of issuing other coverage; prohibiting insurers from excluding from coverage under a general liability policy damages resulting from the use of an automated external defibrillator device; amending ss. 718.112 and 719.1055, F.S.; revising notification and voting procedures with respect to any vote to forego retrofitting of the common areas of condominiums and cooperatives with fire sprinkler systems; amending s. 718.503, F.S.; requiring unit owners who are not developers to provide a specific question and answer disclosure document to certain prospective purchasers; creating s. 720.403, F.S.; providing legislative intent relating to the revival of governance of a community; creating s. 720.404, F.S.; providing eligibility to revive governance documents; specifying prerequisites to reviving governance documents; creating s. 720.405, F.S.; requiring the formation of an organizing committee; providing for membership; providing duties and responsibilities of the organizing committee; directing the organizing committee to prepare certain documents; providing for the contents of the documents; providing for a vote of the eligible parcel owners; creating s. 720.406, F.S.; directing the organizing committee to file certain documents with the Department of Community Affairs; specifies the content of the submission to the department; requiring the department to approve or disapprove the request to revive the governance documents within a specified time period; creating s. 720.407, F.S.; requiring the organizing committee to file and record certain documents within a specified time period; directing the organizing committee to give all affected parcel owners a copy of the documents filed and recorded; providing for judicial determination of the effects of revived covenants on parcels; providing for effects of such a judicial determination; amending s. 718.103, F.S.; providing that certain governmental entities are not developers for certain purposes; amending s. 720.301, F.S.; defining the terms "department," "division," and "member"; amending s. 720.302, F.S.; prescribing a legislative purpose of providing alternative dispute resolution procedures for disputes involving elections and recalls; providing acts that constitute crimes; providing penalties; amending s. 720.303, F.S.; prescribing the right of an association to enforce deed restrictions; prescribing rights of members and parcel owners to attend and address association board meetings and to have items placed on an agenda; prescribing additional requirements for notice of meetings; providing for additional materials to be maintained as records; providing additional requirements and limitations with respect to inspecting and copying records; providing requirements with respect to financial statements; providing procedures for recall of directors; amending s. 720.304, F.S.; prescribing owners' rights with respect to flag display; prohibiting certain lawsuits against parcel owners; providing penalties; allowing a parcel owner to construct a ramp for a parcel resident who has a medical need for a ramp; providing conditions; allowing the display of a security-services sign; amending s. 720.305, F.S.; providing that a fine by an association cannot become a lien against a parcel; providing for attorney's fees in actions to recover fines; creating s. 720.3055, F.S.; prescribing requirements for contracts for products and services; amending s. 720.306, F.S.; providing for notice of and right to speak at member meetings; requiring election disputes between a

member and an association to be submitted to mandatory binding arbitration; amending s. 720.311, F.S.; expanding requirements and guidelines with respect to alternative dispute resolution; providing requirements for mediation and arbitration; providing for training and education programs; transferring, renumbering, and amending s. 689.26, F.S.; modifying the disclosure form that a prospective purchaser must receive before a contract for sale; providing that certain contracts are voidable for a specified period; requiring that a purchaser provide written notice of cancellation; transferring and renumbering s. 689.265, F.S., relating to required financial reports of certain residential subdivision developers; amending s. 498.025, F.S., relating to the disposition of subdivided lands; conforming cross-references; creating s. 720.402, F.S.; providing remedies for publication of false and misleading information; amending s. 34.01, F.S.; providing jurisdiction of disputes involving homeowners' associations; amending ss. 316.00825, 558.002, F.S.; conforming cross-references; providing for internal organization of ch. 720, F.S.; providing for severability; amending s. 190.012, F.S.; providing for the enforcement of deed restrictions in certain circumstances; amending s. 190.046, F.S.; providing for additional dissolution procedures; amending s. 190.006, F.S.; specifying procedures for selecting a chair at the initial landowners' meeting; specifying requirements for proxy voting; requiring notice of landowners' elections; specifying the terms of certain supervisors; providing for nonpartisan elections; specifying the time that resident supervisors assume office; authorizing the supervisor of elections to designate seat numbers for resident supervisors of the board; providing procedures for filing qualifying papers; allowing candidates the option of paying a filing fee to qualify for the election; specifying payment requirements; specifying the number of petition signatures required to qualify for the election; requiring the county canvassing board to certify the results of resident elections; providing effective dates.

—as amended April 26 was read the third time by title.

MOTION

On motion by Senator Atwater, the rules were waived to allow the following amendments to be considered:

Senators Atwater and Campbell offered the following amendments which were moved by Senator Atwater and adopted by two-thirds vote:

Amendment 1 (543684)(with title amendment)—On page 7, line 1 through page 8, line 26, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 10-13, delete those lines and insert: amending s.

Amendment 2 (441246)—On page 32, lines 21-30, delete those lines and insert:

2. An assessment may not be levied at a board meeting unless *a written* ~~the~~ notice of the meeting *is provided to all members at least 14 days before the meeting, which notice* includes a statement that assessments will be considered *at the meeting* and the nature of the assessments. *Written notice of any meeting at which special assessments will be considered or at which rules that regulate the use of parcels in the community may be adopted, amended, or revoked must be mailed, delivered, or electronically transmitted to the members and parcel owners and posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days before the meeting. A written notice concerning changes to the rules that regulate the use of parcels in the community must include a statement that changes to the rules regarding the use of parcels will be considered at the meeting.*

MOTION

On motion by Senator Atwater, the rules were waived to allow the following amendment to be considered:

Senator Atwater moved the following amendment which was adopted by two-thirds vote:

Amendment 3 (042118)—On page 47, line 1 through page 49, line 9, delete those lines and insert:

(4) It is the intent of the Legislature to protect the right of parcel owners to exercise their rights as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that strategic lawsuits against public participation, or "SLAPP" suits, have occurred when a member is sued by individuals or business organization due to a parcel-owner member's appearance and presentation before a governmental entity on matters related to the homeowners' association. However, it is the public policy of this state that business organizations and individuals not engage in such suits, because such actions are inconsistent with the right of parcel owners to participate in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by business organizations and individuals against parcel owners who address matters concerning their homeowners' association will preserve this fundamental state policy, preserve the constitutional rights of parcel owners, and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

(a) A business organization or individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a parcel owner without merit and solely because the parcel owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(b) A parcel owner sued by a business organization or individual in violation of this section has a right to an expeditious resolution of a claim that the suit violates this section. A parcel owner may petition the court for an order dismissing the action or granting final judgment in favor of that parcel owner. The petitioner may file a motion for summary judgment, with supplemental affidavits, seeking a determination that the business organization's or individual's lawsuit has been brought in violation of this section. The business organization or individual must thereafter file a response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the response. The court may award the parcel owner actual damages arising from the violation of this section. A court may award treble damages to a prevailing parcel owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(c) Homeowners' associations may not expend association funds in prosecuting a SLAPP suit against a parcel owner.

On motion by Senator Atwater, **CS for CS for SB 2984** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24

Alexander	Dockery	Lynn
Atwater	Fasano	Miller
Bennett	Geller	Peaden
Bullard	Hill	Smith
Campbell	Jones	Wasserman Schultz
Clary	Klein	Webster
Crist	Lawson	Wilson
Diaz de la Portilla	Lee	Wise

Nays—12

Argenziano	Cowin	Posey
Aronberg	Garcia	Pruitt
Carlton	Haridopolos	Saunders
Constantine	Margolis	Villalobos

Vote after roll call:

Yea—Siplin

Nay—Sebesta

Yea to Nay—Crist

Consideration of **CS for SB 244 and 1566** was deferred.

CS for SB 2548—A bill to be entitled An act relating to regulating the consolidation and recordation of lands; providing for assembly and readjustment of certain land plats; revising provisions relating to recording land plats; amending s. 125.01, F.S.; revising certain powers of county governments to regulate lands; amending s. 127.01, F.S.; specifying consolidation of certain property for certain purposes as a public purpose; amending s. 163.3164, F.S.; revising the definition of the term "land development regulations" and defining the term "land assembly or adjustment"; amending s. 163.3177, F.S.; revising requirements of future land use plan elements of a required comprehensive plan to address antiquated subdivisions and consolidation of certain properties for certain purposes; providing a deadline for addressing certain plan amendments; amending s. 163.3202, F.S.; revising certain land development regulation requirements to address consolidation of certain properties for certain purposes; amending s. 163.340, F.S.; revising certain definitions to include consolidation of certain properties and antiquated subdivisions; amending s. 163.360, F.S.; including antiquated subdivisions under certain community redevelopment plan requirements; amending s. 166.411, F.S.; including consolidation of certain properties for certain purposes under municipal powers of eminent domain; amending s. 177.011, F.S.; providing additional purposes and scope relating to platting, replatting, and reassembly of lands; providing intent relating to regulation of land platting and land assembly or adjustment; amending s. 177.031, F.S.; defining the term "land assembly or adjustment"; amending s. 177.091, F.S.; requiring recordation of approved subdivision plats in certain public records; amending s. 177.101, F.S.; authorizing local governing bodies to order the assembly or adjustment of all or portions of subdivisions for certain purposes; providing an exception; providing criteria and requirements; amending s. 177.111, F.S.; requiring submittal of certain approved plats to certain entities; amending s. 290.003, F.S.; declaring the revitalization of antiquated subdivisions to be a public purpose; amending s. 290.0058, F.S.; revising provisions for determining general distress of certain areas to include antiquated subdivisions and other criteria; amending s. 380.031, F.S.; revising the definition of the term "land development regulations" and defining the terms "antiquated subdivisions" and "land assembly or adjustment"; providing an effective date.

—as amended April 26 was read the third time by title.

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendments to be considered:

Senator Bennett moved the following amendments which were adopted by two-thirds vote:

Amendment 1 (485192)(with title amendment)—On page 4, lines 1-8, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 8-10, delete those lines and insert: to regulate lands;

Amendment 2 (023870)(with title amendment)—On page 9, line 19 through page 11, line 30, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, line 24 through page 2, line 1, delete those lines and insert: purposes; amending s.

Amendment 3 (855248)(with title amendment)—On page 24, lines 3-17, delete those lines and insert:

(b) The governing body of a local government may not order the assembly or adjustment of all or part of a subdivision if 30 percent or more of the lands are in single ownership and that owner does not consent to such assembly or adjustment.

(c) Any persons or entities, other than the local governing body, pursuing reassembly of a parcel pursuant to this subsection must demonstrate that the persons or entities making application for such vacation own the fee simple title to at least 60 percent of the subdivision or portion of the tract covered by the plat sought to be vacated and must demonstrate that the vacation will not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

(d) Such action shall be based on a finding by the governing body that the proposed assembly or adjustment, or vacation and reversion to acreage of subdivided land, conforms to the comprehensive plan of the area and that the public health, safety, economy, comfort, order, convenience, and welfare will be promoted.

(e) Notwithstanding any provision of this subsection, paragraph (a) does not apply to those subdivisions that are approved or recorded again no later than 6 months from the effective date of this act.

And the title is amended as follows:

On page 2, line 15, after the semicolon (;) insert: providing exceptions;

MOTION

On motion by Senator Geller, the rules were waived to allow the following amendment to be considered:

Senator Geller moved the following amendment which was adopted by two-thirds vote:

Amendment 4 (222284)(with title amendment)—On page 3, between lines 12 and 13, insert:

Section 1. Subsection (8) of section 197.502, Florida Statutes, is amended to read:

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

(8) Taxes shall not be extended against parcels listed as lands available for taxes, but in each year the taxes that would have been due shall be treated as omitted years and added to the required minimum bid. Three years *after* ~~from~~ the day the land was offered for public sale, the land shall escheat to the county in which it is located, *free and clear.* All tax certificates*, accrued taxes,* and liens *of any nature* against the property shall be *deemed* canceled *as a matter of law and of no further legal force and effect*, and the clerk shall execute *an escheatment* ~~a~~ tax deed vesting title in the board of county commissioners of the county in which *the land* ~~it~~ is located.

(a) When a property escheats to the county under this subsection, the county is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. However, this subsection does not affect the rights or liabilities of any past or future owners of the escheated property and does not affect the liability of any governmental entity for the results of its actions that create or exacerbate a pollution source.

(b) The county and the Department of Environmental Protection may enter into a written agreement for the performance, funding, and reimbursement of the investigative and remedial acts necessary for a property that escheats to the county.

Section 2. *Accessory dwelling units.—*

(1) The Legislature finds that the median price of homes in this state has increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. The Legislature finds that the cost of rental housing has also increased steadily and the cost often exceeds an amount that is affordable to very-low-income, low-income, or moderate-income persons and has resulted in a critical shortage of affordable rentals in many urban areas in the state. This shortage of affordable rentals constitutes a threat to the health, safety, and welfare of the residents of the state. Therefore, the Legislature finds that it serves an important public purpose to encourage the permitting of accessory dwelling units in single-family residential areas in order to increase the availability of affordable rentals for very-low-income, low-income, or moderate-income persons.

(2) As used in this section, the term:

(a) "Accessory dwelling unit" means an ancillary or secondary living unit, that has a separate kitchen, bathroom, and sleeping area, existing

either within the same structure, or on the same lot, as the primary dwelling unit.

(b) "Affordable rental" means that monthly rent and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for very-low-income, low-income, or moderate-income persons.

(c) "Local government" means a county or municipality.

(d) "Low-income persons" has the same meaning as in section 420.0004(9), Florida Statutes.

(e) "Moderate-income persons" has the same meaning as in section 420.0004(10), Florida Statutes.

(f) "Very-low-income persons" has the same meaning as in section 420.0004(14), Florida Statutes.

(3) Upon a finding by a local government that there is a shortage of affordable rentals within its jurisdiction, the local government may adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use.

(4) If the local government adopts an ordinance under this section, an application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to a very-low-income, low-income, or moderate-income person or persons.

(5) Each accessory dwelling unit allowed by an ordinance adopted under this section shall apply towards satisfying the affordable housing component of the housing element in the local government's comprehensive plan under section 163.3177(6)(f), Florida Statutes.

(6) The Department of Community Affairs shall evaluate the effectiveness of using accessory dwelling units to address a local government's shortage of affordable housing and report to the Legislature by January 1, 2007. The report must specify the number of ordinances adopted by a local government under this section and the number of accessory dwelling units that were created under these ordinances.

Section 3. Subsection (13) is added to section 163.3167, Florida Statutes, to read:

163.3167 Scope of act.—

(13) Each local government shall address in its comprehensive plan, as enumerated in this chapter, the water supply sources necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable plan developed pursuant to s. 373.0361.

Section 4. Paragraphs (a) and (c) of subsection (6) and subsection (11) of section 163.3177, Florida Statutes, are 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:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. *Counties are encouraged to designate rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as overlays on the future land use map.* Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of public services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and shall not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. All comprehensive plans must comply with the school siting requirements of this paragraph no later than October 1, 1999. The failure by a local government to comply with these school siting requirements by October 1, 1999, will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use or for adopting or amending the school-siting maps pursuant to s. 163.31776(3) are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria.

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. By *December 1, 2006* ~~January 1, 2005, or the Evaluation and Appraisal Report adoption deadline established for the local government pursuant to s. 163.3191(a), whichever date occurs first~~, the element must consider the appropriate water management district's regional water supply plan approved pursuant to s. 373.0361. The element must include a work plan, covering at least a 10-year planning period, for building water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible. *The work plan shall be updated, at a minimum, every 5 years within 12 months after the governing board of the water management district approves an updated regional water supply plan. Amendments to incorporate the work plan do not count toward the limitation on the frequency of adoption of amendments to a comprehensive plan.*

(11)(a) The Legislature recognizes the need for innovative planning and development strategies which will address the anticipated demands of continued urbanization of Florida's coastal and other environmentally sensitive areas, and which will accommodate the development of less populated regions of the state which seek economic development and which have suitable land and water resources to accommodate growth in an environmentally acceptable manner. The Legislature further recognizes the substantial advantages of innovative approaches to development which may better serve to protect environmentally sensitive areas, maintain the economic viability of agricultural and other predominantly rural land uses, and provide for the cost-efficient delivery of public facilities and services.

(b) It is the intent of the Legislature that the local government comprehensive plans and plan amendments adopted pursuant to the provisions of this part provide for a planning process which allows for land use efficiencies within existing urban areas and which also allows for the conversion of rural lands to other uses, where appropriate and consistent with the other provisions of this part and the affected local comprehensive plans, through the application of innovative and flexible planning and development strategies and creative land use planning techniques, which may include, but not be limited to, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development, and sector planning.

(c) It is the further intent of the Legislature that local government comprehensive plans and implementing land development regulations shall provide strategies which maximize the use of existing facilities and services through redevelopment, urban infill development, and other strategies for urban revitalization.

(d)1. The department, in cooperation with the Department of Agriculture and Consumer Services, *the Department of Environmental Protection, water management districts, and regional planning councils,* shall provide assistance to local governments in the implementation of this paragraph and rule 9J-5.006(5)(l), Florida Administrative Code. Implementation of those provisions shall include a process by which the department may authorize ~~up to five~~ local governments to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land stewardship area within which planning and economic incentives are applied to encourage the implementation of innovative and flexible planning and development strategies and creative land use planning techniques, including those contained *herein and* in rule 9J-5.006(5)(l), Florida Administrative Code. *Assistance may include, but is not limited to:*

a. Assistance from the Department of Environmental Protection and water management districts in creating the geographic information systems land cover database and aerial photogrammetry needed to prepare for a rural land stewardship area;

b. Support for local government implementation of rural land stewardship concepts by providing information and assistance to local governments regarding land acquisition programs that may be used by the local government or landowners to leverage the protection of greater acreage and maximize the effectiveness of rural land stewardship areas; and

c. Expansion of the role of the Department of Community Affairs as a resource agency to facilitate establishment of rural land stewardship areas in smaller rural counties that do not have the staff or planning budgets to create a rural land stewardship area.

2. The department shall encourage participation by local governments of different sizes and rural characteristics *in establishing and implementing rural land stewardship areas*. It is the intent of the Legislature that rural land stewardship areas be used to further the following broad principles of rural sustainability: restoration and maintenance of the economic value of rural land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural resources; promotion of rural economic activity; maintenance of the viability of Florida's agricultural economy; and protection of the character of rural areas of Florida. *Rural land stewardship areas may be multicounty in order to encourage coordinated regional stewardship planning.*

3. A local government*, in conjunction with a regional planning council, a stakeholder organization of private land owners, or another local government, shall notify* ~~may apply to~~ the department in writing *of its intent* ~~requesting consideration for authorization~~ to designate a rural land stewardship area ~~and shall describe its reasons for applying for the authorization with supporting documentation regarding its compliance with criteria set forth in this section~~.

~~4. In selecting a local government, the department shall, by written agreement:~~

~~a. Ensure that the local government has expressed its intent to designate a rural land stewardship area pursuant to the provisions of this subsection and clarify that the rural land stewardship area is intended.~~

~~b. Ensure that the local government has the financial and administrative capabilities to implement a rural land stewardship area.~~

~~5.~~ The written *notification* ~~agreement~~ shall *describe* ~~include~~ the basis for the *designation,* ~~authorization and provide criteria for evaluating the success of the authorization~~ including the extent *to which* the rural land stewardship area enhances rural land values*, controls*~~; control~~ urban sprawl,~~;~~ provides necessary open space for agriculture and protection of the natural environment,~~;~~ promotes rural economic activity,~~;~~ and maintains rural character and the economic viability of agriculture. ~~The department may terminate the agreement at any time if it determines that the local government is not meeting the terms of the agreement.~~

4.~~6.~~ A rural land stewardship area shall be not less than *10,000* ~~50,000~~ acres and shall ~~not exceed 250,000 acres in size, shall~~ be located outside of municipalities and established urban growth boundaries, and shall be designated by plan amendment. The plan amendment designating a rural land stewardship area shall be subject to review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for the following:

a. Criteria for the designation of receiving areas within rural land stewardship areas in which innovative planning and development strategies may be applied. Criteria shall at a minimum provide for the following: adequacy of suitable land to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats; compatibility between and transition from higher density uses to lower intensity rural uses; the establishment of receiving area service boundaries which provide for a separation between receiving areas and other land uses within the rural land stewardship area through limitations on the extension of services; and connection of receiving areas with the rest of the rural land stewardship area using rural design and rural road corridors.

b. Goals, objectives, and policies setting forth the innovative planning and development strategies to be applied within rural land stewardship areas pursuant to the provisions of this section.

c. A process for the implementation of innovative planning and development strategies within the rural land stewardship area, including those described in this subsection and rule 9J-5.006(5)(l), Florida Administrative Code, which provide for a functional mix of land uses and which are applied through the adoption by the local government of zoning and land development regulations applicable to the rural land stewardship area.

d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative planning and development strategies comply with the provisions of this section.

e. The control of sprawl through the use of innovative strategies and creative land use techniques consistent with the provisions of this subsection and rule 9J-5.006(5)(l), Florida Administrative Code.

5.~~7.~~ A receiving area shall be designated by the adoption of a land development regulation. Prior to the designation of a receiving area, the local government shall provide the Department of Community Affairs a period of 30 days in which to review a proposed receiving area for consistency with the rural land stewardship area plan amendment and to provide comments to the local government.

6.~~8.~~ Upon the adoption of a plan amendment creating a rural land stewardship area, the local government shall, by ordinance, assign to the area a certain number of credits, to be known as "transferable rural land use credits," which shall not constitute a right to develop land, nor increase density of land, except as provided by this section. The total amount of transferable rural land use credits assigned to the rural land

stewardship area must correspond to the 25-year or greater projected population of the rural land stewardship area. Transferable rural land use credits are subject to the following limitations:

a. Transferable rural land use credits may only exist within a rural land stewardship area.

b. Transferable rural land use credits may only be used on lands designated as receiving areas and then solely for the purpose of implementing innovative planning and development strategies and creative land use planning techniques adopted by the local government pursuant to this section.

c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship area shall cease to exist if the parcel of land is removed from the rural land stewardship area by plan amendment.

d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment of transferable rural land use credits by the local government shall operate to displace the underlying density of land uses assigned to a parcel of land within the rural land stewardship area; however, if transferable rural land use credits are transferred from a parcel for use within a designated receiving area, the underlying density assigned to the parcel of land shall cease to exist.

e. The underlying density on each parcel of land located within a rural land stewardship area shall not be increased or decreased by the local government, except as a result of the conveyance or use of transferable rural land use credits, as long as the parcel remains within the rural land stewardship area.

f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying density assigned to the parcel of land is utilized.

g. An increase in the density of use on a parcel of land located within a designated receiving area may occur only through the assignment or use of transferable rural land use credits and shall not require a plan amendment.

h. A change in the density of land use on parcels located within receiving areas shall be specified in a development order which reflects the total number of transferable rural land use credits assigned to the parcel of land and the infrastructure and support services necessary to provide for a functional mix of land uses corresponding to the plan of development.

i. Land within a rural land stewardship area may be removed from the rural land stewardship area through a plan amendment.

j. Transferable rural land use credits may be assigned at different ratios of credits per acre according to the *natural resource or other beneficial use characteristics of the land and according to the* land use remaining following the transfer of credits, with the highest number of credits per acre assigned to *the most* ~~preserve~~ environmentally valuable land and a lesser number of credits to be assigned to open space and agricultural land.

k. The use or conveyance of transferable rural land use credits must be recorded in the public records of the county in which the property is located as a covenant or restrictive easement running with the land in favor of the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

7.~~9.~~ Owners of land within rural land stewardship areas should be provided incentives to enter into rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state agencies, water management districts, and local governments to achieve mutually agreed upon conservation objectives. Such incentives may include, but not be limited to, the following:

a. Opportunity to accumulate transferable mitigation credits.

b. Extended permit agreements.

c. Opportunities for recreational leases and ecotourism.

d. Payment for specified land management services on publicly owned land, or property under covenant or restricted easement in favor of a public entity.

e. Option agreements for sale to *public entities or private land conservation entities* ~~government~~, in either fee or easement, upon achievement of conservation objectives.

8.~~10.~~ The department shall report to the Legislature on an annual basis on the results of implementation of rural land stewardship areas authorized by the department, including successes and failures in achieving the intent of the Legislature as expressed in this paragraph. ~~It is further the intent of the Legislature that the success of authorized rural land stewardship areas be substantiated before implementation occurs on a statewide basis.~~

(e) The Legislature finds that mixed-use, high-density development is appropriate for urban infill and redevelopment areas. Mixed-use projects accommodate a variety of uses, including residential and commercial, and usually at higher densities that promote pedestrian-friendly, sustainable communities. The Legislature recognizes that mixed-use, high-density development improves the quality of life for residents and businesses in urban areas. The Legislature finds that mixed-use, high-density redevelopment and infill benefits residents by creating a livable community with alternative modes of transportation. Furthermore, the Legislature finds that local zoning ordinances often discourage mixed-use, high-density development in areas that are appropriate for urban infill and redevelopment. The Legislature intends to discourage single-use zoning in urban areas which often leads to lower-density, land-intensive development outside an urban service area. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to encourage mixed-use, high-density urban infill and redevelopment projects.

(f) The Legislature finds that a program for the transfer of development rights is a useful tool to preserve historic buildings and create public open spaces in urban areas. A program for the transfer of development rights allows the transfer of density credits from historic properties and public open spaces to areas designated for high-density development. The Legislature recognizes that high-density development is integral to the success of many urban infill and redevelopment projects. The Legislature intends to encourage high-density urban infill and redevelopment while preserving historic structures and open spaces. Therefore, the Department of Community Affairs shall provide technical assistance to local governments in order to promote the transfer of development rights within urban areas for high-density infill and redevelopment projects.

(g)~~(e)~~ The implementation of this subsection shall be subject to the provisions of this chapter, chapters 186 and 187, and applicable agency rules.

(h)~~(f)~~ The department may adopt rules necessary to implement the provisions of this subsection.

Section 5. Paragraph (m) is added to subsection (1) of section 163.3187, Florida Statutes, to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(m) Any local government comprehensive plan amendment establishing or implementing a rural land stewardship area pursuant to the provisions of s. 163.3177(11)(d).

Section 6. Subsection (16) of section 718.103, Florida Statutes, is amended to read:

718.103 Definitions.—As used in this chapter, the term:

(16) "Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a condominium or cooperative unit who has acquired the unit for his or her own occupancy, nor does it include a cooperative association which creates a condominium by conversion of an existing residential cooperative after control of the association has been transferred to the unit owners if, following the

conversion, the unit owners will be the same persons who were unit owners of the cooperative and no units are offered for sale or lease to the public as part of the plan of conversion. *A state, county, or municipal entity is not a developer for any purposes under this chapter when it is acting as a lessor and not otherwise named as a developer in the association.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to land development; amending s. 197.502, F.S.; providing for the issuance of an escheatment tax deed that is free and clear of any tax certificates, accrued taxes, and liens of any nature for certain properties; providing immunity for a county from environmental liability for certain properties that escheat to the county; providing for a written agreement between a county and the Department of Environmental Protection which addresses any investigative and remedial acts necessary for certain properties; providing legislative findings with respect to the shortage of affordable rentals in the state; providing a statement of important public purpose; providing definitions; authorizing local governments to permit accessory dwelling units in areas zoned for single-family residential use based upon certain findings; providing for certain accessory dwelling units to apply towards satisfying the affordable housing component of the housing element in a local government's comprehensive plan; requiring the Department of Community Affairs to report to the Legislature; amending s. 163.3167, F.S.; requiring a local government to address certain water supply sources in its comprehensive plan; amending s. 163.3177, F.S.; providing that rural land stewardship area designation should be specifically encouraged as an overlay on the future land use map; extending the deadline for certain information to be included in a comprehensive plan; requiring a work plan to be updated at certain intervals; requiring the Department of Community Affairs, in cooperation with other specified state agencies, to provide assistance to local governments in implementing provisions relating to rural land stewardship areas; providing for multicounty rural land stewardship areas; revising requirements, including the acreage threshold for designating a rural land stewardship area; providing that transferable rural land use credits may be assigned at different ratios according to the natural resource or other beneficial use characteristics of the land; providing legislative findings regarding mixed-use, high-density urban infill and redevelopment projects; requiring the Department of Community Affairs to provide technical assistance to local governments; providing legislative findings regarding a program for the transfer of development rights and urban infill and redevelopment; requiring the Department of Community Affairs to provide technical assistance to local governments; amending s. 163.3187, F.S.; providing an exception to the limitation on the frequency of plan amendments; amending s. 718.103, F.S.; prohibiting any state, county, or municipal entity from being deemed a developer for purposes of chapter 718, F.S.; providing for

On motion by Senator Bennett, **CS for SB 2548** as amended failed to pass. The vote was:

Yeas—18

Alexander	Diaz de la Portilla	Margolis
Aronberg	Dockery	Pruitt
Atwater	Garcia	Saunders
Bennett	Geller	Siplin
Bullard	Hill	Villalobos
Carlton	Lee	Wilson

Nays—19

Argenziano	Haridopolos	Sebesta
Campbell	Jones	Smith
Clary	Klein	Wasserman Schultz
Constantine	Lynn	Webster
Cowin	Miller	Wise
Crist	Peaden	
Fasano	Posey	

CS for CS for CS for SB 2954—A bill to be entitled An act relating to migrant labor; amending s. 450.191, F.S.; authorizing the Executive Office of the Governor to advise and consult concerning improvements in the working conditions of migrant workers; authorizing the Executive Office of the Governor to provide coordination for farm labor registration, cooperate with the Department of Business and Professional Regulation on enforcing labor laws, and cooperate with the Agency for Workforce Innovation in recruiting migrant laborers; amending s. 450.201, F.S.; requiring the Legislative Commission on Migrant and Seasonal Labor to make appointments and hold its first meeting; amending s. 450.231, F.S.; specifying when the commission must report to the Legislature; amending s. 450.27, F.S.; renaming part III of ch. 450, F.S.; amending s. 450.271, F.S.; substituting the Department of Business and Professional Regulation for the Department of Labor and Employment Security as the entity authorized to administer the federal Migrant and Seasonal Agricultural Worker Protection Act; amending s. 450.28, F.S.; defining major and minor violations; amending s. 450.30, F.S.; requiring an applicant for renewal of a certificate of registration as a farm labor contractor to retake the competency examination when convicted of or penalized for committing a major violation within a specified time; depositing certain fees received from applicants for a certificate of registration into the Professional Regulation Trust Fund; amending s. 450.31, F.S.; increasing the application fee for a certificate of registration; revising payment requirements; requiring an applicant for a certificate of registration to designate an agent to receive service of process and documents; authorizing the department to revoke, suspend, or deny a certificate of registration under certain circumstances; providing that receipt of a certification of registration constitutes permission by the farm labor contractor for department personnel to inspect certain documents; creating s. 450.321, F.S.; authorizing the department to develop and implement a best practices incentive program for farm labor contractors; authorizing the department to enter a partnership agreement with a contractor regarding such designation; authorizing use of the designation to solicit business; authorizing revocation of designation and requiring cessation of use; prohibiting characterization of the designation as an endorsement by the department; exempting the department from civil liability; authorizing the department to establish an incentive program for contractors holding a valid designation; amending s. 450.33, F.S.; revising the powers of the department regarding revocation of a contractor's certificate of registration; adding maintenance of certain employee field records to the duties a contractor must perform; amending s. 450.34, F.S.; prohibiting a contractor from taking retaliatory action and from contracting with or employing certain persons who lack a valid certificate; amending s. 450.35, F.S.; prohibiting a person from contracting with or employing a farm labor contractor without a certificate of registration; providing penalties; amending s. 450.37, F.S.; authorizing the department to cooperate and enter into agreements with other state agencies; amending s. 450.38, F.S.; revising the penalties imposed for violations of part III of ch. 450, F.S.; clarifying applicability of penalties to a firm, association, or corporation; increasing the maximum civil penalty; authorizing civil penalties or the revocation of registration if a contractor commits one or more minor violations; creating s. 450.39, F.S.; prohibiting a farm labor contractor from requiring a farmworker to make certain purchases; prohibiting a contractor from charging a farmworker more than the reasonable cost for a commodity; amending s. 381.0087, F.S.; clarifying that a person who willfully refuses a citation commits a second-degree misdemeanor; requiring the Department of Health to notify the enforcing entity of suspected violations; amending s. 381.008, F.S.; defining the term "residential migrant housing" to include structures rented or reserved for occupancy by seasonal workers; excluding from that definition a single-family residence or mobile home that is occupied only by a single family; amending s. 381.0086, F.S.; requiring the Department of Health to include certain provisions relative to plan review of residential migrant housing in rules; prohibiting a structural variance for the purpose of filing an interstate clearance order with the Agency for Workforce Innovation; amending ss. 487.011, 487.012, 487.021, 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081, 487,091, 487.101, 487.111, 487.13, 487.156, 487.159, 487.161, 487.163, 487.171, 487.175, 403.088, 482.242, 500.03, and 570.44, F.S.; changing the term "chapter" to "part" to conform to changes made by the act; creating part II of ch. 487, F.S.; providing a short title; providing for administration by the Department of Agriculture and Consumer Services; declaring legislative intent; defining terms; requiring the department to continue to operate under specified federal worker protection regulations; providing for application unless exempted by federal law; requiring an agricultural employer to make pesticide information available to an agricultural worker; authorizing requests by the worker, a designated representative, or medical personnel treating the worker; requiring the manufacturer of an agricultural pesticide to prepare a material safety data sheet; requiring provision of the data sheet to each

direct purchaser; requiring the department to produce and make available a general agricultural pesticide safety sheet; prohibiting an agricultural employer from failing to provide required pesticide information or taking retaliatory action; providing penalties for an agricultural employer who violates part II of ch. 487, F.S.; allowing a worker who seeks relief for retaliatory action to file a complaint with the department; requiring that the department monitor complaints of retaliation and report findings to the President of the Senate and the Speaker of the House of Representatives; requesting the Division of Statutory Revision to designate parts I and II of ch. 487, F.S.; providing an appropriation and authorizing positions; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Alexander, **CS for CS for CS for SB 2954** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wise
Dawson	Margolis	

Nays—None

THE PRESIDENT PRESIDING

RECONSIDERATION OF BILL

On motion by Senator Campbell, the Senate reconsidered the vote by which—

CS for SB 2548—A bill to be entitled An act relating to regulating the consolidation and recordation of lands; providing for assembly and readjustment of certain land plats; revising provisions relating to recording land plats; amending s. 125.01, F.S.; revising certain powers of county governments to regulate lands; amending s. 127.01, F.S.; specifying consolidation of certain property for certain purposes as a public purpose; amending s. 163.3164, F.S.; revising the definition of the term "land development regulations" and defining the term "land assembly or adjustment"; amending s. 163.3177, F.S.; revising requirements of future land use plan elements of a required comprehensive plan to address antiquated subdivisions and consolidation of certain properties for certain purposes; providing a deadline for addressing certain plan amendments; amending s. 163.3202, F.S.; revising certain land development regulation requirements to address consolidation of certain properties for certain purposes; amending s. 163.340, F.S.; revising certain definitions to include consolidation of certain properties and antiquated subdivisions; amending s. 163.360, F.S.; including antiquated subdivisions under certain community redevelopment plan requirements; amending s. 166.411, F.S.; including consolidation of certain properties for certain purposes under municipal powers of eminent domain; amending s. 177.011, F.S.; providing additional purposes and scope relating to platting, replatting, and reassembly of lands; providing intent relating to regulation of land platting and land assembly or adjustment; amending s. 177.031, F.S.; defining the term "land assembly or adjustment"; amending s. 177.091, F.S.; requiring recordation of approved subdivision plats in certain public records; amending s. 177.101, F.S.; authorizing local governing bodies to order the assembly or adjustment of all or portions of subdivisions for certain purposes; providing an exception; providing criteria and requirements; amending s. 177.111, F.S.; requiring submittal of certain approved plats to certain entities; amending s. 290.003, F.S.; declaring the revitalization of antiquated subdivisions to be a public purpose; amending s. 290.0058, F.S.; revising provisions for determining general distress of certain areas to include antiquated subdivisions and other criteria; amending s. 380.031, F.S.; revising the definition of the term "land development regulations" and defining the terms "antiquated subdivisions" and "land assembly or adjustment"; providing an effective date.

—as amended failed to pass this day.

On motion by Senator Bennett, **CS for SB 2548** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—22

Mr. President	Dawson	Pruitt
Alexander	Diaz de la Portilla	Saunders
Aronberg	Dockery	Siplin
Atwater	Garcia	Villalobos
Bennett	Geller	Wasserman Schultz
Bullard	Klein	Wilson
Campbell	Margolis	
Carlton	Miller	

Nays—16

Argenziano	Hill	Sebesta
Clary	Jones	Smith
Constantine	Lawson	Webster
Crist	Lynn	Wise
Fasano	Peaden	
Haridopolos	Posey	

Vote after roll call:

Nay—Cowin

HB 9—A bill to be entitled An act relating to road and bridge designations; designating Howard E. Futch Memorial Highway in Brevard and Osceola Counties; designating Ed Fraser Memorial Highway in Baker County; designating Trooper Charles W. Parks Memorial Highway in Nassau County; designating Deputy Renee Danell Azure Memorial Highway in Union County; designating Andrew J. Aviles Trail in Hillsborough County; designating Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway in Lake County; designating the St. Johns River Veterans Memorial Bridge in Volusia and Seminole Counties; designating the Florida Veterans Memorial Bridge in Sumter County; designating Deputy Charles "Chuck" Sease Memorial Interchange in Flagler County; designating Larry E. Smedley Medal of Honor Highway in Orange County; designating Jerome A. Williams Memorial Highway in Putnam County; designating the James H. Pruitt Memorial Bridge in Brevard and Indian River Counties; designating the Arthor L. Andrews Bridge in Wakulla County; designating Roberto Guevara Memorial Boulevard in Osceola County; designating Veterans Memorial Interchange in Orange County; designating William C. Cramer Interstate Highway in Pinellas County; designating President Ronald Reagan Parkway in Hillsborough County; designating Roberto Guevara Memorial Boulevard in Osceola County; directing the Department of Transportation to erect suitable markers; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Sebesta, **HB 9** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Alexander	Dawson	Lee
Argenziano	Diaz de la Portilla	Lynn
Aronberg	Dockery	Margolis
Atwater	Fasano	Miller
Bennett	Garcia	Peaden
Bullard	Geller	Posey
Campbell	Haridopolos	Pruitt
Carlton	Hill	Saunders
Clary	Jones	Sebesta
Constantine	Klein	Siplin
Cowin	Lawson	Smith

Villalobos Webster Wise
Wasserman Schultz Wilson

Nays—1

Crist

CS for CS for SB 2020—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; increasing the annual use fee for the Florida educational license plate; creating the Save Our Seas license plate; creating the Aquaculture license plate; creating a Family First license plate; creating a Sportsmen's National Land Trust license plate; creating the Live the Dream license plate; creating a Florida Food Banks license plate; creating a Discover Florida's Oceans license plate; creating the Family Values license plate; creating the Parents Make A Difference license plate; creating the Support Soccer license plate; creating a Kids Deserve Justice license plate; creating the Animal Friend license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

—as amended April 26 was read the third time by title.

Senator Constantine moved the following amendment:

Amendment 1 (503642)(with title amendment)—On page 13, between lines 20 and 21, insert:

Section 3. Section 320.08053, Florida Statutes, is amended to read:

320.08053 Requirements for requests to establish specialty license plates.—

(1) An organization that seeks authorization to establish a new specialty license plate for which an annual use fee is to be charged must submit to the department:

(a) A request for the particular specialty license plate being sought, describing the proposed specialty license plate in *specific* ~~general~~ terms*, including a sample plate that conforms to the specifications set by the department and this chapter, and that is in substantially final form*.

(b) The results of a scientific sample survey of Florida motor vehicle owners that indicates at least *30,000* ~~15,000~~ motor vehicle owners intend to purchase the proposed specialty license plate at the increased cost. *As used in this paragraph, the term "scientific sample survey" means information that is gathered from a representative subset of the population as a whole.* The sample survey of registered motor vehicle owners must be performed independently of the requesting organization by an organization that conducts similar sample surveys as a normal course of business. Prior to conducting a sample survey for the purposes of this section, a requesting organization must obtain a determination from the department that the organization selected to conduct the survey performs similar surveys as a normal course of business and is independent of the requesting organization. *The methodology, results, and any evaluation by the department of the scientific sample survey shall be validated by the Auditor General as a condition precedent to submission of the specialty license plate for approval by the Legislature.*

(c) An application fee, not to exceed $60,000, to defray the department's cost for reviewing the application and developing the specialty license plate, if authorized. State funds may not be used to pay the application fee, except for collegiate specialty license plates authorized in s. 320.08058(3) and (13). The specialty license plate application provisions of this act shall not apply to any organization which has requested and received the required forms for obtaining a specialty license plate authorization from the Department of Highway Safety and Motor Vehicles, has opened a bank account for the funds collected for the specialty license tag and has made deposits to such an account, and has obtained signatures toward completing the requirements for the specialty license tag. All applications requested on or after the effective date of this act must meet the requirements of this act.

(d) A marketing strategy outlining short-term and long-term marketing plans for the requested specialty license plate and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the sale of the requested specialty license plates. The information required under this subsection must be submitted to the department at least 90 days before the convening of the next regular session of the Legislature.

(2) If the specialty license plate requested by the organization is approved by law, the organization must submit the proposed art design for the specialty license plate to the department*, in a medium prescribed by the department,* as soon as practicable, but no later than 60 days after the act approving the specialty license plate becomes a law. If the specialty license plate requested by the organization is not approved by the Legislature, the application fee shall be refunded to the requesting organization.

(3) The department shall adopt rules providing viewpoint-neutral specifications for the design of speciality license plates that promote or enhance the readability of all speciality license plates and that discourage counterfeiting. The rules shall provide uniform specifications requiring inclusion of the word "Florida" in the same location on each specialty license plate, in such a size and location that is clearly identifiable on the specialty license plate when mounted on a vehicle, and shall provide specifications for the size and location of any words or logos appearing on a specialty license plate.

Section 4. Subsections (6), (7), and (8) of section 320.08056, Florida Statutes, are amended to read:

320.08056 Specialty license plates.—

(6) Specialty license plates must bear the design required by law for the appropriate specialty license plate, and the designs and colors must *conform to the department's design specifications* ~~be approved by the department~~. In addition to a design, the specialty license plates may bear the imprint of numerals from 1 to 999, inclusive, capital letters "A" through "Z," or a combination thereof. The department shall determine the maximum number of characters, including both numerals and letters. All specialty license plates must be otherwise of the same material and size as standard license plates issued for any registration period. ~~In small letters, the word "Florida" must appear at either the bottom or top of the plate, depending upon the design. In addition,~~ A specialty license plate may bear an appropriate slogan*, emblem, or logo in a size and placement that conforms to the department's design specifications*.

(7) The department shall annually retain from the first proceeds derived from the annual use fees collected an amount sufficient to defray each specialty plate's pro rata share of the department's costs directly related to *the specialty license plate program* ~~issuing the specialty plate~~. Such costs shall include *inventory costs,* distribution costs, direct costs to the department*, costs associated with reviewing each organization's compliance with audit and attestation requirements of s. 320.08062,* and any applicable increased costs of manufacturing the specialty license plate. Any cost increase to the department related to actual cost of the plate, including a reasonable vendor profit, shall be verified by the Department of Management Services. The balance of the proceeds from the annual use fees collected for that specialty license plate shall be distributed as provided by law.

(8)(a) The department must discontinue the issuance of an approved specialty license plate if *the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates.*~~:~~

~~1. Less than 8,000 plates, including annual renewals, are issued for that specialty license plate by the end of the 5th year of sales.~~

~~2. Less than 8,000 plates, including annual renewals, are issued for that specialty license plate during any subsequent 5-year period.~~

(b) The department is authorized to discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request. Organizations are required to notify the department immediately to stop all warrants for plate sales if any of the conditions in this section exist, and must meet the requirements of s. 320.08062 for any period of operation during a fiscal year.

~~(c) The requirements of paragraph (a) shall not apply to collegiate specialty license plates authorized in s. 320.08058(3), (13), (21), and (26).~~

Section 5. *The Department of Highway Safety and Motor Vehicles shall, in cooperation with representatives of the local tax collectors and with Prison Rehabilitative Industries and Diversified Enterprises, Inc., at Union Correctional Facility, study the operational and economic feasibility of direct-to-customer delivery of specialty license plates. The study shall include, but not be limited to, an analysis of the potential operational and economic impact of various manufacturing, inventory control, and product distribution technologies on the speciality license plate program. The department shall report its findings to the President of the Senate and the Speaker of the House of Representatives no later than December 31, 2004.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 19, after the semicolon (;) insert: amending s. 320.08053, F.S.; revising requirements for establishing a specialty license plate; requiring submission of a sample plate; increasing the number of motor vehicle owners who must indicate, according to a scientific sample survey, that they intend to purchase a proposed specialty plate; defining the term "scientific sample survey"; requiring the Department of Highway Safety and Motor Vehicles to adopt rules relating to design specification for speciality license plates; amending s. 320.08056, F.S.; revising design requirements; revising conditions and procedures for the discontinuation of specialty license plates; changing the number of plates that must be purchased to prevent a plate from being discontinued; requiring the department, in cooperation with local tax collectors and the Prison Rehabilitative Industries and Diversified Enterprises, Inc., to study the possibility of using direct-to-customer distribution; requiring an analysis of the impact of certain technologies; requiring the department to report its findings to the Legislature;

MOTION

On motion by Senator Hill, the rules were waived to allow the following amendment to be considered:

Senator Hill moved the following amendment to **Amendment 1** which failed to receive the required two-thirds vote:

Amendment 1A (773658)—On page 5, lines 29-31, delete those lines and insert:

(c) The requirements of paragraph (a) shall not apply to collegiate specialty license plates authorized in s. 320.08058(3), (13), (21), and (26).

The question recurred on **Amendment 1** which was adopted by two-thirds vote.

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendment to be considered:

Senator Campbell moved the following amendment:

Amendment 2 (131294)(with title amendment)—On page 13, between lines 20 and 21, insert:

Section 3. Paragraph (a) of subsection (1) of section 320.08062, Florida Statutes, is amended to read:

320.08062 Audits and attestations required; annual use fees of specialty license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that *the* proceeds are used in accordance with ss. 320.08056 and 320.08058*, and must annually attest, under penalty of perjury that such proceeds were used in compliance with such sections. The attestation must be made annually and include, at a minimum, identification of all revenues received by the organization from the specialty license plate program and a categorical list of expenditures.*

And the title is amended as follows:

On page 1, line 19, after the semicolon (;) insert: amending s. 320.08062, F.S.; revising provisions for audits and attestations required of entities receiving annual use fees from specialty license plates;

POINT OF ORDER

Senator Clary raised a point of order that pursuant to rule 7.1 **Amendment 2** contained language of a bill not reported favorably by a Senate committee and was therefore out of order.

The President referred the point of order and the amendment to Senator Lee, Chair of the Committee on Rules and Calendar.

On motion by Senator Clary, further consideration of **CS for CS for SB 2020** with pending **Amendment 2 (131294)** and pending point of order was deferred.

SB 1962—A bill to be entitled An act relating to human trafficking; creating s. 787.05, F.S.; specifying elements of the offense of unlawfully obtaining labor or services; providing criminal penalties; creating s. 787.06, F.S.; providing definitions; specifying elements of the offense of human trafficking; providing criminal penalties; providing applicability; creating s. 796.035, F.S.; providing that it is a felony of the first degree for a parent, legal guardian, or other person having custody or control of a minor to offer to, or to actually, sell or otherwise transfer custody or control of such minor, with knowledge that such sale or transfer will result in force, fraud, or coercion being used to cause the minor to engage in prostitution or otherwise participate in the trade of sex trafficking; providing criminal penalties; creating s. 796.045, F.S.; providing for the offense of sex trafficking; providing that it is a felony of the second degree to knowingly recruit, entice, harbor, transport, provide, or obtain a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution; providing that it is a felony of the first degree if sex trafficking involves a person under the age of 14 or results in death; providing criminal penalties; amending s. 895.02, F.S.; expanding the definition of racketeering activity to include the offenses created herein; reenacting ss. 16.56(1)(a), 27.34(1), 655.50(3)(g), 896.101(2)(g), and 905.34(3), F.S., which relate to the authority of the Office of Statewide Prosecution to investigate and prosecute certain offenses, the contribution of funds by counties and municipalities towards salaries of assistant state attorneys, the Florida Control of Money Laundering in Financial Institutions Act, the Florida Money Laundering Act, and the subject matter jurisdiction of the statewide grand jury, respectively, to incorporate the amendment to s. 895.02, F.S., in references thereto; providing applicability; providing an effective date.

—as amended April 26 was read the third time by title.

On motion by Senator Wasserman Schultz, **SB 1962** as amended was passed and certified to the House. The vote on passage was:

Yeas—35

Alexander	Diaz de la Portilla	Miller
Argenziano	Dockery	Peaden
Aronberg	Fasano	Saunders
Atwater	Garcia	Sebesta
Bennett	Geller	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Margolis	

Nays—None

Vote after roll call:

Yea—Clary, Haridopolos, Pruitt

SJR 566—A joint resolution proposing an amendment to Section 2 of Article I of the State Constitution, relating to basic rights.

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

That the following amendment to Section 2 of Article I of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE I
DECLARATION OF RIGHTS

SECTION 2. Basic rights.—All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by *terrorists or persons affiliated with terrorism, as defined by general law,* ~~aliens ineligible for citizenship~~ may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE I, SECTION 2

DECLARATION OF RIGHTS.—Proposing an amendment to the State Constitution which will authorize the Legislature to regulate or prohibit the ownership, inheritance, disposition, and possession of real property by terrorists or persons affiliated with terrorism and to define those terms by general law and will also delete its authority to regulate or prohibit the ownership, inheritance, disposition, and possession of real property by aliens ineligible for citizenship.

—as amended April 26 was read the third time in full.

On motion by Senator Geller, **SJR 566** as amended was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—38

Alexander	Dockery	Peaden
Aronberg	Fasano	Posey
Atwater	Garcia	Pruitt
Bennett	Geller	Saunders
Bullard	Haridopolos	Sebesta
Campbell	Hill	Siplin
Carlton	Jones	Smith
Clary	Klein	Villalobos
Constantine	Lawson	Wasserman Schultz
Cowin	Lee	Webster
Crist	Lynn	Wilson
Dawson	Margolis	Wise
Diaz de la Portilla	Miller	

Nays—1

Argenziano

The Senate resumed consideration of—

CS for CS for SB 2020—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; increasing the annual use fee for the Florida educational license plate; creating the Save Our Seas license plate; creating the Aquaculture license plate; creating a Family First license plate; creating a Sportsmen's National Land Trust license plate; creating the Live the Dream license plate; creating a Florida Food Banks license plate; creating a Discover Florida's Oceans license plate; creating the Family Values license plate; creating the Parents Make A Difference license plate; creating the Support Soccer license plate; creating a Kids Deserve Justice license plate; creating the Animal Friend license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

—which was previously considered and amended this day.

POINT OF ORDER DISPOSITION

Pending point of order by Senator Clary and pending **Amendment 2 (131294)** by Senator Campbell was withdrawn.

On motion by Senator Clary, **CS for CS for SB 2020** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Argenziano	Garcia	Pruitt
Aronberg	Geller	Saunders
Atwater	Haridopolos	Sebesta
Bullard	Hill	Siplin
Carlton	Klein	Smith
Clary	Lawson	Villalobos
Constantine	Lee	Wasserman Schultz
Cowin	Lynn	Webster
Crist	Margolis	Wilson
Dawson	Peaden	Wise
Fasano	Posey	

Nays—6

Bennett	Diaz de la Portilla	Jones
Campbell	Dockery	Miller

Vote after roll call:

Yea—Alexander

Consideration of **SB 534**, **CS for SB 552** and **CS for CS for SB 630** was deferred.

SPECIAL ORDER CALENDAR

On motion by Senator Pruitt—

CS for CS for SB 528—A bill to be entitled An act relating to funeral directing, embalming, direct disposition, and cemetery services; amending s. 20.121, F.S.; establishing the Division of Funeral, Cemetery, and Consumer Services and the Board of Funeral, Cemetery, and Consumer Services within the Department of Financial Services; amending s. 20.165, F.S.; abolishing the Board of Funeral Directors and Embalmers within the Department of Business and Professional Regulation; amending s. 455.2226, F.S.; conforming a reference; amending ss. 470.002 and 497.005, F.S.; conforming definitions; amending s. 497.105, F.S.; conforming references; repealing ss. 470.003, 497.107, and 497.109, F.S., relating to the Board of Funeral Directors and Embalmers and the Board of Funeral and Cemetery Services, to conform; amending s. 497.101, F.S.; creating the Board of Funeral, Cemetery, and Consumer Services; providing for the appointment of board members; providing terms of office; providing grounds for removal or suspension of a member; providing immunity from liability for members acting in an official capacity; specifying the headquarters for the board; providing for compensation and reimbursement for per diem expenses; creating s. 497.102, F.S.; providing for the authority of the board; creating s. 497.1021, F.S.; providing duties of the Division of Funeral, Cemetery, and Consumer Services; providing powers of enforcement; creating s. 497.1022, F.S.; establishing the office of the director of the division; providing duties of the Chief Financial Officer under chapters 470 and 497, F.S.; providing for a type two transfer of the Board of Funeral Directors and Embalmers to the Department of Financial Services; providing for validity of judicial and administrative actions; providing for validity of licenses; providing for continuity of rules; abolishing the Board of Funeral and Cemetery Services and the Board of Funeral Directors and Embalmers; providing for deposit of fees; directing the Division of Statutory Revision to conform the statutes; amending s. 470.002, F.S.; revising and providing definitions; amending s. 470.0085, F.S.; extending the embalmer apprentice period; amending s. 470.018, F.S.; increasing continuing education requirements; amending s. 470.021, F.S.; providing additional requirements for a direct disposal establishment; providing inspection requirements and criteria; amending s. 470.024, F.S.; revising requirements for a funeral establishment; amending s. 470.025, F.S.; revising cremation requirements for cinerator facilities relating to simultaneous cremations, body parts, cremation

containers, and the cremation chamber; providing an exemption from liability for unintentional or incidental commingling of remains under certain conditions; amending s. 470.0255, F.S.; providing for cremation of parts of human bodies incidental to final disposition; amending s. 470.028, F.S.; providing for control and supervision of preneed agents; amending s. 470.029, F.S.; extending the filing time for reports of bodies embalmed or handled; amending s. 470.031, F.S.; prohibiting any guarantee on the future price of any goods or services; providing penalties; amending s. 470.0355, F.S.; revising requirements for identification of human remains prior to final disposition; providing requirements for identification of human remains in licensed and unlicensed cemeteries and by direct disposal establishments; reenacting s. 470.036(1)(a), F.S., relating to disciplinary proceedings, to incorporate the amendment to s. 470.031, F.S., in a reference thereto; amending s. 497.005, F.S.; revising and providing definitions; amending s. 497.305, F.S.; requiring that a cemetery company comply with its adopted bylaws; creating s. 497.306, F.S.; providing dimension and spacing standards for grave spaces; requiring a map of reference markers and a land survey for areas proposed to be developed by a licensed cemetery company; exempting adult grave spaces previously established; creating s. 497.307, F.S.; providing requirements for identification of human remains in licensed cemeteries; amending s. 497.325, F.S.; providing for procedures established by other entities operating a cemetery; amending s. 497.333, F.S.; providing for disclosure of certain information to customers; amending s. 497.361, F.S.; providing for approval of contracts; creating s. 497.365, F.S.; providing for regulation of monument establishments by the Department of Financial Services; providing for inspections; providing for rules; providing that the department may not unreasonably restrict commerce; creating s. 497.371, F.S.; providing for specifications for business locations; creating s. 497.379, F.S.; providing for the licensure of monument establishments that sell preneed contracts; creating s. 497.385, F.S.; providing for registration of monument sales representatives; creating s. 497.391, F.S.; providing for approval of preneed contracts by the board; creating s. 497.395, F.S.; providing financial requirements for monument establishments; providing requirements for minimum net worth; providing for submission of financial statements; providing for minimum sales volume with respect to preneed contracts; providing for guarantee agreements; providing for additional oversight in lieu of financial requirements; amending s. 497.405, F.S.; prohibiting any person from advertising for sale or making any arrangement for a preneed contract without having a valid certificate of authority; expanding the exemption from the required certificate of authority for certain religious-institution-owned cemeteries to include the sale and opening or closing of cremation interment containers to members and family members of the religious institution; amending s. 497.419, F.S.; requiring preneed contracts to include in the refund notice the exclusion for amounts allocable to burial rights, merchandise, and services used by the purchaser; providing conditions for breach of contract by certificateholder and for rights of purchaser; amending s. 497.436, F.S.; authorizing the Board of Funeral and Cemetery Services to review the trust funds, trust agreements, and outstanding preneed contracts of, and perform other procedures at its discretion with respect to, a certificateholder filing notice to become inactive; amending s. 406.50, F.S.; defining the term "unclaimed"; providing for the prioritizing of claims for dead bodies; amending s. 406.53, F.S.; providing for the claiming of dead bodies by indigent relatives; defining the term "indigent"; providing effective dates.

—was read the second time by title.

Senator Pruitt moved the following amendment:

Amendment 1 (831592)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *This act may be cited as the "Senator Howard E. Futch Act."*

Section 2. Part I of chapter 497, Florida Statutes, consisting of sections 497.001, 497.002, 497.0021, 497.005, 497.101, 497.103, 497.107, 497.140, 497.141, 497.142, 497.143, 497.144, 497.145, 497.146, 497.147, 497.148, 497.149, 497.150, 497.151, 497.152, 497.153, 497.154, 497.155, 497.156, 497.157, 497.158, 497.159, 497.160, 497.161, 497.162, 497.163, 497.164, 497.165, 497.166, 497.167, 497.168, 497.169, and 497.170, is created to read:

PART I
GENERAL PROVISIONS

Section 3. Section 497.001, Florida Statutes, is amended to read:

497.001 Short title.—This chapter may be cited as the "Florida Funeral*,* ~~and~~ Cemetery*, and Consumer* Services Act."

Section 4. Section 497.002, Florida Statutes, is amended to read:

497.002 Purpose and intent.—

(1) The Legislature recognizes that purchasers of preneed burial rights, funeral or burial merchandise, or funeral or burial services may suffer serious economic harm if purchase money is not set aside for future use as intended by the purchaser and that the failure to maintain cemetery grounds properly may cause significant emotional stress. Therefore, it is necessary in the interest of the public welfare to regulate *preneed sales and cemeteries* ~~certificateholders, licensees, registrants, and cemetery companies~~ in this state. However, restrictions shall be imposed only to the extent necessary to protect the public from significant or discernible harm or damage and not in a manner which will unreasonably affect the competitive market.

(2) Subject to certain interests of society, the Legislature finds that every competent adult has the right to control the decisions relating to her or his own funeral arrangements. Accordingly, unless otherwise stated herein, it is the Legislature's express intent that nothing contained in this chapter should be construed or interpreted in any manner as to subject preneed contract purchasers to federal income taxation under the grantor trust rules contained in ss. 671 et seq. of the Internal Revenue Code of 1986, as amended.

(3) The Legislature deems it necessary in the interest of public health and safety to establish minimum qualifications for entry into the professions and occupations of embalming, funeral directing, cremation, direct disposition, and monument sales, to regulate such activities, and to provide for swift and effective discipline for those practitioners who violate the law.

Section 5. Section 497.0021, Florida Statutes, is created to read:

497.0021 Applicability of parts.—The provisions of this part shall be applicable to and supplement the provisions of parts II, III, IV, V, and VI of this chapter and shall be applicable to all licensees under this chapter, except to the extent specifically provided otherwise in this chapter.

Section 6. Section 497.005, Florida Statutes, is amended to read:

497.005 Definitions.—As used in this chapter:

(1) "Alternative container" means a nonmetal receptacle or enclosure which is less expensive than a casket and of sufficient strength to be used to hold and transport a dead human body.

(2)~~(1)~~ "At-need solicitation" means any uninvited contact by a licensee or her or his agent for the purpose of the sale of burial services or merchandise to the family or next of kin of a person after her or his death has occurred.

(3)~~(2)~~ "Bank of belowground crypts" means any construction unit of belowground crypts which is acceptable to the department and which a cemetery uses to initiate its belowground crypt program or to add to existing belowground crypt structures.

(4)~~(3)~~ "Belowground crypts" consist of interment space in preplaced chambers, either side by side or multiple depth, covered by earth and sod and known also as "lawn crypts," "westminsters," or "turf-top crypts."

(5)~~(4)~~ "Board" means the Board of Funeral*,* ~~and~~ Cemetery*, and Consumer* Services.

(6) "Body parts" means:

(a) Limbs or other portions of the anatomy which are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or

(b) Human bodies or any portions of human bodies which have been donated to science for medical research purposes.

(7)~~(5)~~ "Burial merchandise," "funeral merchandise," or "merchandise" means any personal property offered or sold by any person for use in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains.

(8)~~(6)~~ "Burial right" means the right to use a grave space, mausoleum, columbarium, ossuary, or scattering garden for the interment, entombment, inurnment, or other disposition of human remains.

(9)~~(7)~~ "Burial service," "funeral service," or "service" means any service offered or provided by any person in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains.

(10)~~(8)~~ "Care and maintenance" means the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums, columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well-cared-for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community. As specified in the rules of the *licensing authority* ~~board~~, "care and maintenance" may include, but is not limited to, any or all of the following activities: mowing the grass at reasonable intervals; raking and cleaning the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements. "Care and maintenance" may include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purposes. "Care and maintenance" may also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage, or destruction. "Care and maintenance" does not include expenses for the construction and development of new grave spaces or interment structures to be sold to the public.

(11)~~(9)~~ "Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood or metal, ornamented, and lined with fabric.

(12)~~(10)~~ "Cemetery" means a place dedicated to and used or intended to be used for the permanent interment of human remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated ~~human~~ remains; or any combination of one or more of such structures or places.

(13)~~(11)~~ "Cemetery company" means any legal entity that owns or controls cemetery lands or property.

(14) "Centralized embalming facility" means a facility, not physically connected with a funeral establishment, in which embalming takes place.

~~(12) "Certificateholder" or "licensee" means the person or entity that is authorized under this chapter to sell preneed funeral or burial services, preneed funeral or burial merchandise, or burial rights. Each term shall include the other, as applicable, as the context requires. For the purposes of chapter 120, all certificateholders, licensees, and registrants shall be considered licensees.~~

(15) "Cinerator" means a facility where dead human bodies are reduced to a residue, including bone fragments, by direct flame, also known as "cremation," or by intense heat, also known as "calcination."

(16) "Closed container" means any container in which cremated remains can be placed and closed in a manner so as to prevent leakage or spillage of the remains.

(17)~~(13)~~ "Columbarium" means a structure or building which is substantially exposed above the ground and which is intended to be used for the inurnment of cremated ~~human~~ remains.

(18)~~(14)~~ "Common business enterprise" means a group of two or more business entities that share common ownership in excess of 50 percent.

(19) "Control" means the possession, directly or indirectly, through the ownership of voting shares, by contract, arrangement, understanding, relationship, or otherwise, of the power to direct or cause the direction of the management and policies of a person or entity. However, a person or entity shall not be deemed to have control if the person or entity holds voting shares, in good faith and not for the purpose of circumventing this definition, as an agent, bank, broker, nominee, custodian, or trustee for one or more beneficial owners who do not individually or as a group have control.

(20) "Cremated remains" means all the remains of the human body recovered after the completion of the cremation process, including processing or pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may include the residue of any foreign matter, including casket material, bridgework, or eyeglasses that were cremated with the human remains.

(21)~~(15)~~ "Cremation" *means the technical process, using direct flame and heat or chemical means, which reduces human remains to bone fragments through heat and evaporation. Cremation includes the processing and usually includes the pulverization of the bone fragments* ~~includes any mechanical or thermal process whereby a dead human body is reduced to ashes. Cremation also includes any other mechanical or thermal process whereby human remains are pulverized, burned, recremated, or otherwise further reduced in size or quantity~~.

(22) "Cremation chamber" means the enclosed space within which the cremation process takes place. Cremation chambers covered by these procedures must be used exclusively for the cremation of human remains.

(23) "Cremation container" means the container in which the human remains are transported to and placed in the cremation chamber for a cremation. A cremation container should meet substantially all of the following standards:

(a) Be composed of readily combustible materials suitable for cremation.

(b) Be able to be closed in order to provide a complete covering for the human remains.

(c) Be resistant to leakage or spillage.

(d) Be rigid enough to be handled with ease.

(e) Be able to provide protection for the health, safety, and personal integrity of crematory personnel.

(24) "Cremation interment container" means a rigid outer container that, subject to a cemetery's rules and regulations, is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and that is designed to support the earth above the urn.

(25)~~(16)~~ "Department" means the Department of Financial Services.

(26) "Direct disposal establishment" means a facility licensed under this chapter where a direct disposer practices direct disposition.

(27)~~(17)~~ "Direct disposer" means any person *licensed under this chapter* ~~who is registered in this state~~ to practice direct disposition *in this state* ~~pursuant to the provisions of chapter 470~~.

(28) "Director" means the director of the Division of Funeral, Cemetery, and Consumer Services.

(29) "Disinterment" means removal of a dead human body from earth interment or aboveground interment.

(30) "Division" means the Division of Funeral, Cemetery, and Consumer Services within the Department of Financial Services.

(31) "Embalmer" means any person licensed under this chapter to practice embalming in this state.

(32)~~(18)~~ "Final disposition" means the final disposal of a dead human body *by earth interment, aboveground interment, cremation, burial at sea, or delivery to a medical institution for lawful dissection if the medical institution assumes responsibility for disposal. "Final disposition" does not include the disposal or distribution of ashes and residue of*

cremated remains ~~whether by interment, entombment, burial at sea, cremation, or any other means and includes, but is not limited to, any other disposition of remains for which a segregated charge is imposed~~.

(33) "Funeral" or "funeral service" means the observances, services, or ceremonies held to commemorate the life of a specific deceased human being and at which the human remains are present.

(34)~~(19)~~ "Funeral director" means any person licensed *under this chapter* ~~in this state~~ to practice funeral directing *in this state* ~~pursuant to the provisions of chapter 470~~ .

(35) "Funeral establishment" means a facility licensed under this chapter where a funeral director or embalmer practices funeral directing or embalming.

(36) "Funeral merchandise" or "merchandise" means any merchandise commonly sold in connection with the funeral, final disposition, or memorialization of human remains, including, but not limited to, caskets, outer burial containers, alternative containers, cremation containers, cremation interment containers, urns, monuments, private mausoleums, flowers, benches, vases, acknowledgment cards, register books, memory folders, prayer cards, and clothing.

(37)~~(20)~~ "Grave space" means a space of ground in a cemetery intended to be used for the interment in the ground of human remains.

(38)~~(21)~~ "Human remains" *or "remains," or "dead human body" or "dead human bodies," means the body of a deceased human person for which a death certificate or fetal death certificate is required under chapter 382 and includes the body in any stage of decomposition and the residue of cremated human bodies* ~~means the bodies of deceased persons and includes bodies in any stage of decomposition and cremated remains~~.

(39) "Legally authorized person" means, in the priority listed, the decedent, when written inter vivos authorizations and directions are provided by the decedent; the surviving spouse, unless the spouse has been arrested for committing against the deceased an act of domestic violence as defined in s. 741.28 which resulted in or contributed to the death of the deceased; a son or daughter who is 18 years of age or older; a parent; a brother or sister who is 18 years of age or older; a grandchild who is 18 years of age or older; a grandparent; or any person in the next degree of kinship. In addition, the term may include, if no family member exists or is available, the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney in fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission, or administrator acting under part II of chapter 406 or other public administrator; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person not listed in this subsection who is willing to assume the responsibility as the legally authorized person. Where there is a person in any priority class listed in this subsection, the funeral establishment shall rely upon the authorization of any one legally authorized person of that class if that individual represents that she or he is not aware of any objection to the cremation of the deceased's human remains by others in the same class of the person making the representation or of any person in a higher priority class.

(40) "License" includes all authorizations required or issued under this chapter, except where expressly indicated otherwise, and shall be understood to include authorizations previously referred to as registrations or certificates of authority in chapters 470 and 497 as those chapters appeared in the 2004 edition of the Florida Statutes.

(41) "Licensee" means the person or entity holding any license or other authorization issued under this chapter, except where expressly indicated otherwise.

(42)~~(22)~~ "Mausoleum" means a structure or building which is substantially exposed above the ground and which is intended to be used for the entombment of human remains.

(43)~~(23)~~ "Mausoleum section" means any construction unit of a mausoleum which is acceptable to the department and which a cemetery uses to initiate its mausoleum program or to add to its existing mausoleum structures.

(44)~~(24)~~ "Monument" means any product used for identifying a grave site and cemetery memorials of all types, including monuments, markers, and vases.

(45)~~(25)~~ "Monument establishment" means a facility that operates independently of a cemetery or funeral establishment and that offers to sell monuments or monument services to the public for placement in a cemetery.

(46)~~(26)~~ "Net assets" means the amount by which the total assets of a *licensee* ~~certificateholder~~, excluding goodwill, franchises, customer lists, patents, trademarks, and receivables from or advances to officers, directors, employees, salespersons, and affiliated companies, exceed total liabilities of the *licensee* ~~certificateholder~~. For purposes of this definition, the term "total liabilities" does not include the capital stock, paid-in capital, or retained earnings of the *licensee* ~~certificateholder~~.

(47)~~(27)~~ "Net worth" means total assets minus total liabilities pursuant to generally accepted accounting principles.

(48) "Niche" means a compartment or cubicle for the memorialization or permanent placement of a container or urn containing cremated remains.

(49)~~(28)~~ "Ossuary" means a receptacle used for the communal placement of cremated ~~human~~ remains without benefit of an urn or any other container *in which cremated remains may be commingled with other cremated remains and are nonrecoverable*. It may or may not include memorialization.

(50)~~(29)~~ "Outer burial container" means an enclosure into which a casket is placed and includes, but is not limited to, vaults made of concrete, steel, fiberglass, or copper; sectional concrete enclosures; crypts; and wooden enclosures.

(51) "Person" when used without qualification such as "natural" or "individual" includes both natural persons and legal entities.

(52) "Personal residence" means any residential building in which one temporarily or permanently maintains her or his abode, including, but not limited to, an apartment or a hotel, motel, nursing home, convalescent home, home for the aged, or a public or private institution.

(53) "Practice of direct disposition" means the cremation of human remains without preparation of the human remains by embalming and without any attendant services or rites such as funeral or graveside services or the making of arrangements for such final disposition.

(54) "Practice of embalming" means disinfecting or preserving or attempting to disinfect or preserve dead human bodies by replacing certain body fluids with preserving and disinfecting chemicals.

(55) "Practice of funeral directing" means the performance by a licensed funeral director of any of those functions authorized by s. 497.372.

(56)~~(30)~~ "Preneed contract" means any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.

(57) "Preneed sales agent" means any person who is licensed under this chapter to sell preneed burial or funeral service and merchandise contracts or direct disposition contracts in this state.

(58) "Principal" means and includes the sole proprietor of a sole proprietorship; all partners of a partnership; all members of a limited liability company; regarding a corporation, all directors and officers, and all stockholders controlling more than 10 percent of the voting stock; and all other persons who can exercise control over the person or entity.

(59) "Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual means.

(60) "Profession" and "occupation" are used interchangeably in this chapter. The use of the word "profession" in this chapter with respect to any activities regulated under this chapter shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(61) "Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation and processing to granulated particles by manual or mechanical means.

(62) "Refrigeration facility" means a facility that is not physically connected with a funeral establishment, crematory, or direct disposal establishment, that maintains space and equipment for the storage and refrigeration of dead human bodies, and that offers its service to funeral directors and funeral establishments for a fee.

(63)~~(31)~~ "Religious institution" means an organization formed primarily for religious purposes which has qualified for exemption from federal income tax as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(64) "Removal service" means any service that operates independently of a funeral establishment, that handles the initial removal of dead human bodies, and that offers its service to funeral establishments and direct disposal establishments for a fee.

(65) "Rules" refers to rules adopted under this chapter unless expressly indicated to the contrary.

(66)~~(32)~~ "Scattering garden" means a location set aside, within a cemetery, which is used for the spreading or broadcasting of cremated remains *that have been removed from their container and can be mixed with or placed on top of the soil or ground cover or buried in an underground receptacle on a commingled basis and that are nonrecoverable*. It may or may not include memorialization.

(67)~~(33)~~ "Servicing agent" means any person acting as an independent contractor whose fiduciary responsibility is to assist both the trustee and *licensee* ~~certificateholder hereunder~~ in administrating their responsibilities pursuant to this chapter.

(68)~~(34)~~ "Solicitation" means any communication which directly or implicitly requests an immediate oral response from the recipient.

(69)~~(35)~~ "Statutory accounting" means generally accepted accounting principles, except as modified by this chapter.

(70) "Temporary container" means a receptacle for cremated remains usually made of cardboard, plastic, or similar material designated to hold the cremated remains until an urn or other permanent container is acquired.

(71) "Urn" means a receptacle designed to permanently encase cremated remains.

Section 7. Section 497.101, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 497.101, F.S., for present text.)

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(1) The Board of Funeral, Cemetery, and Consumer Services is created within the Department of Financial Services and shall consist of 10 members, nine of whom shall be appointed by the Governor from nominations made by the Chief Financial Officer and confirmed by the Senate. The Chief Financial Officer shall nominate three persons for each of the nine vacancies on the board, and the Governor shall fill each vacancy on the board by appointing one of the three persons nominated by the Chief Financial Officer to fill that vacancy. If the Governor objects to each of the three nominations for a vacancy, she or he shall inform the Chief Financial Officer in writing. Upon notification of an objection by the Governor, the Chief Financial Officer shall submit three additional nominations for that vacancy until the vacancy is filled. One member must be the State Health Officer or her or his designee.

(2) Two members of the board must be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board must be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter which has a valid preneed license issued pursuant to this chapter and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter. Two members of the board must be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Three members of the board must be consumers who are residents of the state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the consumer members must be at least 60 years of age, and one must be licensed as a certified public accountant under chapter 473. One member of the board must be a monument dealer licensed under this chapter. One member must be the State Health Officer or her or his designee. There shall not be two or more board members who are directors, employees, partners, shareholders, or members of the same company or partnership or group of companies or partnerships under common control.

(3) Board members shall be appointed for terms of 4 years, and the State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Governor. When the terms of the initial board members expire, the Chief Financial Officer shall stagger the terms of the successor members as follows: one funeral director, one cemetery representative, the monument dealer, and one consumer member shall be appointed for terms of 2 years, and the remaining members shall be appointed for terms of 4 years. All subsequent terms shall be for 4 years.

(4) The Governor may suspend and the Senate may remove any board member for malfeasance or misfeasance, neglect of duty, incompetence, substantial inability to perform official duties, commission of a crime, or other substantial cause as determined by the Governor or Senate, as applicable, to evidence a lack of fitness to sit on the board. A board member shall be deemed to have resigned her or his board membership, and that position shall be deemed vacant, upon the failure of the member to attend three consecutive meetings of the board or at least half of the meetings of the board during any 12-month period, unless the Chief Financial Officer determines that there was good and adequate justification for the absences and that such absences are not likely to continue.

(5) A current or former board member is exempt from any civil liability for any act or omission when acting in good faith in her or his official capacity, and the Department of Legal Affairs and the Division of Risk Management shall defend such board member in any civil action against such person arising from any such act or omission.

(6) The headquarters and records of the board shall be in the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The board may be contacted through the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services in the City of Tallahassee. The Chief Financial Officer shall annually appoint from among the board members a chair and vice chair of the board. The board shall meet at least every 6 months, and more often as necessary. Special meetings of the board shall be convened upon the direction of the Chief Financial Officer. A quorum is necessary for the conduct of business by the board. Unless otherwise provided by law, six board members shall constitute a quorum for the conduct of the board's business.

(7) A board member shall be compensated $50 for each day the member attends an official meeting and each day the member participates at the request of the board's executive director in any other business involving the board. To the extent authorized by the s. 112.061, a board member is entitled to reimbursement for expenses incurred in connection with official duties. Out-of-state travel by board members on official business shall, in each specific instance, require the advance approval of the board's executive director in order for the travel to be eligible for reimbursement of expenses.

Section 8. Section 497.103, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 497.103, F.S., for present text.)

497.103 Rulemaking authority of board and department.—

(1) BOARD AUTHORITY.—Subject to the provisions of this section, all authority provided under this chapter, including rulemaking authority, relating to the following matters, is vested solely in the board, and the board shall be deemed the licensing authority as to such matters:

(a) Authority to determine any and all criteria for licensure under this chapter as to which this chapter vests discretion in the licensing authority.

(b) Authority to specify who may conduct practical examination under this chapter.

(c) Authority to specify the content of examinations for licensure, both written and practical, and the relative weighting of areas examined, and grading criteria, and determination of what constitutes a passing grade.

(d) Authority to strike any examination question determined before or after an examination to be inappropriate for any reason.

(e) Authority to specify which national examinations or parts thereof shall or shall not be required or accepted regarding Florida licensure.

(f) Authority to determine time limits and substantive requirements regarding reexamination of applicants who fail any portion of a licensing examination.

(g) Authority to determine substantive requirements and conditions relating to apprenticeships and internships, and temporary licensure pending examination.

(h) Authority to determine substantive requirements for licensure by endorsement.

(i) Authority to specify substantive requirements for reactivation of inactive licenses, such as, but not limited to, requirements for examination or education prior to reactivation.

(j) Authority to approve or deny applications for initial licensure of all types under this chapter and to specify conditions for probationary initial licensure.

(k) Authority to renew or decline to renew licenses issued under this chapter.

(l) Authority to approve or deny applications for change of control or location of any licensee.

(m) Authority to determine standards of construction applicable to facilities utilized by licensees under this chapter.

(n) Authority to specify standards of operation applicable to licensees, including required equipment, supplies, facilities, and professional techniques and practices utilized by licensees.

(o) Authority to specify required access to be provided by cemeteries to monument establishments licensed under this chapter.

(p) Authority to determine required criteria for and provisions in agreements among licensees regarding the shared use of professional facilities, such as, but not limited to, embalming preparation rooms.

(q) Authority to specify the amount and content of continuing education required of licensees and the acceptability of continuing education by distance learning.

(r) Authority to approve or disapprove providers of continuing education.

(s) Authority to specify the amount and content of safety education courses required by unlicensed staff of licensees.

(t) Authority regarding establishing requirements to maintain complaint logs and complaint records.

(u) Authority to approve or disapprove contract forms, trust instruments, and all other forms required to be filed by licensees for approval under this chapter.

(v) Authority to determine through probable cause panels of the board whether proposed administrative prosecutions of licensees shall go forward.

(w) Authority to establish disciplinary guidelines and to identify violations or categories of violation for which the department may issue citations under this chapter.

(x) Authority to determine whether any licensee shall have her or his license revoked or suspended or be fined or otherwise sanctioned and to take final action in that regard.

(y) Authority to determine the validity of and amount due on claims against the Preneed Funeral Contract Consumer Protection Trust Fund.

(z) Authority to approve or deny applications to utilize any alternative to trust deposits concerning preneed sales.

(aa) Authority to determine the method by which wholesale cost is determined for purposes of determining the amount of the preneed trust deposits required under this chapter.

(bb) Authority to determine the amount of any fee payable under this chapter as to which this chapter provides discretion in setting the amount of the fee.

(cc) Authority to direct the initiation of receivership or other delinquency proceedings against any licensee under this chapter.

(2) DEPARTMENT AUTHORITY.—All authority provided by this chapter and not expressly vested in the board by subsection (1) is vested in the department, and the department shall be deemed to be the licensing authority as to such matters. Without limiting the generality of the foregoing vesting of authority in the department, the authority provided by this chapter which is vested solely in the department includes:

(a) Authority relating to the conduct of investigations, financial examinations, and inspections, including, but not limited to:

1. Determination of applicants, licensees, and other persons to be investigated, subjected to financial examination, or inspected.

2. The frequency, duration, and extent of investigations, financial examinations, and inspections.

3. Techniques and procedures utilized in, and staff assigned to, investigations, financial examinations, and inspections.

4. Establishment of requirements binding upon licensees and other persons regarding records and information to be produced or provided, and access to facilities and staff, in regard to investigations, financial examinations, and inspections.

5. Preparation and filing of reports concerning investigations, financial examinations, and inspections.

(b) Authority to receive fees and other amounts payable under this chapter to the licensing authority or to the Regulatory Trust Fund or Preneed Funeral Contract Consumer Protection Trust Fund from licensees, applicants, and others and to process and deposit such receipts in accordance with this chapter and the laws of this state.

(c) Authority to prescribe forms and procedures to be used by applicants or licensees relating to any and all applications, filings, or reports of any type that are made with or submitted to the licensing authority by any person or entity pursuant to this chapter, including, but not limited to, applications for licenses of any type under this chapter, applications for renewal of license, applications for approval of forms, applications for approval of change of control, periodic reports of operations, including format and reporting period for financial statements, and procedures and provisions relating to electronic submissions.

(d) Authority to determine any application or other filing made under this chapter to be incomplete and not subject to further processing until made complete.

(e) Authority to initiate and prosecute administrative and judicial action, including taking final action, regarding activity by persons and entities not licensed under this chapter engaging in activity the department deems to be in violation of this chapter.

(f) Authority regarding procedures and requirements relating to security of examinations for licensure.

(g) Authority to determine the systems, methods, means, facilities, equipment, procedures, budgets, department staff, and other persons and entities, whether inside or outside the department, to be used in relation to recording, tracking, and processing licensing applications, the administrative issuance and denial of licenses, license renewals, disciplinary actions, continuing education, filings made or required under this chapter, and all other administrative matters relating to the implementation and enforcement of this chapter.

(h) Authority to determine the number, hiring, assignment, and discharge of department staff in relation to implementation of this chapter.

(i) Authority to determine whether any contract or agreement authorized to be entered into by this chapter, on any subject matter, shall be entered into and sole authority to enter into any such other contract or agreement regarding the implementation of this chapter.

(j) Subject to the requirements for probable cause proceedings before a probable cause panel of the board and subject to the sole authority of the board to take final action imposing disciplinary sanctions, all authority to draft, execute, file, serve, and prosecute administrative complaints and other action against any licensee. However, the Chief Financial Officer may in particular instances decline to prosecute or to continue to prosecute, in which case the board may request the Department of Legal Affairs to conduct or continue to conduct the prosecution and the Department of Legal Affairs shall be authorized at its discretion to do so.

(k) Authority to seek administrative or judicial enforcement of orders of the board or department or of statutory predecessors to the board or department. However, the Chief Financial Officer may in particular instances decline to seek enforcement or to continue to seek enforcement of any order, in which case the board may request the Department of Legal Affairs to conduct or continue to conduct such enforcement action and the Department of Legal Affairs shall be authorized at its discretion to do so.

(l) The department shall represent the board in any appeal of a board final order. However, the Chief Financial Officer may in particular instances decline to represent the board, in which case the board may request the Department of Legal Affairs to represent the board in the matter and the Department of Legal Affairs shall be authorized at its discretion to do so.

(m) Authority to take emergency action against any licensee under this chapter without prior consultation with the board.

(n) Authority to develop and submit to the Legislature from time to time budgets for the implementation of this chapter.

(o) The department shall have the authority and duty to provide necessary administrative support to the board as reasonably required to allow the board to discharge its responsibilities under this chapter.

(3) RECOMMENDATIONS BY DEPARTMENT STAFF.—The board shall carefully review and give substantial weight to any recommendation of department staff concerning any matter coming before the board and upon request of department staff shall state with specificity on the record at the board meeting where the rejection occurs the reason or reasons why the board has rejected a particular recommendation of the department staff.

(4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.—

(a) As to any matter falling within the board's authority, if the Chief Financial Officer submits or causes to be submitted to the board at any board meeting any recommendation signed by the Chief Financial Officer, the Chief Financial Officer's recommendation shall be adopted by the board and the board shall act and be deemed to act in accordance with such recommendation, unless at such meeting 70 percent of the board members present and voting vote to reject the Chief Financial Officer's recommendation. Any fractional vote resulting from application of the 70-percent requirement shall be rounded upward and counted as one additional vote in determining how many votes are required to reject the Chief Financial Officer's recommendation. The Chief Financial Officer's recommendation to the board shall be in regard to one or more of the following matters:

1. Protecting the public from any significant and discernible harm or damage.

2. Preventing the unreasonable restriction of competition or the availability of professional services in the state or in a significant part of the state.

3. Preventing the unnecessary increase in cost of professional services without a corresponding or equivalent public benefit.

(b) If the recommendation of department staff to the board as to any matter shall be rejected or otherwise overridden by the board to any degree, the board's action in the matter shall not be final until 14 days have elapsed after the board rejected or overrode the recommendation of department staff, and if during such 14-day period the Chief Financial Officer submits a recommendation concerning the matter to the board pursuant to paragraph (a), until the effect of such recommendation is determined in accordance with paragraph (a). The running of the period under s. 120.60 for approving or denying a completed application shall be tolled during such 14-day period.

(c) If the Chief Financial Officer makes any recommendation pursuant to this subsection concerning approval or denial of an application for license or otherwise under this chapter, the running of the period under s. 120.60 for approving or denying a completed application shall be tolled from the date of the Chief Financial Officer's recommendation is made for the shorter of 90 days or until the effect of such recommendation is determined in accordance with paragraph (a).

(d) If any recommendation by the Chief Financial Officer made under this subsection would require initiation of rulemaking proceedings under chapter 120 as a prerequisite to implementation of such recommendation by the board and such recommendation becomes binding on the board pursuant to this subsection, the board shall promptly and in good faith initiate and conduct such rulemaking proceedings or may in regard to the promulgation of the specific rule in issue delegate to the department the board's rulemaking authority under this chapter, in which case the department shall be authorized to adopt the rule.

(5) RULEMAKING.—

(a) The board is authorized to adopt all rules authorized under this chapter regarding matters under the board's authority.

(b) The department is authorized to adopt all rules authorized under this chapter regarding matters which fall under the department's authority or as to which the board has delegated rulemaking authority to the department.

(c) Neither the board nor the department shall initiate rulemaking under their respective rulemaking authority under this chapter unless they have provided each other at least 60 days' advance notice of their intent to initiate rulemaking proceedings and during that 60-day period have conferred and consulted with each other concerning the purpose and intent of the rulemaking. However, the 60-day advance notice requirement does not apply to the promulgation of emergency rules.

(6) FINAL ORDERS.—

(a) The board shall have authority to take final action and issue final orders as to all matters under its authority. The chairperson of the board shall be authorized to sign orders of the board and may delegate such authority to the executive director of the board.

(b) The department shall have authority to take final action and issue final orders as to all matters under its authority.

(7) ACTIONS BY BOARD AND DEPARTMENT.—

(a) The department and the board shall each have standing to institute judicial or other proceedings against the other for the enforcement of this section.

(b) The board shall have standing as a party litigant to challenge any rule proposed or adopted by the department under authority of this chapter, upon any grounds enumerated in s. 120.52(8).

(c) The board shall be represented by the Department of Legal Affairs in any litigation by the board against the department authorized by this subsection, and the Department of Financial Services shall provide reasonable funds for the conduct of such litigation by the board.

(d) No applicant, licensee, or person other than the board shall have standing in any proceeding under chapter 120 to assert that any rule adopted by the department under asserted authority of this chapter is invalid because it relates to a matter under the board's authority.

Section 9. Section 497.107, Florida Statutes, is amended to read:

497.107 Headquarters.—The Board of Funeral*,* ~~and~~ Cemetery*, and Consumer* Services may be contacted through *division at* the headquarters of the department in the City of Tallahassee.

Section 10. Section 497.525, Florida Statutes, is renumbered as section 497.140, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 497.525, F.S., for present text.)

497.140 Fees.—

(1)(a) As to any fee payable under this chapter as to which discretion is provided to the licensing authority to specify the amount of the fee subject to a cap stated in this chapter, the board shall from time to time as requested by the department determine by rule the amount of such fee, based upon department-prepared estimates of the revenue required to implement all provisions of this chapter.

(b) It is the legislative intent that the costs of regulation under this chapter be provided for by fees collected under this chapter. The board shall ensure that fees are adequate to cover all anticipated costs of implementation of this chapter. The department shall at least every other year provide the board with estimates as to projected costs in implementing this chapter and projected fee collections under this chapter for the following 2 years, information as to balances of regulatory trusts from fees collected, other information which the department deems material to the setting of fees by the board at proper levels, and a department recommendation as to action, if any, regarding changing fee levels. The board shall review such information provided by the department and make such changes in fees, up or down, as the board determines appropriate. If sufficient action is not taken by the board within 1 year after notification by the department that fees are projected to be inadequate, the department shall set fees on behalf of the board to cover anticipated costs.

(c) The board may from time to time by rule assess and collect a one-time fee from each active and each voluntary inactive licensee under this chapter in an amount necessary to correct an inadequacy of fees received to implement regulation required by this chapter, provided that no more than one such assessment may be made in any 4-year period without specific legislative authorization.

(2) All moneys collected under this chapter shall be paid into the Regulatory Trust Fund, except as expressly provided otherwise in this chapter. The Legislature shall appropriate funds from this trust fund sufficient to implement the provisions of this chapter.

(3) The department, in consultation with the board, shall from time to time recommended fee and fee cap increases to the Legislature as deemed advisable.

(4) If a duplicate license is required or requested by the licensee, the department may charge a fee as determined by rule not to exceed $25 before issuance of the duplicate license.

(5) The department shall charge a fee not to exceed $25 for the certification of a public record. The fee shall be determined by rule of the department. The department shall assess a fee for duplication of a public record as provided in s. 119.07(1)(a) and (b).

(6)(a) The department shall impose, upon initial licensure and each renewal thereof, a special unlicensed activity fee of $5 per licensee, in addition to all other fees provided for in this chapter. Such fee shall be used by the department to fund efforts to identify and combat unlicensed activity which violates this chapter. Such fee shall be in addition to all other fees collected from each licensee and shall be deposited in a separate account of the Regulatory Trust Fund; however, the department is not limited to the funds in such an account for combating improper unlicensed activity in violation of this chapter.

(b) The board may with the concurrence of the department, if that portion of the Regulatory Trust Fund held by the department for implementation of this chapter is not in deficit and has a reasonable cash balance, earmark $5 of each initial licensure and each license renewal fee collected under this chapter and direct the deposit of each such amount into the separate account required in paragraph (a), to be utilized by the department for the purposes of combating unlicensed practice in violation of this chapter. Such earmarked amount may be, as the board directs, in lieu of or in addition to the special unlicensed activity fee imposed under paragraph (a). The earmarking may be imposed and thereafter eliminated from time to time according the adequacy of trust funds held for implementation of this chapter.

(c) The department shall confer and consult with the board regarding enforcement methods and strategies regarding the use of such unlicensed activity fee funds.

(7) Any fee required to be paid under this chapter, which was set at a fixed amount as the 2004 edition of the Florida Statutes, but as to which this chapter now provides to be a fee as determined by board rule subject to a cap specified in this chapter, shall remain at the amount as set in the 2004 edition of the Florida Statutes unless and until the board shall change such fee by rule.

Section 11. Section 497.141, Florida Statutes, is created to read:

497.141 Licensing; general application procedures.—

(1) The provisions of this section shall supplement and implement all provisions of this chapter relating to application for licensure.

(2) Any person desiring to be licensed shall apply to the licensing authority in writing using such forms and procedures as may be prescribed by rule. The application for licensure shall include the applicant's social security number. Notwithstanding any other provision of law, the department is the sole authority for determining the forms and form contents to be submitted for initial licensure and licensure renewal application. Such forms and the information and materials required by such forms may include, as appropriate, demographics, education, work history, personal background, criminal history, finances, business information, signature notarization, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, business plans, character references, and ongoing education monitoring. Such forms and the information and materials required by such forms may also include, to the extent such information or materials are not already in the possession of the department or the board, records or information as to complaints, inspections, investigations, discipline, bonding, and photographs. The application shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department or the board.

(3) The department shall conduct such investigation of the applicant and the application as the department deems necessary or advisable to establish the correctness of matters stated in the application and to determine whether the applicable licensing criteria are met and shall make recommendations in those regards to the board.

(4) Before the issuance of any license, the department shall collect such initial fee as specified by this chapter or, where authorized, by rule of the board. Upon receipt of a completed application and the appropriate fee, and certification by the board that the applicant meets the applicable requirements of law and rules, the department shall issue the license applied for. However, an applicant who is not otherwise qualified for licensure is not entitled to licensure solely based on a passing score on a required examination.

(5) The board may refuse to rule on an initial application for licensure by any applicant who is under investigation or prosecution in any jurisdiction for an action which there is reasonable cause to believe would constitute a violation of this chapter if committed in this state, until such time as such investigation or prosecution is completed and the results of the investigation or prosecution are reviewed by the board.

(6) When any administrative law judge conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance or denial of a license under this chapter, the administrative law judge shall submit her or his recommended order to the board, which shall thereupon issue a final order. The applicant for a license may appeal the final order in accordance with the provisions of chapter 120.

(7) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

(8) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each applicant for licensure is required to provide her or his social security number in accordance with this

section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement and use by the department and as otherwise provided by law.

(9) Whenever any provision of this chapter or rules adopted under this chapter require student completion of a specific number of clock hours of classroom instruction for initial licensure purposes, there shall be established by rule the minimal competencies that such students must demonstrate in order to be licensed. The demonstration of such competencies may be substituted for specific classroom clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. Student demonstration of the established minimum competencies shall be certified by the educational institution. The provisions of this subsection shall not apply if federal licensure standards are more restrictive or stringent than the standards prescribed in this chapter.

(10) No license issued under this chapter shall be assignable or transferable except to the extent specifically provided by this chapter.

(11) The department shall implement a system for administration of the overall licensing process, including the processing and tracking of applications for licensure, the issuance of licenses approved by the board, the tracking of licenses issued, the administration of the license renewal process, and the collection and processing of fees related to those activities. The system may use staff and facilities of the department or the department may enter into a contract for all or any part of such system, upon such terms and conditions as the department deems advisable, and such contract may be with another government agency or a private business.

Section 12. Section 497.142, Florida Statutes, is created to read:

497.142 Licensing; fingerprinting and criminal background checks.—

(1) In any instance that this chapter requires submission of fingerprints in connection with an application for license, the provisions of this section shall apply.

(2) The fingerprints must be taken by a law enforcement agency or other agency or entity approved by the department and in such a way as to allow their use to obtain a criminal history check through the Department of Law Enforcement.

(3) The department shall submit the fingerprints to or cause them to be submitted to the Department of Law Enforcement for the purpose of ascertaining whether the person fingerprinted has a criminal history in any state or before the Federal Government and, if so, the nature of the criminal history.

(4) The Department of Law Enforcement may accept fingerprints of any applicant under this chapter, any principal of any such applicant, and any other person who is examined or investigated or who is subject to examination or investigation under the provisions of this chapter.

(5) The Department of Law Enforcement may, to the extent provided for by federal law, exchange state, multistate, and federal criminal history records with the department and the board for the purpose of the issuance, denial, suspension, or revocation of any license or other application under this chapter.

(6) The Department of Law Enforcement may accept fingerprints of any other person required by statute or rule to submit fingerprints to the department or board or any applicant or licensee regulated by the department or board who is required to demonstrate that she or he has not been convicted of or pled guilty or nolo contendere to a felony or a misdemeanor.

(7) The Department of Law Enforcement shall, upon receipt of fingerprints from the department, submit the fingerprints to the Federal Bureau of Investigation to check federal criminal history records.

(8) Statewide criminal records obtained through the Department of Law Enforcement, federal criminal records obtained through the Federal Bureau of Investigation, and local criminal records obtained through local law enforcement agencies shall be used by the department and board for the purpose of issuance, denial, suspension, or revocation of certificates of authority, certifications, or licenses issued to operate in this state.

(9) For the purposes of criminal background checks, applicants and principals of applicants for any approval or license under this chapter may be required to disclose whether they have ever had their name legally changed and any prior name or names they have used.

(10) If any applicant under this chapter has been, within the 10 years preceding the application under this chapter, convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, any crime in any jurisdiction, the application shall not be deemed complete until such time as the applicant provides such certified true copies of the court records evidencing the conviction, finding, or plea, as the licensing authority may by rule require.

Section 13. Section 497.143, Florida Statutes, is created to read:

497.143 Licensing; limited licenses for retired professionals.—

(1) It is the intent of the Legislature that, absent a threat to the health, safety, and welfare of the public, the use of retired professionals in good standing to serve the indigent, underserved, or critical need populations of this state should be encouraged. To that end, rules may be adopted to permit practice by retired professionals as limited licensees under this section.

(2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the department an application and fee, not to exceed $300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of her or his profession, the application and all licensure fees shall be waived.

(3) Limited licensure may be denied to an applicant who has committed, or is under investigation or prosecution for, any act which would constitute the basis for discipline under this chapter.

(4) The recipient of a limited license may practice only in the employ of public agencies or institutions or nonprofit agencies or institutions which meet the requirements of 26 U.S.C. 501(c)(3) of the Internal Revenue Code and which provide professional liability coverage for acts or omissions of the limited licensee. A limited licensee may provide services only to the indigent, underserved, or critical need populations within the state. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. Rules may be adopted to define underserved and critical need areas and to ensure implementation of this section.

(5) The department may provide by rule for supervision of limited licensees to protect the health, safety, and welfare of the public.

(6) Each applicant granted a limited license is subject to all the provisions of this chapter under which the limited license is issued which are not in conflict with this section.

Section 14. Section 497.144, Florida Statutes, is created to read:

497.144 Licensing; examinations, general provisions.—

(1) The department shall, with the approval of the board, provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations and may use professional testing services for the development, preparation, and evaluation of examinations, when such services are available. The department may contract with the Department of Business and Professional Regulation for any examination services.

(2) After an examination has been administered, the board may reject any question that does not reliably measure the required competency.

(3) For each examination there shall by rule be specified the general areas of competency to be covered by the examination, the relative weight

to be assigned in grading each area tested, the score necessary to achieve a passing grade, and the fees, where applicable, to cover the actual cost for any purchase, development, and administration of the required examination. However, statutory fee caps shall apply. This subsection does not apply to national examinations approved and administered pursuant to subsection (5).

(4) If a practical examination is utilized, rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. Procedures for practical examinations shall be specified by rule. Board members may serve as examiners at a practical examination with the consent of the board.

(5) The board may approve the use of any national examination. Providers of examinations may be either profit or nonprofit entities. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the department or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination. The department may delegate to the board the duty to provide and administer the examination.

(6) Rules may be adopted establishing procedures and requirements for the security and monitoring of examinations. In order to maintain the security of examinations, the department may seek fines and injunctive relief in the courts of this state against an examinee who violates applicable security rules. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce the security of examinations.

(7) The department may, with the approval of the board and for a fee, share with any other state's licensing authority an examination developed by or for the board unless prohibited by a contract entered into by the department for development or purchase of the examination. The department shall establish guidelines that ensure security of a shared examination and shall require that any other state's licensing authority comply with those guidelines.

(8) If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination for which she or he failed to achieve a passing grade, if she or he successfully passes that portion within a reasonable time of her or his passing the other portion. Rules may be adopted establishing procedures and reasonable times for retaking failed portions of any examination.

(9) Except for national examinations approved and administered pursuant to this section, procedures shall be established by rule for applicants who have taken and failed a written examination to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of her or his examination grades. Rules may be adopted establishing procedures for such reviews.

(10) For each examination administered under this chapter, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to this section.

(11) In addition to meeting any other requirements for licensure by examination or by endorsement, an applicant may be required by the board to pass an examination pertaining to state laws and rules applicable to the practice of the profession regulated under this chapter.

(12) Examinations and reexaminations for any license under this chapter shall be administered in the English language unless 15 or more applicants request that the examination or reexamination be administered in their native language. Such requests must be received at least 6 months prior to the examination or reexamination. In the event that such examination or reexamination is administered in a foreign language, the full cost to the board and department of preparing and administering the examination shall be borne by the applicants. Where the taking of a national examination is required by this chapter or rule adopted under this chapter, the examination may not be required to be given in any language other than English unless the national examination is available in the requested language. Rules may be adopted establishing procedures for requesting examinations in languages other than English and establishing the costs related to such examinations.

(13) Unless an applicant notifies the department at least 5 days prior to an examination hearing of the applicant's inability to attend or unless an applicant can demonstrate an extreme emergency for failing to attend, the department may require an applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department for the examination hearing.

Section 15. Section 497.145, Florida Statutes, is created to read:

497.145 Licensing; use of professional testing services.—Notwithstanding any other provision of law to the contrary, the department may use a professional testing service to prepare, administer, grade, and evaluate any computerized examination, when that service is available and approved by the board.

Section 16. Section 497.146, Florida Statutes, is created to read:

497.146 Licensing; address of record; changes; licensee responsibility.—Each licensee under this chapter is responsible for notifying the department in writing of the licensee's current business and residence mailing address and the street address of the licensee's primary place of practice and shall notify the department in writing within 30 days after any change in such information, in accordance with procedures and forms prescribed by rule. Notwithstanding any other provision of law, service by regular mail to a licensee's last known address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department, except when other service is expressly required by this chapter. Rules may be adopted establishing forms and procedures for licensees to provide the notice required by this section.

Section 17. Section 497.147, Florida Statutes, is created to read:

497.147 Continuing education; general provisions.—

(1) As to any licensure under this chapter that requires prelicensure training or continuing education for renewal of a license, no such training or continuing education shall be accepted in satisfaction of the requirements of this chapter, unless approved by the board.

(2) There shall be adopted rules by the board to establish the criteria for such training or continuing education courses.

(3) The licensing authority may provide by rule that distance learning may be used to satisfy continuing education requirements and may specify conditions applicable to such distance learning for credit under this chapter.

(4) The licensing authority is authorized to adopt rules to implement requirements regarding prelicensure training and continuing education requirements under this chapter. Persons providing prelicensure training or continuing education for credit against the requirements of this chapter are hereinafter referred to as "providers."

(a) The rules may establish criteria for obtaining approval from the licensing authority as a provider, and for periodic renewal of such approval, and may establish procedures and forms for use in applying to obtain and renew such approval from the licensing authority.

(b) The rules may establish conditions and requirements applicable to providers, including, but not limited to:

1. Periodic submission by the provider to the licensing authority of information and documentation as to course materials, class locations and schedules, names of scheduled instructors, resumes of instructors, and descriptions of facilities.

2. Requirements for periodic reporting by the provider to the licensing authority of information concerning enrollment, attendance, and status of persons enrolled for credit under this chapter.

3. Requirements for inspection by the licensing authority of records of the provider related to training or continuing education of applicants and licensees under this chapter.

4. Requirements for announced or unannounced attendance by department staff or board members at scheduled classes or training, for the purpose of ensuring that the training meets the requirements of this chapter and rules adopted under this chapter.

5. Requirements for written contracts or agreements required to be entered into by providers with the licensing authority as a prerequisite to acceptance of training or continuing education provided by such provider for credit under this chapter.

6. Requirements regarding retention of records by the provider regarding training or continuing education for which credit has been given to any licensee under this chapter.

7. Procedures and criteria for terminating the status of any provider as an approved source of training or continuing education for credit under this chapter.

8. Requirements for fees to accompany applications from providers for approval or renewal of approval as a provider, not to exceed $250 per year. The rules may exempt nonprofit entities from such fees.

(c) The rules may list all approved providers and identify the training or continuing education each provider is approved to provide for credit under this chapter.

(d) Such rules may establish procedures and forms for use by applicants, licensees, and providers in reporting completed training and continuing education to the licensing authority.

(5) The board may by rule provide up to 5 hours of continuing education credit per continuing education reporting period for licensees attending board meetings or selected types or portions of board meetings, as specified by such rules. The rules may limit the number of times such credit may be utilized by a licensee. The rules may include provisions as to the minimum amount of time that must be spent in the board meeting room viewing proceedings, which may be more than 5 hours of attendance, requirements for advance notice by licensees to department staff of proposed attendance, requirements to sign in and out of the meeting room on lists maintained at the meeting site by department staff, forms that must be completed by the licensee to obtain such credit, and such other requirements deemed by the board to be advisable or necessary to prevent abuse of such rules and to ensure that useful information is obtained by licensees as a result of attendance. Procedural requirements of such rules requiring action by the department shall be subject to approval by the department prior to promulgation.

Section 18. Section 497.148, Florida Statutes, is created to read:

497.148 Continuing education; monitoring of compliance.—The department shall establish a system to monitor licensee compliance with applicable trainings and continuing education requirements and to determine each licensee's continuing education status. The department is authorized to provide for a phase-in of the compliance monitoring system. The compliance monitoring system may use staff and facilities of the department, or the department may enter into a contract for compliance monitoring services, upon such terms and conditions as the department deems advisable. Such contract may be with another government agency or a private business.

Section 19. Section 497.149, Florida Statutes, is created to read:

497.149 Investigations, hearings, and inspections.—

(1) INVESTIGATIONS.—Investigations shall be conducted by the department. The following provisions shall apply concerning investigations:

(a) There shall be investigated all complaints directly or indirectly alleging violation of any provision of this chapter or rules adopted pursuant to this chapter. Investigations may be conducted regarding any applicant for licensure under this chapter to ensure that the applicant satisfies the requirements for licensure and to ensure the accuracy and truthfulness of any matters represented to the department or the board in connection with the application. There may be such investigations of persons and entities not licensed under this chapter to determine if they are engaging in activities for which a license under this chapter is required, or are otherwise in violation of this chapter, as is deemed necessary to ensure compliance with this chapter. There may be conducted such other investigations, in addition to investigations expressly authorized or required by this chapter, as are deemed necessary or advisable by the department to determine whether any person is, has, or may violate any provision of this chapter or to secure information useful in the lawful administration of this chapter.

(b) Every person and entity being investigated, and its officers, attorneys, employees, agents, and representatives, shall make freely available to the department the accounts, records, documents, files, information, assets, business premises, and matters in their possession or control relating to the subject of the investigation. If records relating to a licensee or to activities regulated by this chapter are maintained by an agent on premises owned or operated by a third party, the agent and the third party shall provide the department access to the records.

(c) If the department finds any accounts or records of a licensee required by this chapter to be created and maintained by the licensee to be inadequate or inadequately kept or posted, it may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being investigated, provided the person has failed to maintain, complete, or correct such records or accounting after the department has given her or him notice and a reasonable opportunity to do so.

(d) In connection with any investigation under this chapter, the department may administer oaths, examine witnesses, and receive oral and documentary evidence, require the licensee to answer under oath interrogatories propounded by the department, issue a subpoena for testimony or the production of records to any person believed to have information or materials relevant to the subject matter of the investigation, and compel such attendance and testimony and the production of such materials for inspection and copying. If any person refuses to comply with any such subpoena or to testify as to any matter concerning which she or he may be lawfully interrogated, the Circuit Court of Leon County or of the county wherein such examination, investigation, or hearing is being conducted, or of the county wherein such person resides, may, on the application of the department, issue an order requiring such person to comply with the subpoena and to testify. Subpoenas may be served, and proof of such service made, by any employee of the department.

(e) The department may retain and pay such experts on a case-by-case basis, as it deems necessary for the investigation and prosecution, if any, of any alleged violation of this chapter.

(2) INSPECTIONS.—The department may conduct such inspections of licensee's premises and records during normal business hours, at such intervals, as the department deems necessary to ensure compliance with this chapter.

(a) Inspections may be announced or unannounced as the department determines appropriate on a case-by-case basis.

(b) Every licensee being inspected, and its employees, officers, attorneys, employees, agents, and representatives, shall freely and immediately make available to the department for inspection during normal business hours the licensee's entire premises and the records and information in their possession or control relating to the inspection.

(c) The department may adopt rules regarding inspection procedures.

(3) HEARINGS.—The department may hold public hearings to secure information useful in the lawful administration of this chapter. The department may require the attendance of witnesses by subpoena and the giving of testimony under oath.

(4) RULES.—The department may adopt rules pursuant to ss. 120.536(1) and 120.54 for the implementation of this section.

Section 20. Section 497.150, Florida Statutes, is created to read:

497.150 Compliance examinations of existing licensees.—

(1) There may be examined by the department the facilities, records, operations, trust accounts, and financial affairs of licensees under this chapter, as often as may be deemed necessary by the department, to ensure compliance with the provisions of this chapter and rules adopted

under this chapter. The provisions of this section shall apply to examinations conducted by the department under this chapter.

(2) The examination may, as deemed necessary by the department, include examination of the affairs, transactions, accounts, and records of the licensee's agents and controlling or controlled person, relating directly or indirectly to the licensee.

(3) The examination may be conducted at the offices, wherever located, of the person being examined or investigated and at such other places as may be required for determination of matters under examination.

(4) Every person being examined, and its officers, attorneys, employees, agents, and representatives, shall make freely available the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination.

(5) The licensee shall provide for the department examiner's use during the examination such suitable private office work location and facilities, including desk, chair, and adequate lighting and ventilation, as are reasonably available on the licensee's premises.

(6) If the department finds any accounts or records required to be made or maintained by a licensee under this chapter to be inadequate or inadequately kept or posted, it may be employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being examined, provided the person has failed to maintain, complete, or correct such records or accounting after the department has given her or him notice and a reasonable opportunity to do so.

(7) In connection with any examination under this chapter, the department may administer oaths, examine witnesses, and receive oral and documentary evidence, require the licensee to answer under oath interrogatories propounded by the department, issue a subpoena for testimony or the production of records to any person believed to have information or materials relevant to the subject matter of the examination, and compel such attendance and testimony and the production of such materials for inspection and copying. If any person refuses to comply with any such subpoena or to testify as to any matter concerning which she or he may be lawfully interrogated, the Circuit Court of Leon County or of the county wherein such examination, investigation, or hearing is being conducted, or of the county wherein such person resides, may, on the application of the department, issue an order requiring such person to comply with the subpoena and to testify. Subpoenas may be served, and proof of such service made, by any employee of the department.

(8) The department shall furnish a copy of any examination report to the licensee examined within a reasonable period of time, and the licensee shall have 30 days thereafter in which to prepare and provide the department a response to the examination report. No examination report shall be filed by the department until such 30-day period has elapsed. If the licensee provides a written response to the department within such 30-day period, the response shall be attached to and made a part of the report as filed in the department's files.

(9) The examination report when so filed shall thereafter be admissible in evidence in any judicial or administrative action or proceeding brought by the department against the person examined, or against its officers, employees, or agents, or for the enforcement of an investigative subpoena issued by the department in any investigation of, involving, or relating to the person examined. In all other proceedings, the admissibility of the examination report is governed by the evidence code. The department or its examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been made, furnished, or filed in the department.

(10) The written report of each preneed examination, when completed, shall be filed in the office of the board and, when so filed, shall constitute a public record.

(11) The person or organization examined shall pay the travel expense and per diem subsistence allowance provided for state employees under s. 112.061 for out-of-state travel incurred by department representatives or examiners in connection with an examination.

(12) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 for the implementation of this section.

Section 21. Section 497.151, Florida Statutes, is created to read:

497.151 Complaints; logs; procedures.—

(1) This section shall be applicable to all licensees under this chapter except preneed sales agent licensees.

(2) Licensees shall cause to be maintained on a continuing basis a log of all written complaints received by the licensee regarding any aspect of the licensee's operations. The log shall show the complainant's name, the date the complaint was received, and the complainant's address and phone number if shown in the complaint. Each written complaint received shall be entered into the complaint log within 10 days after receiving such complaint. The licensing authority may by rule establish requirements relating to complaint logs, including whether the log may be electronically maintained or must be kept in writing by pen and ink. Each licensee under this chapter shall retain in its records all written complaints received by the licensee or the licensee's staff. All complaint logs, and all written complaints and related papers, shall be retained by the licensee until the completion of the next examination by the department of the licensee, which examination covers the period the complaint was received or such other period as the licensing authority may by rule require.

(3) Rules may be adopted modifying the requirements of this section as applied to different categories of licensees under this chapter, if the board determines that the requirements of this section are impractical as to any category of licensees.

Section 22. Section 497.152, Florida Statutes, is created to read:

497.152 Disciplinary grounds.—This section sets forth conduct which is prohibited and which shall constitute grounds for denial of any application, imposition of discipline, and other enforcement action against the licensee or other person committing such conduct. For purposes of this section, the requirements of this chapter include the requirements of rules adopted under authority of this chapter. No subsection heading in this section shall be interpreted as limiting the applicability of any paragraph within the subsection.

(1) GENERAL PROVISIONS.—The generality of the provisions of this subsection shall not be deemed to be limited by the provisions of any other subsection.

(a) Violating any provision of this chapter or any lawful order of the board or department or of the statutory predecessors to the board or department.

(b) Committing fraud, deceit, negligence, incompetency, or misconduct in the practice of any of the activities regulated under this chapter.

(c) Failing while holding a license under this chapter to maintain one or more of the qualifications for such license.

(d) Refusing to sell or issue a contract or provide services to any person because of the person's race, color, creed, marital status, sex, or national origin.

(2) CRIMINAL ACTIVITY.—Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession or occupation under this chapter.

(3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.—Having a license or the authority to practice a profession or occupation revoked, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction, including its agencies or subdivisions, for conduct that would constitute a violation of this chapter if committed in this state or upon grounds which directly relate to the ability to practice under this chapter. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of charges against the license shall be construed as action against the license.

(4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT AGENCIES.—

(a) Improperly interfering with an investigation or inspection authorized by statute or with any disciplinary proceeding.

(b) Failure to comply with a lawfully issued subpoena of the department.

(c) Refusal to produce records to the department or board in connection with any activity regulated pursuant to this chapter.

(d) Failing to report to the department any person who the licensee knows is in violation of this chapter.

(e) Knowingly concealing information relative to violations of this chapter.

(f) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, false or forged evidence, or misrepresentation or through an error of the department or board.

(g) Making or filing a report or statement to or with any government entity which the licensee knows or has reason to know to be false; or intentionally or negligently failing to file a report or record required to be filed with any government entity, or willfully impeding or obstructing another person to do so, or inducing another person to impede or obstruct such filing.

(h) Failing to perform any statutory or legal obligation placed upon a licensee.

(5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED PRACTICE.—

(a) Practicing or offering to practice beyond the scope permitted by this chapter and rules adopted under this chapter for the type of licensure held or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(b) Practicing or attempting to practice with a revoked, suspended, inactive, or delinquent license.

(c) Representing as her or his own the license of another.

(d) Aiding, assisting, procuring, employing, or advising any person or entity to practice a profession or occupation regulated by this chapter without required licensure under this chapter.

(e) Aiding, assisting, procuring, employing, or advising any person or entity to operate or in operating an establishment regulated by this chapter without the required licensure under this chapter.

(f) Delegating to any person the performance of professional activities, or contracting with any person for the performance of professional activities by such person, when the licensee knows or has reason to know the person is not qualified by training, experience, and authorization to perform such responsibilities.

(g) Using the name or title "funeral director," "embalmer," "direct disposer," or other title suggesting licensure which the person using such name or title does not hold.

(h) Engaging by a direct disposer in the practice of direct burial or offering the at-need or preneed service of direct burial.

(6) EDUCATIONAL REQUIREMENTS.—

(a) Failing to comply with applicable educational course requirements pursuant to this chapter or rules adopted under this chapter regarding human immunodeficiency virus and acquired immune deficiency syndrome.

(b) Failing to timely comply with applicable continuing education requirements of this chapter.

(7) RELATIONS WITH OTHER LICENSEES.—

(a) Having been found liable in a civil proceeding for knowingly filing a false report or complaint against another licensee with the department or the board.

(b) Making any misleading statements or misrepresentations as to the financial condition of any person, or which are falsely and maliciously critical of any person for the purpose damaging that person's business regulated under this chapter.

(8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN REMAINS.—

(a) Violation of any state law or rule or any municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.

(b) Refusing to surrender promptly the custody of a dead human body upon the express order of the person legally authorized to its custody; however, this provision shall be subject to any state or local laws or rules governing custody or transportation of dead human bodies.

(c) Taking possession of a dead human body without first having obtained written or oral permission from a legally authorized person. If oral permission is granted, the licensee must obtain written permission within a reasonable time as established by rule.

(d) Embalming human remains without first having obtained written or oral permission from a legally authorized person; however, washing and other public health procedures, such as closing of the orifices by placing cotton soaked in a disinfectant in such orifices until authorization to embalm is received, shall not be precluded. If oral permission is granted, the licensee must obtain written permission within a reasonable time as established by board rule.

(e) Failing to obtain written authorization from the family or next of kin of the deceased prior to entombment, interment, disinterment, disentombment, or disinurnment of the remains of any human being.

(9) SALES PRACTICES IN GENERAL.—

(a) Soliciting by the licensee, or by her or his agent, assistant, or employee, through the use of fraud, undue influence, intimidation, overreaching, or other means which takes advantage of a customer's ignorance or emotional vulnerability.

(b) Exercising undue influence on a client for the purpose of financial gain of the licensee or a third party in connection with any transaction regulated by this chapter.

(c) Discouraging a customer's purchase of any funeral merchandise or service which is advertised or offered for sale, with the purpose of encouraging the purchase of additional or more expensive merchandise or service, by disparaging its quality or appearance, except that true factual statements concerning features, design, or construction do not constitute disparagement; by misrepresenting its availability or any delay involved in obtaining it; or by suggesting directly or by implication that a customer's concern for price or expressed interest in inexpensive funeral merchandise or services is improper, inappropriate, or indicative of diminished respect or affection for the deceased.

(d) Misrepresenting the benefits, advantages, conditions, or terms of any contract to provide any services or merchandise regulated under this chapter.

(e) Advertising goods and services in a manner that is fraudulent, deceptive, or misleading in form or content.

(f) Directly or indirectly making any deceptive, misleading, or untrue representations, whether oral or written, or employing any trick, scheme, or artifice, in or related to the practice of a profession or occupation regulated under this chapter, including in the advertising or sale of any merchandise or services related to the practice of the profession or occupation.

(10) SPECIFIC MISREPRESENTATIONS.—

(a) Making any false or misleading statement of the legal requirement as to the necessity of any particular burial or funeral merchandise or services.

(b) Making any oral, written, or visual representations, directly or indirectly, that any funeral merchandise or service is offered for sale when such is not a bona fide offer to sell such merchandise or service.

(c) Making any misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any preneed contract or any life insurance policy pledged or assigned to secure payment for funeral or burial goods or services.

(d) Misrepresenting pertinent facts or prepaid contract provisions relating to funeral or burial merchandise or services.

(e) Misrepresenting the amount advanced on behalf of a customer for any item of service or merchandise, including, but not limited to, cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates, described as cash advances, accommodations, or words of similar import on the contract, final bill, or other written evidence of agreement or obligation furnished to customers; however, nothing in this paragraph shall require disclosure of a discount or rebate which may accrue to a licensee subsequent to making a cash advance.

(f) Making any false or misleading statement or claim that natural decomposition or decay of human remains can be prevented or substantially delayed by embalming, use of a gasketted or ungasketted casket, or use of an adhesive or nonadhesive closure on an outer burial container.

(g) Making any false or misleading statement, oral or written, directly or indirectly, regarding any law or rule pertaining to the preparation for disposition, transportation for disposition, or disposition of dead human bodies.

(h) Making any false or misleading statements of the legal requirement as to the conditions under which preservation of a dead human body is required or as to the necessity of a casket or outer burial container.

(11) SPECIFIC SALES PRACTICES.—

(a) Failing to furnish, for retention, to each purchaser of burial rights, burial or funeral merchandise, or burial or funeral services a written agreement, the form of which has been previously approved if and as required by this chapter, which lists in detail the items and services purchased together with the prices for the items and services purchased; the name, address, and telephone number of the licensee; the signatures of the customer and the licensee or her or his representative; and the date signed.

(b) Using any name or title in any contract regulated under this chapter which misrepresents the true nature of the contract.

(c) Selling an irrevocable preneed contract to a person who is not an applicant for or recipient of Supplemental Security Income or Aid to Families with Dependent Children or pursuant to s. 497.459(6)(a).

(d) Except as authorized in part IV of this chapter, guaranteeing the price of goods and services at a future date.

(e) Requiring that a casket be purchased for cremation or claiming directly or by implication that a casket is required for cremation.

(f) When displaying any caskets for sale, failing to display the least expensive casket offered for sale or use in adult funerals in the same general manner as the funeral service industry member's other caskets are displayed.

(g) Assessing fees and costs that have not been disclosed to the customer in connection with any transaction regulated by this chapter.

(h) Failure by a cemetery licensed under this chapter to provide to any person, upon request, a copy of the cemetery bylaws.

(i) Requirements by a cemetery licensee that lot owners or current customers make unnecessary visits to the cemetery company office for the purpose of solicitation.

(12) DISCLOSURE REQUIREMENTS.—

(a) Failure to disclose, when such disclosure is desired, the components of the prices for alternatives offered by the licensee from whom disclosure is requested, such as graveside service, direct disposition, and body donation without any rites or ceremonies prior to the delivery of the body and prices of service if there are to be such after the residue has been removed following the use thereof.

(b) Failing to furnish, for retention, to anyone who inquires in person about burial rights, burial or funeral merchandise, or burial or funeral services, before any discussion of selection, a printed or typewritten list specifying the range of retail prices for such rights, merchandise, or services. At a minimum, the list shall itemize the highest and lowest priced product and service regularly offered and shall include the name, address, and telephone number of the licensee and statements that the customer may choose only the items the customer desires, that the customer will be charged for only those items selected, and that there may be other charges for other items or other services.

(c) Failing to reasonably provide by telephone, upon request, accurate information regarding the retail prices of funeral merchandise and services offered for sale by that licensee.

(d) Failure by a funeral director to make full disclosure in the case of a funeral or direct disposition with regard to the use of funeral merchandise which is not to be disposed of with the body or failure to obtain written permission from the purchaser regarding disposition of such merchandise.

(e) Failure by any funeral director to fully disclose all of her or his available services and merchandise prior to the selection of a casket offered by a licensee. The full disclosure required shall identify what is included in the funeral or direct disposition and the prices of all services and merchandise provided by the licensee or registrant.

(f) Failing to have the price of any casket offered for sale clearly marked on or in the casket, whether the casket is displayed at a funeral establishment or at any other location, regardless of whether the licensee is in control of such location. If a licensee uses books, catalogs, brochures, or other printed display aids, the price of each casket shall be clearly marked.

(g) Failing to disclose all fees and costs the customer may incur to use the burial rights or merchandise purchased.

(13) CONTRACT OBLIGATIONS.—

(a) Failing without reasonable justification to timely honor contracts entered into by the licensee or under the licensee's license for funeral or burial merchandise or services.

(b) Failure to honor preneed contract cancellation requests and make refunds as required by the chapter.

(14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY CUSTOMERS.—

(a) Failing to adopt and implement standards for the proper investigation and resolution of claims and complaints received by a licensee relating to the licensee's activities regulated by this chapter.

(b) Committing or performing with such frequency as to indicate a general business practice any of the following:

1. Failing to acknowledge and act promptly upon communications from a licensee's customers and their representatives with respect to claims or complaints relating to the licensee's activities regulated by this chapter.

2. Denying claims or rejecting complaints received by a licensee from a customer or customer's representative, relating to the licensee's activities regulated by this chapter, without first conducting reasonable investigation based upon available information.

3. Attempting to settle a claim or complaint on the basis of a material document which was altered without notice to, or without the knowledge or consent of, the contract purchaser or her or his representative or legal guardian.

4. Failing within a reasonable time to affirm or deny coverage of specified services or merchandise under a contract entered into by a licensee upon written request of the contract purchaser or her or his representative or legal guardian.

5. Failing to promptly provide, in relation to a contract for funeral or burial merchandise or services entered into by the licensee or under the licensee's license, a reasonable explanation to the contract purchaser or her or his representative or legal guardian of the licensee's basis for denying or rejecting all or any part of a claim or complaint submitted.

(c) Making a material misrepresentation to a contract purchaser or her or his representative or legal guardian for the purpose and with the intent of effecting settlement of a claim or complaint or loss under a

prepaid contract on less favorable terms than those provided in, and contemplated by, the prepaid contract.

(d) Failing to maintain a complete copy of every complaint received by the licensee since the date of the last examination of the licensee by the department. For purposes of this subsection, the term "complaint" means any written communication primarily expressing a grievance and which communication is from:

1. A representative or family member of a deceased person interred at the licensee's facilities or using the licensee's services, or which deceased's remains were the subject of any service provided by the licensee or licensee's business; or

2. A person, or such person's family member or representative, who inquired of the licensee or licensee's business concerning the purchase of, or who purchased or contracted to purchase, any funeral or burial merchandise or services from the licensee or licensee's business.

(15) MISCELLANEOUS FINANCIAL MATTERS.—

(a) Failing to timely pay any fee required by this chapter.

(b) Failing to timely remit as required by this chapter the required amounts to any trust fund required by this chapter.

(c) Paying to or receiving from any organization, agency, or person, either directly or indirectly, any commission, bonus, kickback, or rebate in any form whatsoever for any business regulated under this chapter, whether such payments are made or received by the licensee, or her or his agent, assistant, or employee; however, this provision shall not prohibit the payment of commissions by a funeral director, funeral establishment, cemetery, or monument establishment to its preneed agents licensed pursuant to this chapter or to licensees under this chapter.

Section 23. Section 497.153, Florida Statutes, is created to read:

497.153 Disciplinary procedures and penalties.—

(1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE AND PROSECUTE.—The expiration, nonrenewal, or surrender of licensure under this chapter shall not eliminate jurisdiction in the licensing authority to investigate and prosecute for violations committed while licensed under this chapter. The prosecution of any matter may be initiated or continued notwithstanding the withdrawal of any complaint.

(2) DETERMINATION OF PROBABLE CAUSE.—

(a) If the department shall determine that there is reasonable cause to believe that any licensee under this chapter is subject to disciplinary action under this chapter and is not eligible for a citation or notice of noncompliance pursuant to criteria established by the board, the department shall present the matter to a probable cause panel of the board.

(b) Prior to submitting a matter to the probable cause panel, the licensee who is the subject of the matter shall be provided by the department with a copy of any written complaint received by the department in the matter and shall be advised that she or he may, within 20 days after receipt of a copy of such complaint from the department, submit to the department a written response. Any response timely received by the department shall be provided by the department to the probable cause panel. Licensees may not appear in person or through a representative at any probable cause panel proceeding. This paragraph shall not apply to emergency action.

(3) PROBABLE CAUSE PROCEEDINGS.—

(a) The board may provide, by rule, for multiple probable cause panels composed of at least two members. The board may provide, by rule, that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available and willing to serve. Any probable cause panel must include a present board member. The board shall enact rules consistent with this section specifying, according to what categories of licensure are represented on a probable cause panel, what categories of licensee cases may be presented to that panel. Former board members may be from the former Board of Funeral and Cemetery Services or the former Board of Funeral Directors and Embalmers. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession.

(b) The probable cause panel may make a reasonable request to the department for additional investigative information, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days after the date of receipt by the probable cause panel of the investigative report of the department. The probable cause panel shall make its determination as to the existence of probable cause within 30 days after referral of the matter to the probable cause panel by the department. The Chief Financial Officer may grant extensions of the 15-day and the 30-day time limits. If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists.

(c) The probable cause panel may not resolve or direct resolution of a matter presented to it, by issuance of a citation or a letter of guidance or noncompliance or other informal resolution, without the concurrence of the department.

(d) The determination as to whether probable cause exists shall be made by majority vote of the probable cause panel of the board.

(e) If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee.

(4) ACTION AFTER PROBABLE CAUSE FOUND.—

(a) Service of an administrative complaint may be in person by department staff or any person authorized to make service of process under the Florida rules of civil procedure. Service upon a licensee may in the alternative be made by certified mail, return receipt requested, to the last known address of record provided by the licensee to the department.

(b) If after service of the administrative complaint on a licensee the licensee does not dispute the facts alleged, the department shall present the matter to the board for final action.

(c) The department may at any time present to the board a proposed settlement of any matter as to which probable cause has been found. If the board accepts the proposed settlement, it shall issue its final order adopting the settlement. If the board does not accept such settlement, the prosecution of the matter shall be resumed. No settlement of any disciplinary matter as to which probable cause has been found may be entered into by the board prior to receipt of a recommended order of an administrative law judge without the department's concurrence.

(d) Hearings concerning disputes as to any fact alleged in a disciplinary action shall be held before an administrative law judge of the Division of Administrative Hearings in accordance with chapter 120. The department shall present the recommended order of the administrative law judge to the board for final action.

(e) If at any time after probable cause has been found in a matter the department shall conclude that the matter should not be further prosecuted, the department may present the matter to any probable cause panel of the board. If that probable cause panel concurs with the department, the prosecution may be terminated, without prejudice to subsequent prosecution of the same matter. If the probable cause panel does not concur with the department, the matter shall be returned to the department for continued prosecution. Upon commencement of taking of evidence in a matter before an administrative law judge, the jurisdiction of the administrative law judge may not be terminated except by order of the administrative law judge or a court of competent jurisdiction.

(f) No disciplinary matter may come before the board for final or other action, nor shall action by the board be taken as to any disciplinary matter, except upon presentation and recommendation by the department.

(5) PENALTIES.—

(a) When the board finds any person to be subject to discipline under this chapter, it may enter an order imposing one or more of the following:

1. Denial of an application for a license.

2. Issuance of a written reprimand.

3. Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify.

4. Restrictions on the authorized scope of practice of the licensee.

5. Requirements that the licensee complete additional education or training as specified by the board.

6. Imposition of an administrative fine not to exceed $5,000 for each count or separate offense; provided, a licensee may by settlement agree to a fine in excess of such $5,000 limitation.

7. Suspension of a license. A suspension may be for such period and subject to such terms as the board shall specify in its order imposing discipline. Unless ordered otherwise by the board, during the period of suspension, the person whose license has been suspended shall continue to file all such reports, complete all continuing education, and pay all fees as required under this chapter as if the license had continued in full force. Upon expiration of the suspension period, if within such period the license has not otherwise terminated, the suspended license shall automatically be reinstated unless the board has ordered that the licensee apply for reinstatement, and the board may deny such application if the board finds that the causes of the suspension have not been resolved or that such person is otherwise not in compliance with the requirements of the order or this chapter.

8. Revocation of licensure. The board may specify by final order on a case-by-case basis the period of time that must elapse before a revoked licensee may apply or reapply for any licensure under this chapter. The board may by order on a case-by-case basis specify that a revocation is permanent and that no future application for licensure under this chapter by the revoked person or entity shall be accepted, processed or approved. In no event shall any person or entity who has been revoked under this section subsequently be issued the same or other licensure under this chapter unless such person shall show by clear and convincing evidence that the person or entity has been rehabilitated and otherwise qualifies for the licensure applied for.

(b) In addition to any fine and other sanction imposed, the board may order the payment by the licensee of the reasonable costs of the department and the board associated with investigation and prosecution the matter, and may order the licensee to make restitution as directed by board order to persons harmed by the violation.

(c) The failure of a licensee to timely comply with a final order of the board imposing discipline shall be grounds for emergency suspension of all licensure held by the licensee under this chapter; provided, the department shall give written notice to such licensee, at least 7 days before such emergency suspension, of the department's intent to enter an emergency order of suspension and the ground therefore, and such emergency suspension shall not occur if during the 7-day period the licensee shall provide the department with evidence satisfactory to the department that the licensee was in compliance or has come into compliance with the disciplinary order. Any emergency suspension imposed shall be effective when served, and shall terminate upon notice to the licensee by the department that the department has received evidence satisfactory to the department that the licensee has come into compliance with the board's order, which notice the department shall promptly provide to the licensee upon receipt of such evidence. Notwithstanding the licensee's correction of any noncompliance with a board order, such licensee shall be liable for additional disciplinary action for failure to timely comply with an order of the board.

(d) Any order imposing any penalty pursuant to this section shall recite the grounds upon which the penalty is based.

(6) PROTECTION OF CUSTOMERS OF DISCIPLINED LICENSEES.—In imposing any discipline under this section the board may also impose by its order such restrictions, conditions and requirements on the licensee and the licensee's assets and the assets of any trust under this chapter utilized by the licensee, as are reasonably necessary for the protection of persons to whom the disciplined licensee is obligated for the future performance or delivery of funeral or burial merchandise or services. The board shall have continuing jurisdiction over revoked persons and entities and their assets and related trusts under this chapter, for the purpose of and to the extent necessary for the protection of persons to whom the disciplined licensee is obligated for the future performance or delivery of funeral or burial merchandise or services, and may issue such subsequent and additional orders as from time to time the board deems necessary or advisable for such purposes. The courts of this state shall have jurisdiction to enforce the reasonable orders of the board issued for such purposes.

(7) LIABILITY FOR AGENTS AND EMPLOYEES.—For purposes of this section, the acts or omissions of any person employed by or under contract to the licensee shall be treated as acts or omissions of the licensee. However, the board may determine that disciplinary action may be more appropriately taken against an individual licensed preneed agent or licensed branch rather than taking action against the sponsoring preneed licensee.

(8) PUBLICATION OF DISCIPLINARY ACTION.—The department may cause notice of any disciplinary action of the board to be published in one or more newspapers of general circulation published in this state.

(9) DETERMINATIONS NOT SUBJECT TO CHAPTER 120.—The following determinations shall not entitle any person to proceedings under chapter 120:

(a) A determination by the department to exercise its authority under this chapter to investigate, financially examine, or inspect any person or entity; or a determination by the department concerning how to conduct such investigation, financial examination, or inspection; or a determination by the department concerning the content of any report of investigation, financial examination, or inspection.

(b) A determination by the department that there is reasonable cause to believe that a licensee under this chapter is subject to disciplinary action under this chapter and that the matter should be presented to a probable cause panel of the board, or that the licensee is not eligible for a citation pursuant to criteria established by the board.

(c) A determination by a probable cause panel of the board that probable cause does or does not exist, or a determination by the department under paragraph (3)(b).

(d) A determination by the department not to offer any settlement to a licensee concerning any disciplinary matter.

Section 24. Section 497.133, Florida Statutes, is renumbered as section 497.154, Florida Statutes, to read:

497.154 ~~497.133~~ Disciplinary guidelines.—

(1) The board shall adopt, by rule, and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board pursuant to this chapter, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth in this section to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The rules provided for in this section shall be *adopted* ~~promulgated~~ within 6 months after the enactment of the board.

(6) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

Section 25. Section 497.121, Florida Statutes, is renumbered as section 497.155, Florida Statutes, and amended to read:

497.155 ~~497.121~~ *Disciplinary citations and minor violations* ~~Authority to issue citations.~~—

(1) *CITATIONS.*—

(a) Notwithstanding the provisions of s. *497.153* ~~497.131~~, the board shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedures under s. *497.153* ~~497.131~~. If the subject disputes the matter in the citation, the procedures set forth in s. *497.153* ~~497.131~~ must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the board and shall constitute discipline. The penalty shall be a fine or other conditions as established by rule.

(b)~~(2)~~ The board shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. *Citations shall not be utilized if there was any significant consumer harm resulting from the violation.*

(c)~~(3)~~ The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board rule, as part of the penalty levied pursuant to the citation.

(d)~~(4)~~ A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(e)~~(5)~~ Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(2) MINOR VIOLATIONS.—

(a) The board may by rule specify violations of this chapter, and criteria for use by the department in identifying violations of this chapter, which are minor violations and which, if promptly corrected by the licensee upon notice by the department during investigation, may, with the concurrence of the department, result in closure of the investigation in the matter without further action by the department or the board.

(b) The rules may establish limits as to the number of times in total, or per period of time, that this subsection may be used in regard to any one licensee.

(c) The rules may establish limits or prohibitions on the use of this subsection where the violation relates to a consumer complaint received by the department concerning the licensee, and the complaint has not been resolved.

(d) There may by rule be specified notices of noncompliance and other forms and procedures for use in implementation of this subsection.

Section 26. Section 497.156, Florida Statutes, is created to read:

497.156 Emergency action against licensees.—In addition to or in lieu of other actions authorized under this chapter for the enforcement of this chapter, the department may issue emergency orders under s. 120.60(6) suspending or restricting a license or ordering a licensee to cease or desist from specified conduct, or taking other action deemed necessary in the circumstances, but shall thereafter promptly present the matter to a probable cause panel of the board. Emergency orders shall be effective when issued, shall be appealable as provided by law, and shall be enforceable in the courts of this state.

Section 27. Section 497.157, Florida Statutes, is created to read:

497.157 Unlicensed practice; remedies concerning violations by unlicensed persons.—

(1) No person or entity shall engage in any activity for which a license is required under this chapter, without holding such licensure in good standing.

(2)(a) When the department has reasonable cause to believe that any person or entity not licensed under this chapter has violated any provision of this chapter or any rule adopted under this chapter, the department may issue an administrative complaint to such person or entity, alleging violation of this chapter and providing notice therein of intent by the department to order such person to cease and desist from the alleged violation of this chapter, to take corrective action including payment of restitution to persons adversely affected by the violation, to pay the department's reasonable costs of investigation and prosecution, or to impose a fine of up to $10,000 upon such person for each violation of this chapter alleged in the administrative complaint.

(b) The issuance of the administrative complaint shall be a decision affecting substantial interests and shall entitle the respondent therein to proceedings pursuant to s. 120.569, if such proceedings are requested by the respondent in a writing received by the department within 21 days after service of the administrative complaint. If such proceedings are timely requested and the respondent shall contest any material fact alleged in the administrative complaint, the matter shall be heard before an administrative law judge of the Division of Administrative Hearings, who shall issue her or his recommended order to the department; otherwise, the proceedings shall be before the Chief Financial Officer or her or his designee. Upon conclusion of proceedings under s. 120.57 if the subject timely requested a hearing, or after the expiration of 21 days after service of the administrative complaint if no request for hearing is received within those 21 days, the department may take final agency action and issue its final order concerning the matter, which final order shall be enforceable as set forth in s. 120.69.

(3) Where the department determines that an emergency exists regarding any violation of this chapter by any unlicensed person or entity, the department may issue and serve an immediate final order upon such unlicensed person or entity, in accordance with s. 120.569(2)(n). Such an immediate final order may impose such prohibitions and requirements as are reasonably necessary to protect the public health, safety, and welfare, and shall be effective when served.

(a) For the purpose of enforcing such an immediate final order, the department may file an emergency or other proceeding in the circuit courts of the state seeking enforcement of the immediate final order by injunctive or other order of the court. The court shall issue its injunction or other order enforcing the immediate final order pending administrative resolution of the matter under subsection (2), unless the court determines that such action would work a manifest injustice under the circumstances. Venue for judicial actions under this paragraph shall be, at the election of the department, in the courts of Leon County, or in a county where the respondent resides or has a place of business.

(b) After serving an immediate final order to cease and desist upon any person or entity, the department shall within 10 days issue and serve upon the same person or entity an administrative complaint as set forth in subsection (2), except that, absent order of a court to the contrary, the immediate final order shall be effective throughout the pendency of proceedings under subsection (2).

(4) For the purpose of this section, the violation of this chapter by a person who is not licensed under this chapter or by any person who aids and abets the unlicensed activity shall be presumed to be irreparable harm to the public health, safety, or welfare.

(5) Any administrative complaint or immediate final order under this section may be served in person by a department employee or by certified mail, return receipt requested, to the subject's place of residence or business, or by other means authorized by law.

Section 28. Section 497.229, Florida Statutes, is renumbered as section 497.158, Florida Statutes, and amended to read:

497.158 ~~497.229~~ *Court enforcement actions;* ~~Courts;~~ powers; abatement of nuisances.—

(1) In addition to or in lieu of other actions authorized by this chapter, the department may petition the courts of this state for injunctive or other relief against any licensed or unlicensed person, for the enforcement of this chapter and orders issued under this chapter. The court shall be authorized to impose a fine of up to $5,000 per violation, payable to the department, upon any person determined by the court to have violated this chapter, and may order payment to the department of the department's attorney's fees and litigation costs, by any person found to have violated this chapter.

(2)~~(1)~~ In addition to all other means provided by law for the enforcement *by a court* of a temporary restraining order or an injunction, the circuit court may impound the property of a *licensee* ~~cemetery company~~, including books, papers, documents, and records pertaining thereto, and may appoint a receiver or administrator to prevent further violation of this chapter.

(3)~~(2)~~ A court-appointed receiver or administrator may take any action to implement the provisions of the court order, to ensure the performance of the order, and to remedy any breach thereof.

(4)~~(3)~~ Any nonconforming physical condition in a cemetery or component thereof which is the result of a violation of this chapter or of the rules *adopted under this chapter* ~~of the board~~ relating to construction, physical operations, or care and maintenance at the cemetery shall be deemed a public nuisance, and the nonconforming physical conditions caused by such violation may be abated as provided in s. 60.05.

Section 29. Section 497.159, Florida Statutes, is created to read:

497.159 Crimes.—

(1) The theft of an examination in whole or in part or the act of unauthorized reproducing or copying any examination administered by the department or the board, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) The act of knowingly giving false information in the course of applying for or obtaining a license under this chapter, with intent to mislead the board or a public employee in the performance of her or his official duties, or the act of attempting to obtain or obtaining a license under this chapter by knowingly misleading statements or knowing misrepresentations, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any individual who willfully obstructs the department or its examiner in any examination or investigation authorized by this chapter is guilty of a misdemeanor of the second degree and is, in addition to any disciplinary action under this chapter, punishable as provided in s. 775.082 or s. 775.083.

(4) Any officer or director, or person occupying similar status or performing similar functions, of a licensee under this chapter who knowingly directs or causes the failure to make required deposits to any trust fund required by this chapter, or with knowledge that such required deposits are not being made as required by law fails to report such failure to the department, or who knowingly directs or causes the unlawful withdrawal of funds from any trust fund required by this chapter, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)(a) No cemetery company or other legal entity conducting or maintaining any public or private cemetery may deny burial space to any person because of race or color. A cemetery company or other entity operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation. Religious institution cemeteries may limit burials to members of the religious institution and their families.

(b) Any cemetery company or other legal entity which violates the provisions of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.083, and each violation of this section constitutes a separate offense.

(6) Any person who is not licensed under this chapter who engages in activity requiring licensure under this chapter, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 30. Section 497.437, Florida Statutes, is renumbered as section 497.160, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 497.437, F.S., for present text.)

497.160 Receivership proceedings.—

(1) The department with the approval of the board may petition the circuit courts of this state for appointment of a receiver of any licensee or revoked or suspended licensee under this chapter, or person who has without license conducted activities requiring licensure under this chapter. The court shall appoint a receiver if the court shall determine that a receivership is necessary or advisable:

(a) To ensure the orderly and proper conduct of a licensee's professional business and affairs during or in the aftermath of the administrative proceeding to revoke or suspend the licensee.

(b) For the protection of the public's interest and rights in the business, premises, or activities of the person sought to be placed in receivership.

(c) Upon a showing of actual or constructive abandonment of premises or business licensed or which were not but should have been licensed under this chapter.

(d) Upon a showing of serious and repeated violations of this chapter demonstrating and inability or unwillingness of a licensee to comply with the requirements of this chapter.

(e) To prevent loss, wasting, dissipation, theft, or conversion of assets that should be marshaled and held available for the honoring of obligations under this chapter.

(f) Upon proof of other grounds which the court deems good and sufficient for instituting receivership action concerning the respondent sought to be placed in receivership.

(2) A receivership under this section may be temporary, or for the winding up and dissolution of the business, as the department may request and the court determines to be necessary or advisable in the circumstances. Venue of receivership proceedings may, at the department's election, in Leon County, or the county where the subject of the receivership is located. The appointed receiver shall be the department or such person as the department may nominate and the court shall approve. The provisions of part I of chapter 631 shall be applicable to receiverships under this section except to the extent the court shall determine the application of particular of such provisions to be impracticable or would produce unfair results in the circumstances. Expenditures by the department from its budgeted funds, the Preneed Funeral Contract Consumer Protection Trust Fund, and other regulatory trust funds derived from this chapter, for implementation and effectuation of such a receivership, shall be authorized; any such funds expended shall be a claim against the estate in the receivership proceedings.

(3) The department may adopt rules for the implementation of this section.

Section 31. Section 497.161, Florida Statutes, is created to read:

497.161 Other rulemaking provisions.—

(1) In addition to such other rules as are authorized or required under this chapter, the following additional rules, not inconsistent with this chapter, shall be authorized by the licensing authority.

(a) Rules by the board defining any technical term used but not defined in his chapter, and defining the terms "at-need" and "preneed" as used in this chapter:

(b) Rules by the board defining and regulating hazardous materials generated in connection with the practice of embalming, funeral directing, or direct disposition.

(c) Rules by the board governing the operation of cemeteries in this state.

(d) Rules establishing a fee of up to $100 for issuance of a duplicate license or for a name change on a license.

(e) Rules allowing and prescribing procedure and formats for the electronic submission of any applications, documents, filings or fees required by this chapter.

(f) Rules establishing procedures for investigation, financial examination and inspection of licensees.

(g) Rules establishing procedures by which the department may use the expert or technical advice of the board or members of the board for the purposes of any investigation, inspection, or financial examination, without thereby disqualifying the board member from voting on final action in the matter.

(h) In connection with the statutory revisions by the 2005 Regular Session of the Legislature merging chapters 470 and 497 as those chapters appeared in the 2004 edition of the Florida Statutes and the elimination of the former boards under those chapters and the movement of regulation out of the Department of Business and Professional Regulation, the licensing authority shall through July 1, 2006, be deemed to have extraordinary rulemaking authority to adopt any and all rules jointly agreed by the board and the department to be necessary for the protection of the public concerning the regulation of the professions and occupations regulated under this chapter, or for the relief of licensees regulated under this chapter concerning any impacts which the department and the board jointly agree were unintended or not contemplated in the enactment of the 2005 legislative changes. The authority under this paragraph and any rules adopted under authority of this paragraph shall expire July 1, 2006.

(2) In addition to challenges for any invalid exercise of delegated legislative authority, no rule shall be adopted under this chapter, and the administrative law judge upon such a challenge by the department or the board, may declare all or part of a rule or proposed rule invalid, if the rule or proposed rule:

(a) Does not protect the public from any significant and discernible harm or damages;

(b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

(c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(3) The department and the board shall each have standing under chapter 120 for the purposes of challenging rules or proposed rules under this chapter.

Section 32. Section 470.0201, Florida Statutes, is renumbered as section 497.162, Florida Statutes, and amended to read:

497.162 ~~470.0201~~ Health and safety education.—All individuals not licensed *under this chapter* ~~by the department~~ who intend to be employed as operational personnel affiliated with a direct disposal establishment, cinerator facility, removal service, refrigeration facility, or centralized embalming facility, as well as all nonlicensed individuals who intend to be involved in the removal or transportation of human remains on behalf of a funeral establishment, direct disposal establishment, or cinerator facility shall complete one course approved by the *licensing authority* ~~board~~ on communicable diseases, within 10 days after the date that they begin functioning as operational personnel on behalf of any entity that is regulated by this chapter. The course shall not exceed 3 hours and shall be offered at approved locations throughout the state. Such locations may include establishments that are licensed ~~or registered~~ under this chapter. The *licensing authority* ~~board~~ shall adopt rules to implement and enforce this provision, which rules shall include provisions that provide for the use of approved videocassette courses and other types of audio, video, or home study courses to fulfill the continuing education requirements of this section.

Section 33. Section 497.163, Florida Statutes, is created to read:

497.163 Restriction on requirement of citizenship.—No person shall be disqualified from practicing an occupation or profession regulated by this chapter solely because she or he is not a United States citizen.

Section 34. Section 497.321, Florida Statutes, is renumbered as section 497.164, Florida Statutes, and amended to read:

497.164 ~~497.321~~ Solicitation of goods or services.—

(1) The board is authorized to adopt rules regulating the solicitation of sales of burial rights, merchandise, or services by licensees.

(2) The board shall regulate such solicitation to protect the public from solicitation which is intimidating, overreaching, ~~vexatious,~~ fraudulent, or misleading; which utilizes undue influence; or which takes undue advantage of a person's ignorance or emotional vulnerability.

(3) The board shall regulate any solicitation which comprises an uninvited invasion of personal privacy. It is the express finding of the Legislature that the public have a high expectation of privacy in their personal residences, and the department by rule shall restrict the hours or otherwise regulate such solicitation in the personal residence of a person unless the solicitation has been previously and expressly requested by the person solicited.

(4) Nothing in this *section* ~~act~~ shall be construed to restrict the right of a person to lawfully advertise, use direct mail, or otherwise communicate in a manner not within the definition of solicitation or to solicit the business of anyone responding to such communication or otherwise initiating discussion of goods and services being offered.

(5) At-need solicitation of sales of burial rights, merchandise, or services is prohibited. No *person* ~~cemetery company or any agent or representative of that company~~ may contact the family or next of kin of a deceased person to sell services or merchandise unless the *person* ~~cemetery company or an agent or representative of the company~~ has been initially called or contacted by the family or next of kin of such person or persons and requested to provide services or merchandise.

Section 35. Section 497.025, Florida Statutes, is renumbered as section 497.165, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 497.025, F.S., for present text.)

497.165 Liability of owners, directors, and officers regarding trust funds.—The owners, officers, and directors of any licensee under this chapter may be held jointly and severally liable for any deficiency in any trust fund required by this chapter, to the extent the deficiency arose during the period they were owners, officers or directors of the licensee, if their conduct, or their negligence in the performance of their duties, caused the deficiency or substantially contributed to conditions that allowed the deficiency to arise or increase.

Section 36. Section 497.166, Florida Statutes, is created to read:

497.166 Preneed sales.—

(1) Regulation of preneed sales shall be as set forth in part IV of this chapter. No person may act as an agent for a funeral establishment or direct disposal establishment with respect to preneed contracts unless such person is licensed as a preneed sales agent pursuant to part IV of this chapter.

(2) Nothing in parts I, II, III, V, or VI of this chapter shall understood to necessarily prohibit any licensee under this chapter from selling preneed funerals and funeral merchandise through its agents and employees, so long as such sales are permitted by part IV of this chapter.

(3)(a) The funeral director in charge of a funeral establishment shall be responsible for the control and activities of the establishment's preneed sales agents.

(b) The direct disposer in charge or a funeral director acting as a direct disposer in charge of a direct disposal establishment shall be responsible for the control and activities of the establishment's preneed sales agents.

Section 37. Section 497.167, Florida Statutes, is created to read:

497.167 Administrative matters.—

(1) The department shall establish and operate a toll-free telephone hotline to receive complaints and provide information relating to the regulation under this chapter.

(2) The director of the division shall serve as executive director of the board. The director is the agency head of the division. The director shall be appointed by and serve at the pleasure of the Chief Financial Officer. The director shall be responsible for preparation of the agenda for each board meeting, and may make presentation to the board of department recommendations and reports, and shall perform such other duties as may be assigned by the Chief Financial Officer.

(3) There shall be submitted to the legislature a biennial budget for the board's operations at a time and in the manner provided by law.

(4) There shall be developed and implemented a training program for persons newly appointed to membership on the board. The program shall familiarize such persons with the substantive and procedural laws and rules which relate to the regulation under this chapter and with the structure of the department.

(5) There may be informational newsletters, bulletins, and brochures produced and provided to licensees and consumers concerning regulation under this chapter.

(6) The department shall allow applicants for new or renewal licenses and current licensees to be screened by the Title IV-D child support agency pursuant to s. 409.2598 to ensure compliance with a support obligation. The purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. The department shall, when directed by the court, suspend or deny the license of any licensee found to have a delinquent support obligation, as defined in s. 409.2554. The department shall issue or reinstate the license without additional charge to the licensee when notified by the court that the licensee has complied with the terms of the court order. The department shall not be held liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

(7) Any person retained by the department under contract to review materials, make site visits, or provide expert testimony regarding any complaint or application filed with the department, relating to regulation under this chapter, shall be considered an agent of the department in determining the state insurance coverage and sovereign immunity protection applicability of ss. 284.31 and 768.28.

(8) Funds due from any licensee as a result of disciplinary settlements under this chapter may be directed by the board and department to use in support of training of examiners, investigators, and inspectors concerning examinations, investigations and inspections under this chapter, and to the conduct of examinations and investigations under this chapter, in order to enhance oversight and enforcement of laws and regulations governing the activities of licensees under this chapter.

(9) Any application under this chapter which must be reviewed and acted upon by the board under this chapter, shall be acted upon by the board at a regularly scheduled board meeting, and such application must be complete at least 25 days in advance of a regularly scheduled board meeting to be considered by the board at such board meeting. The time for approval of completed applications under s. 120.60, shall be deemed tolled between the date the application is complete, and the next regularly scheduled board meeting at which the application may be considered by the board.

(10) The board may establish by rule procedures and requirements for the appearance before the board of any applicant or principal of an applicant, to stand for oral interview by the board at a public meeting board, before an application shall be deemed complete. Such rule may require such appearance for all or specified categories of applicants and may provide criteria for determining when such appearance shall be required.

(11) In any instance in which a licensee or applicant under this chapter is required to be in compliance with a particular provision by, on, or before a certain date, and if that date occurs on a Saturday, Sunday, or a legal holiday, then the licensee or applicant is deemed to be in compliance with the specific date requirement if the required action occurs on the first succeeding day which is not a Saturday, Sunday, or legal holiday.

(12) Notwithstanding anything to the contrary, any elected official who is licensed pursuant to this chapter may hold employment for compensation with any public agency concurrent with such public service. Such dual service shall be disclosed according to any disclosure required by applicable law.

(13) No application for any approval by the board may come before the board for final or other action, nor shall action by the board be taken as to any application, except upon presentation and recommendation by the department.

(14) The department shall have standing to appear as a party litigant in any judicial proceeding for the purpose of enforcing this chapter or for the protection Florida residents from the effects of any violation of this chapter.

(15) The Department of Legal Affairs shall provide legal services to the board within the Department of Financial Services, but the primary responsibility of the Department of Legal Affairs shall be to represent the interests of the citizens of the state by vigorously counseling the board with respect to its obligations under the laws of the state. Subject to the prior approval of the Attorney General, the board may retain independent legal counsel to provide legal advice to the board on a specific matter. Fees and costs of such counsel shall be paid from the Regulatory Trust Fund.

Section 38. Section 497.168, Florida Statutes, is created to read:

497.168 Members of Armed Forces in good standing with administrative boards.—

(1) Any reserve member of the Armed Forces of the United States, and any member of any element of the national guard, now or hereafter called to active duty in the Armed Forces of the United States for a continuous period of 30 or more days, who at the time of being called to active duty was licensed in good standing to practice a profession under this chapter, shall remain in good standing, without registering, paying dues or fees, or being required to perform any other act, as long as she or he remains on such active duty and for a period of 6 months after discharge from active duty.

(2) The licensing authority shall adopt rules exempting the spouses of members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of absence from the state because of their spouses' call to active duty from the reserves or national guard.

Section 39. Section 497.527, Florida Statutes, is renumbered as section 497.169, Florida Statutes, and amended to read:

497.169 ~~497.527~~ *Private actions; actions on behalf of consumers; attorneys fee* ~~Civil remedies~~.—

(1) The Attorney General*, or the department on behalf of Florida residents,* or any person may bring a civil action against a person or company violating the provisions of this chapter in the appropriate court of the county in which the alleged violator resides or has ~~his or~~ her *or his* or its principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages caused by such violation. The court may, as provided by common law, award punitive damages and may provide such equitable relief as it deems proper or necessary, including enjoining the defendant from further violations of this chapter.

(2) In any civil litigation resulting from a transaction involving a violation of this chapter, the court may award to the prevailing party, after judgment in the trial court and exhaustion of any appeal, reasonable attorney's fees and costs from the nonprevailing party in an amount to be determined by the trial court. Any award of attorney's fees or costs shall become a part of the judgment and shall be subject to execution as the law allows.

(3) The provisions of this chapter are cumulative to rights under the general civil and common law, and no action of the department may abrogate such rights to damages or other relief in any court.

Section 40. Section 497.531, Florida Statutes, is renumbered as section 497.170, Florida Statutes, to read:

497.170 ~~497.531~~ Unauthorized arrangements.—

(1) Any arrangement to provide merchandise or services as defined in this chapter, by which payment for such merchandise or services is to be paid for through a financial arrangement, other than as authorized

pursuant to this chapter, in which the provider of the merchandise or services is a beneficiary, party, agent, or owner is in violation of this chapter.

(2) Any person who provides merchandise or services and who knowingly becomes a beneficiary, agent, party, or coowner as described in subsection (1) is in violation of this chapter.

Section 41. Part II of chapter 497, consisting of sections 497.260, 497.261, 497.262, 497.263, 497.264, 497.265, 497.266, 497.267, 497.268, 497.269, 497.270, 497.271, 497.272, 497.273, 497.274, 497.275, 497.276, 497.277, 497.278, 497.280, 497.281, 497.282, 497.283, 497.284, 497.285, 497.286, and 497.287, is created to read:

PART II
CEMETERY REGULATION

Section 42. Section 497.003, Florida Statutes, is renumbered as section 497.260, Florida Statutes, and amended to read:

497.260 ~~497.003~~ Cemeteries; exemption; investigation and mediation.—

(1) The provisions of this chapter relating to cemeteries and all rules adopted pursuant thereto shall apply to all cemeteries except for:

(a) Religious institution cemeteries of less than 5 acres which provide only single-level ground burial.

(b) County and municipal cemeteries.

(c) Community and nonprofit association cemeteries which provide only single-level ground burial and do not sell burial spaces or burial merchandise.

(d) Cemeteries owned and operated or dedicated by a religious institution prior to June 23, 1976.

(e) Cemeteries beneficially owned and operated since July 1, 1915, by a fraternal organization or its corporate agent.

(f) A columbarium consisting of less than one-half acre which is owned by and immediately contiguous to an existing religious institution facility and is subject to local government zoning. The religious institution establishing such a columbarium shall ensure that the columbarium is perpetually kept and maintained in a manner consistent with the intent of this chapter. If the religious institution relocates, the religious institution shall relocate all of the urns and remains placed in the columbarium which were placed therein during its use by the religious institution.

(g) Family cemeteries of less than 2 acres which do not sell burial spaces or burial merchandise.

(h) A mausoleum consisting of 2 acres or less which is owned by and immediately contiguous to an existing religious institution facility and is subject to local government zoning. The religious institution establishing such a mausoleum must ensure that the mausoleum is kept and maintained in a manner consistent with the intent of this chapter and limit its availability to members of the religious institution. The religious institution establishing such a mausoleum must have been incorporated for at least 25 years and must have sufficient funds in an endowment fund to cover the costs of construction of the mausoleum.

(2) Section *497.276(1)* ~~497.309(1)~~ as to burial records, and ss. *497.164, 497.152(1)(d), 497.280, and 497.284* ~~497.321, 497.325, 497.341, and 497.345~~ apply to all cemeteries in this state.

(3) All cemeteries exempted under this chapter which are in excess of 5 acres must submit to the following investigation and mediation procedure by the department in the event of a consumer complaint:

(a) The exempt cemetery shall make every effort to first resolve a consumer complaint;

(b) If the complaint is not resolved, the exempt cemetery shall advise the consumer of the right to seek investigation and mediation by the department;

(c) If the department receives a complaint, it shall attempt to resolve it telephonically with the parties involved;

(d) If the complaint still is not resolved, the department shall conduct an investigation and mediate the complaint;

(e) If the department conducts an onsite investigation and face-to-face mediation with the parties, it may charge the exempt cemetery a single investigation and mediation fee not to exceed $300, which fee shall be set by rule and shall be calculated on an hourly basis; and

(f) If all attempts to resolve the consumer complaint fail, the cemetery shall be subject to proceedings for penalties and discipline under this chapter *if it is determined in a proceeding complying with chapter 120 that the cemetery is guilty of fraud, deceit, theft, gross negligence, incompetence, unjustified failure to honor its contracts, or failure to adequately maintain its premises. The department may file and serve on the cemetery an administrative complaint and cause the matter to be prosecuted and may thereafter issue and enforce its final order in the matter pursuant to chapter 120*.

(4) Any religious-institution-owned cemetery that is exempt under paragraph (1)(d), is located in a county with a population of at least 1.3 million persons on July 1, 1996, and was selling merchandise and services to the religious institution's members prior to October 1, 1993, may establish one additional exempt cemetery in such county after December 31, 2020.

(5) Any religious-institution-owned cemetery exempt under subsection (1), except those cemeteries qualifying under paragraph (1)(d), which becomes affiliated with a commercial enterprise must meet the requirements of s. *497.263* ~~497.201~~.

(6)(a) This subsection applies to all cemeteries in this state.

(b) No cemetery company or other legal entity conducting or maintaining any public or private cemetery may deny burial space to any person because of race or color. A cemetery company or other entity operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation. Religious institution cemeteries may limit burials to members of the religious institution and their families.

(c) Any cemetery company or other legal entity which violates the provisions of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.083, and each violation of this section constitutes a separate offense.

Section 43. Section 497.004, Florida Statutes, is renumbered as section 497.261, Florida Statutes, to read:

497.261 ~~497.004~~ Existing companies, effect of this chapter.—Cemetery companies existing on October 1, 1993, shall continue in full force and effect but shall be operated in accordance with the provisions of this chapter.

Section 44. Section 497.0255, Florida Statutes, is renumbered as section 497.262, Florida Statutes, and amended to read:

497.262 ~~497.0255~~ Duty of care and maintenance of licensed cemetery.—Every cemetery company or other entity responsible for the care and maintenance of a licensed cemetery in this state shall ensure that the grounds, structures, and other improvements of the cemetery are well cared for and maintained in a proper and dignified condition. The *licensing authority* ~~board~~ shall adopt, by no later than July 1, 1999, such rules as are necessary to implement and enforce this section. In developing and *adopting such* ~~promulgating said~~ rules, the *licensing authority* ~~board~~ may define different classes of cemeteries or care and maintenance, and may provide for different rules to apply to each of said classes, if the designation of classes and the application of different rules is in the public interest and is supported by findings by the *licensing authority* ~~board~~ based on evidence of industry practices, economic and physical feasibility, location, or intended uses; provided, that the rules shall provide minimum standards applicable to all cemeteries. For example, and without limiting the generality of the foregoing, the *licensing authority* ~~board~~ may determine that a small rural cemetery with large trees and shade area does not require, and may not be able to attain, the same level of lawn care as a large urban cemetery with large open grassy areas and sprinkler systems.

Section 45. Section 497.201, Florida Statutes, is renumbered as section 497.263, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 497.201, F.S., for present text.)

497.263 Cemetery companies; license required; licensure requirements and procedures.—

(1) LICENSE REQUIRED.—No person may operate a cemetery without first obtaining a license under this section, unless specifically exempted from this chapter.

(2) APPLICATION PROCEDURES.—

(a) A person seeking a cemetery license under this section shall apply for such licensure using forms and procedures prescribed by rule.

(b) The applicant shall be corporation or a partnership, or a limited liability company formed prior to January 1, 2005 which limited liability company already holds a license under this chapter.

(c) The application shall require the name, principle place of business, date of formation, and federal tax identification number, of the applicant.

(d) The application shall require such historical sketches and audited or unaudited financial statements concerning the applicant and each principal of applicant, as the licensing authority may require by rule.

(e) The application shall state any and all names under which the cemetery may do business if licensed, if different from applicant's name.

(f) The application shall state the exact location of the proposed cemetery.

(g) The proposed cemetery must contain at least 30 contiguous acres. The application shall state the exact number of acres in the proposed cemetery.

(h) The applicant must have a net worth of $50,000, as attested to by a sworn statement signed by all officers of applicant. Such net worth must be continually maintained as a condition of licensure.

(i) The application shall be accompanied by such description of the proposed financial structure of the cemetery, as the licensing authority may require by rule.

(j) The application shall be accompanied by a legal description of the cemetery.

(k) The application shall be accompanied by such maps or surveys of the proposed cemetery, and maps showing the location of the proposed cemetery in the local area, as the licensing authority may require by rule, and the licensing authority may by rule require such maps or surveys of the cemetery to be prepared by a licensed Florida professional surveyor.

(l) The application shall include such description of the development plans for the proposed cemetery, as the licensing authority may require by rule.

(m) The application shall require the applicant to disclose whether the applicant or any principal of applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.

(n) The application shall require the applicant to disclose whether the applicant or any principal of applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.

(o) The application shall require the applicant and applicant's principals to provide fingerprints in accordance with part I of this chapter.

(p) The applicant shall demonstrate by clear and convincing evidence that the applicant has the ability, experience, financial stability, and integrity to operate a cemetery, and that its principals are of good character.

(q) The application shall be signed by the president of the applicant.

(r) The application shall be accompanied by a nonrefundable application fee of $5,000.

(s) The licensing authority may establish by rule requirements for the appearance before the licensing authority of the applicant and the applicant's principals, to stand for oral interview by the licensing authority at a public licensing authority meeting, before the application shall be deemed complete.

(3) ACTION CONCERNING APPLICATIONS.—If the licensing authority finds that the applicant meets the criteria established in subsection (2), the applicant shall be notified that a license will be issued when all of the following conditions are satisfied:

(a) The establishment of a care and maintenance trust fund containing not less than $50,000 has been certified by a trust company operating pursuant to chapter 660, a state or national bank holding trust powers, or a savings and loan association holding trust powers as provided in s. 497.458, pursuant to a trust agreement approved by the licensing authority. The $50,000 required for the care and maintenance trust fund shall be over and above the $50,000 net worth required by subsection (2).

(b) The applicant files with the licensing authority an opinion or certification from a Florida attorney in good standing, or a Florida title company, in a form acceptable to the licensing authority, that the applicant holds unencumbered fee simple title to all land identified in the application.

(c) The applicant obtains approval of the local zoning authorities regarding the cemetery, and files with the licensing authority evidence satisfactory to the licensing authority of such approval, or if no approval by local zoning authorities is required, such approval of residents adjacent to the proposed cemetery as the licensing authority may require by rule.

(d) The licensing authority determines that the applicant has designated as general manager of the cemetery a person of integrity, and who has 3 years of cemetery management experience as defined by rule of the licensing authority, and who has the ability to operate a cemetery.

(e) Evidence satisfactory to the licensing authority that applicant has fully developed not less than 2 acres for use as burial space, such development to include a paved road from a public roadway to the developed section.

(f) Regarding the cemetery land identified in the application, the applicant has recorded, and provides the licensing authority with a written attestation of such recording signed by a licensed Florida attorney, in the public records of real estate in the county in which the cemetery land is located, a notice which contains the following language:

NOTICE

The property described herein shall not be sold, conveyed, leased, mortgaged, or encumbered without the prior written approval of the Department of Financial Services, as provided in Chapter 497, Florida Statutes.

Such notice shall be clearly printed in boldfaced type of not less than 10 points and may be included on the face of the deed of conveyance to the licensee or may be contained in a separate recorded instrument which contains a description of the property.

(4) ISSUANCE OF LICENSE.—There shall be issued a license to operate a cemetery company to any applicant who, within 12 months after notice that a license may be issued, meets the criteria of subsection (3). The licensing authority may, for good cause shown, grant up to two extensions of the 12-month period within which the applicant must meet the criteria of subsection (3).

Section 46. Section 497.205, Florida Statutes, is renumbered as section 497.264, Florida Statutes, and amended to read:

497.264 ~~497.205~~ License not assignable or transferable.—

(1) A license issued to operate a cemetery pursuant to this chapter is not transferable or assignable, and a licensee may not develop or operate any cemetery authorized by this chapter at any location other than that contained in the application for the license.

(2) Any person or entity that seeks to purchase or otherwise acquire control of any cemetery licensed under this chapter, shall first apply to the licensing authority and obtain approval of such purchase or change in control.

(a) The licensing authority may adopt rules establishing forms and procedures for such applications.

(b) The application shall state the name and address of the licensed cemetery to which the application relates.

(c) For applications by a natural person, the application shall state the applicant's name, residence address, address of principal office or place of employment, and social security number.

(d) For applications by an entity, the application shall state applicant's name, address of principal place of business or headquarters offices, the names and titles of all officers of applicant, applicant's state of domicile and date of formation, and applicant's federal tax identification number.

(e) The application shall require such historical sketches and audited or unaudited financial statements concerning the applicant and each principal of the applicant, as the licensing authority may require by rule.

(f) The applicant must have a net worth of $50,000, as attested to by a sworn statement signed by applicant if a natural person, otherwise by all officers of applicant. Such net worth must be continually maintained as a condition of licensure of the cemetery if the application is approved.

(g) The application shall include such description of the development plans the applicant has for the proposed cemetery, as the licensing authority may require by rule.

(h) The application shall require the applicant to disclose whether the applicant or any principal of applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.

(i) The application shall require the applicant to disclose whether the applicant or any principal of applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.

(j) The application shall require the applicant and applicant's principals to provide fingerprints in accordance with part I of this chapter.

(k) The applicant shall demonstrate by clear and convincing evidence that the applicant has the ability, experience, financial stability, and integrity to operate a cemetery, and if the applicant is an entity, that applicant's principals are of good character.

(l) The application shall be signed by the applicant if a natural person, otherwise by the president of the applicant.

(m) The application shall be accompanied by a nonrefundable application fee of $5,000; provided, the fee shall be $500 if the application is in regards to a change in ownership that will not be accompanied by any change in ultimate control.

(n) The licensing authority may establish by rule requirements for the appearance before the licensing authority of the applicant and the applicant's principals, to stand for oral interview by the licensing authority at a public licensing authority meeting, before the application shall be deemed complete.

(o) A completed application shall be approved if the requirements of this section are met.

~~(2) Any person who seeks to purchase or acquire control of an existing licensed cemetery shall first apply to the board for approval of the proposed change of ownership. The application shall contain the name and address of the proposed new owner, a financial statement signed by all officers of the company attesting to a net worth of at least $50,000, and other information required by the board. The board may approve a change of ownership only after it has conducted an investigation of the applicant and determined that the proposed new owner is qualified by character, experience, and financial responsibility to control and operate the cemetery in a legal and proper manner. The department may examine the records of the cemetery company as part of the investigation in accordance with this chapter. The application shall be accompanied by an investigation fee of $5,000. Upon consummation of the purchase or acquisition of control and upon receipt of all documents required by the board, the department shall issue the new license for that cemetery effective on the date of that purchase or acquisition of control.~~

Section 47. Section 497.213, Florida Statutes, is renumbered as section 497.265, Florida Statutes, and amended to read:

497.265 ~~497.213~~ Annual license fees.—

(1) The department shall collect from each cemetery company operating under the provisions of this chapter an annual license fee as follows:

(a) For a cemetery with less than $25,000 annual gross sales.....$250.

(b) For a cemetery with at least $25,000 but less than $100,000 annual gross sales.....$350.

(c) For a cemetery with annual gross sales of at least $100,000 but less than $250,000.....$600.

(d) For a cemetery with annual gross sales of at least $250,000 but less than $500,000.....$900.

(e) For a cemetery with annual gross sales of at least $500,000 but less than $750,000.....$1,350.

(f) For a cemetery with annual gross sales of at least $750,000 but less than $1 million.....$2,250.

(g) For a cemetery with annual gross sales of at least $1 million but less than $5 million.....$3,250.

(h) For a cemetery with annual gross sales of $5 million or more.....$4,900.

(2) An application for license renewal shall be submitted, along with the applicable license fee, on or before December 31 each year in the case of an existing cemetery company and before any sale of cemetery property in the case of a new cemetery company or a change of ownership or control pursuant to *s. 497.264* ~~ss. 497.205 and 497.209~~. If the renewal application and fee are not received by December 31, the department shall collect a penalty in the amount of $200 per month or fraction of a month for each month delinquent. For the purposes of this subsection, a renewal application and fee submitted by mail shall be considered timely submitted and received if postmarked by December 31 of the applicable year.

Section 48. Section 497.237, Florida Statutes, is renumbered as section 497.266, Florida Statutes, and amended to read:

497.266 ~~497.237~~ Care and maintenance trust fund; remedy of department for noncompliance.—

(1) No cemetery company may establish a cemetery, or operate a cemetery if already established, without providing for the future care and maintenance of the cemetery, for which a care and maintenance trust fund shall be established, to be known as "the care and maintenance trust fund of _____." The trust fund shall be established with a

trust company operating pursuant to chapter 660, with a state or national bank holding trust powers, or with a federal or state savings and loan association holding trust powers. Trust funds which are with a state or national bank or savings and loan association licensed in this state on October 1, 1993, shall remain in force; however, when the amount of any such trust fund exceeds the amount that is insured by an agency of the Federal Government, the cemetery company shall transfer that trust fund to a trust company operating pursuant to chapter 660, to a state or national bank holding trust powers, or to a federal or state savings and loan association holding trust powers.

(2) The cemetery company may appoint a person to advise the trustee in the investment of the trust fund. The *licensing authority* ~~board~~ must approve the appointment of the initial trustee, and any subsequent changes of the trustee shall also be approved by the *licensing authority, pursuant to procedures and utilizing forms as specified by rule* ~~board~~. If a cemetery company refuses or otherwise fails to provide or maintain an adequate care and maintenance trust fund in accordance with the provisions of this chapter, the *licensing authority* ~~board~~, after reasonable notice, shall enforce compliance. However, a nonprofit cemetery corporation which has been incorporated and engaged in the cemetery business prior to and continuously since 1915 and which has current trust assets exceeding $2 million is not required to designate a corporate trustee. The trust fund agreement shall specify the following: the name, location, and address of both the licensee and the trustee, *the terms and conditions of the trust, a statement that the trust is established pursuant to ss. 497.266 and 497.268, and* ~~showing~~ the date of agreement, together with the percentages required to be deposited pursuant to this chapter.

(3) No person may withdraw or transfer any portion of the corpus of the care and maintenance trust fund without first obtaining written consent from the *licensing authority* ~~board~~. ~~Funds deposited pursuant to this chapter may not be loaned to any cemetery company or person who is directly or indirectly engaged in the burial, funeral home, or cemetery business.~~

(4) The trustee of the trust established pursuant to this section may only invest in investments *and loan trust funds,* as prescribed in s. *497.458* ~~497.417~~. The trustee shall take title to the property conveyed to the trust for the purposes of investing, protecting, and conserving it for the cemetery company; collecting income; and distributing the principal and income as prescribed in this chapter. The cemetery company is prohibited from sharing in the discharge of the trustee's responsibilities under this subsection, except that the cemetery company may request the trustee to invest in tax-free investments.

Section 49. Section 497.241, Florida Statutes, is renumbered as section 497.267, Florida Statutes, to read:

497.267 ~~497.241~~ Disposition of income of care and maintenance trust fund; notice to purchasers and depositors.—The net income of the care and maintenance trust fund shall be used solely for the care and maintenance of the cemetery, including maintenance of monuments, which maintenance shall not be deemed to include the cleaning, refinishing, repairing, or replacement of monuments; for reasonable costs of administering the care and maintenance; and for reasonable costs of administering the trust fund. At the time of making a sale or receiving an initial deposit, the cemetery company shall deliver to the person to whom the sale is made, or who makes a deposit, a written instrument which shall specifically state the purposes for which the income of the trust fund shall be used.

Section 50. Section 497.245, Florida Statutes, is renumbered as section 497.268, Florida Statutes, to read:

497.268 ~~497.245~~ Care and maintenance trust fund, percentage of payments for burial rights to be deposited.—

(1) Each cemetery company shall set aside and deposit in its care and maintenance trust fund the following percentages or amounts for all sums received from sales of burial rights:

(a) For burial rights, 10 percent of all payments received; however, for sales made after September 30, 1993, no deposit shall be less than $25 per grave. For each burial right which is provided without charge, the deposit to the fund shall be $25.

(b) For mausoleums or columbaria, 10 percent of payments received.

(c) For general endowments for the care and maintenance of the cemetery, the full amount of sums received when received.

(d) For special endowments for a specific lot or grave or a family mausoleum, memorial, marker, or monument, the cemetery company may set aside the full amount received for this individual special care in a separate trust fund or by a deposit to a savings account in a bank or savings and loan association located within and authorized to do business in the state; however, if the licensee does not set up a separate trust fund or savings account for the special endowment, the full amount thereof shall be deposited into the care and maintenance trust fund as required of general endowments.

(2) Deposits to the care and maintenance trust fund shall be made by the cemetery company not later than 30 days following the close of the calendar month in which any payment was received; however, when such payments are received in installments, the percentage of the installment payment placed in trust must be identical to the percentage which the payment received bears to the total cost for the burial rights. Trust income may be used to pay for all usual and customary services for the operation of a trust account, including, but not limited to: reasonable trustee and custodian fees, investment adviser fees, allocation fees, and taxes. If the net income is not sufficient to pay the fees and other expenses, the fees and other expenses shall be paid by the cemetery company. Capital gains taxes shall be paid from the corpus.

(3) Any payments made to the care and maintenance trust fund on contracts which are canceled shall be credited against future obligations to the care and maintenance trust fund, provided they have been refunded to the purchaser.

(4) When a cemetery which is exempt from the provisions of this chapter changes ownership so as to lose its exempt status, it shall establish and maintain a care and maintenance trust fund pursuant to this chapter. The initial deposit for establishment of this trust fund shall be $25 per space for all spaces either previously sold or contracted for sale in the cemetery at the time of conversion or $50,000, whichever is greater.

(5) In each sales contract, reservation, or agreement wherein burial rights are priced separately, the purchase price of the burial rights shall be the only item subject to care and maintenance trust fund deposits; but if the burial rights are not priced separately, the full amount of the contract, reservation, or agreement shall be subject to care and maintenance trust fund deposits as provided in this section, unless the purchase price of the burial rights can be determined from the accounting records of the cemetery company.

(6) If an installment contract or promissory note for the purchase of a burial space is sold or discounted to a third party, the entire amount due the care and maintenance trust fund shall be payable no later than 30 days following the close of the calendar month in which the contract was sold or discounted.

Section 51. Section 497.249, Florida Statutes, is renumbered as section 497.269, Florida Statutes, and amended to read:

497.269 ~~497.249~~ Care and maintenance trust fund; financial reports.—On or before April 1 of each year, the trustee shall furnish adequate financial reports with respect to the care and maintenance trust fund *utilizing forms and procedures specified by rule* ~~on forms provided by the department~~. However, the department may require the trustee to make such additional financial reports as it deems necessary. In order to ensure that the proper deposits to the trust fund have been made, the department shall examine the status of the trust fund of the company on a semiannual basis for the first 2 years of the trust fund's existence.

Section 52. Section 497.253, Florida Statutes, is renumbered as section 497.270, Florida Statutes, and amended to read:

497.270 ~~497.253~~ Minimum acreage; sale or disposition of cemetery lands.—

(1) *No land in a licensed cemetery may be sold, mortgaged, leased, or encumbered without prior approval of the licensing authority pursuant to procedures specified by rule. Such approval shall not be given unless it be shown that such approval would be in the public interest. The licensing authority may adopt rules establishing criteria for approval of the sale, mortgaging, leasing, or encumbering of cemetery land.* ~~Each~~

~~licensee shall set aside a minimum of 30 contiguous acres of land for use by the licensee as a cemetery and shall not sell, mortgage, lease, or encumber that property without prior written approval of the department.~~

(2) Any lands owned by a licensee and dedicated for use by it as a cemetery, which are *in excess of a* ~~contiguous, adjoining, or adjacent to the~~ minimum of 30 contiguous acres ~~described in subsection (1)~~, may be sold, conveyed, or disposed of by the licensee, after obtaining written approval *pursuant to procedures and utilizing forms specified by rule and consistent with* ~~of the department pursuant to~~ subsection (3), for use by the new owner for other purposes than as a cemetery. All of the human remains which have been previously interred therein shall first have been removed from the lands proposed to be sold, conveyed, or disposed of; however, the provisions of ss. *497.384 and 497.152(8)(e)* ~~470.0295 and 497.515(7)~~ must be complied with prior to any disinterment of human remains. Any and all titles, interests, or burial rights which may have been sold or contracted to be sold in lands which are the subject of the sale shall be conveyed to and revested in the licensee prior to consummation of any such sale, conveyance, or disposition.

(3)(a) If the property to be sold, conveyed, or disposed of under subsection (2) has been or is being used for the permanent interment of human remains, the applicant for approval of such sale, conveyance, or disposition shall cause to be published, at least once a week for 4 consecutive weeks, a notice meeting the standards of publication set forth in s. 125.66(4)(b)2. The notice shall describe the property in question and the proposed noncemetery use and shall advise substantially affected persons that they may file a written request for a hearing pursuant to chapter 120, within 14 days after the date of last publication of the notice, with the department if they object to granting the applicant's request to sell, convey, or dispose of the subject property for noncemetery uses.

(b) If the property in question has never been used for the permanent interment of human remains, no notice or hearing is required.

(c) If the property in question has been used for the permanent interment of human remains, the department shall approve the application, in writing, if it finds that it would not be contrary to the public interest. In determining whether to approve the application, the department shall consider any evidence presented concerning the following:

1. The historical significance of the subject property, if any.

2. The archaeological significance of the subject property, if any.

3. The public purpose, if any, to be served by the proposed use of the subject property.

4. The impact of the proposed change in use of the subject property upon the reasonable expectations of the families of the deceased regarding whether the cemetery property was to remain as a cemetery in perpetuity.

5. Whether any living relatives of the deceased actively oppose the relocation of their deceased's remains and the conversion of the subject property to noncemetery uses.

6. The elapsed time since the last interment in the subject property.

7. Any other factor enumerated in this chapter that the department considers relevant to the public interest.

(d) Any deed, mortgage, or other conveyance by a cemetery company or other owner pursuant to subsections (a) and (c) above must contain a disclosure in the following or substantially similar form:

NOTICE: The property described herein was formerly used and dedicated as a cemetery. Conveyance of this property and its use for noncemetery purposes was authorized by the Florida Department of Financial Services by Order No. _____, dated _____.

(e) The department shall adopt such rules as are necessary to carry out the provisions of this section.

(4) A licensee may convey and transfer to a municipality or county its real and personal property, together with moneys deposited in trust funds pursuant to this chapter, provided the municipality or county will accept responsibility for maintenance thereof and prior written approval of the department is obtained.

(5) The provisions of subsections (1) and (2) relating to a requirement for minimum acreage shall not apply to any cemetery company licensed by the department on or before July 1, 2001, which owns a total of less than 30 acres of land; however, no cemetery company shall dispose of any land without the prior written consent of the department.

Section 53. Section 497.255, Florida Statutes, is renumbered as section 497.271, Florida Statutes, and amended to read:

497.271 ~~497.255~~ Standards for construction and significant alteration or renovation of mausoleums and columbaria.—

(1) All newly constructed and significantly altered or renovated mausoleums and columbaria must, in addition to complying with applicable building codes, conform to the standards adopted under this section.

(2) The *licensing authority* ~~board~~ shall adopt, by no later than July 1, 1999, rules establishing minimum standards for all newly constructed and significantly altered or renovated mausoleums and columbaria; however, in the case of significant alterations or renovations to existing structures, the rules shall apply only, when physically feasible, to the newly altered or renovated portion of such structures, except as specified in subsection (4). In developing and *adopting such* ~~promulgating said~~ rules, the *licensing authority* ~~board~~ may define different classes of structures or construction standards, and may provide for different rules to apply to each of said classes, if the designation of classes and the application of different rules is in the public interest and is supported by findings by the *licensing authority* ~~board~~ based on evidence of industry practices, economic and physical feasibility, location, or intended uses; provided, that the rules shall provide minimum standards applicable to all construction. For example, and without limiting the generality of the foregoing, the *licensing authority* ~~board~~ may determine that a small single-story ground level mausoleum does not require the same level of construction standards that a large multistory mausoleum might require; or that a mausoleum located in a low-lying area subject to frequent flooding or hurricane threats might require different standards than one located on high ground in an area not subject to frequent severe weather threats. The *licensing authority* ~~board~~ shall develop the rules in cooperation with, and with technical assistance from, the Florida Building Commission of the Department of Community Affairs, to ensure that the rules are in the proper form and content to be included as part of the State Minimum Building Codes under part VII of chapter 553. If the Florida Building Commission advises that some of the standards proposed by the *licensing authority* ~~board~~ are not appropriate for inclusion in such building codes, the *licensing authority* ~~board~~ may choose to include those standards in a distinct chapter of its rules entitled "Non-Building-Code Standards for Mausoleums" or "Additional Standards for Mausoleums," or other terminology to that effect. If the *licensing authority* ~~board~~ elects to divide the standards into two or more chapters, all such rules shall be binding on licensees and others subject to the jurisdiction of the *licensing authority* ~~board~~, but only the chapter containing provisions appropriate for building codes shall be transmitted to the Florida Building Commission pursuant to subsection (3). Such rules may be in the form of standards for design and construction; methods, materials, and specifications for construction; or other mechanisms. Such rules shall encompass, at a minimum, the following standards:

(a) No structure may be built or significantly altered for use for interment, entombment, or inurnment purposes unless constructed of such material and workmanship as will ensure its durability and permanence, as well as the safety, convenience, comfort, and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science.

(b) Such structure must be so arranged that the exterior of any vault, niche, or crypt may be readily examined at any time by any person authorized by law to do so.

(c) Such structure must contain adequate provision for drainage and ventilation.

(d) Such structure must be of fire-resistant construction. Notwithstanding the requirements of s. 553.895 and chapter 633, any mausoleum or columbarium constructed of noncombustible materials, as de-

fined in the Standard Building Code, shall not require a sprinkler system.

(e) Such structure must be resistant to hurricane and other storm damage to the highest degree provided under applicable building codes for buildings of that class.

(f) Suitable provisions must be made for securely and permanently sealing each crypt with durable materials after the interment or entombment of human remains, so that no effluvia or odors may escape therefrom except as provided by design and sanitary engineering standards. Panels for permanent seals must be solid and constructed of materials of sufficient weight, permanence, density, imperviousness, and strength as to ensure their durability and continued functioning. Permanent crypt sealing panels must be securely installed and set in with high quality fire-resistant, resilient, and durable materials after the interment or entombment of human remains. The outer or exposed covering of each crypt must be of a durable, permanent, fire-resistant material; however, plastic, fiberglass, and wood are not acceptable materials for such outer or exposed coverings.

(g) Interior and exterior fastenings for hangers, clips, doors, and other objects must be of copper, copper-base alloy, aluminum, or stainless steel of adequate gauges, or other materials established by rule which provide equivalent or better strength and durability, and must be properly installed.

(3) The *licensing authority* ~~board~~ shall transmit the rules as adopted under subsection (2), hereinafter referred to as the "mausoleum standards," to the Florida Building Commission, which shall initiate rulemaking under chapter 120 to consider such mausoleum standards. If such mausoleum standards are not deemed acceptable, they shall be returned by the Florida Building Commission to the *licensing authority* ~~board~~ with details of changes needed to make them acceptable. If such mausoleum standards are acceptable, the Florida Building Commission shall adopt a rule designating the mausoleum standards as an approved revision to the State Minimum Building Codes under part VII of chapter 553. When so designated by the Florida Building Commission, such mausoleum standards shall become a required element of the State Minimum Building Codes under s. 553.73(2) and shall be transmitted to each local enforcement agency, as defined in s. 553.71(5). Such local enforcement agency shall consider and inspect for compliance with such mausoleum standards as if they were part of the local building code, but shall have no continuing duty to inspect after final approval of the construction pursuant to the local building code. Any further amendments to the mausoleum standards shall be accomplished by the same procedure. Such designated mausoleum standards, as from time to time amended, shall be a part of the State Minimum Building Codes under s. 553.73 until the adoption and effective date of a new statewide uniform minimum building code, which may supersede the mausoleum standards as provided by the law enacting the new statewide uniform minimum building code.

(4) In addition to the rules adopted under subsection (2), the *licensing authority* ~~board~~ shall adopt rules providing that following all interments, inurnments, and entombments in mausoleums and columbaria occurring after the effective date of such rules, whether newly constructed or existing, suitable provision must be made, when physically feasible, for sealing each crypt in accordance with standards *adopted* ~~promulgated~~ pursuant to paragraph (2)(f).

(5) For purposes of this section, "significant alteration or renovation" means any addition, renovation, or repair which results in the creation of new crypt or niche spaces.

Section 54. Section 497.257, Florida Statutes, is renumbered as section 497.272, Florida Statutes, and amended to read:

497.272 ~~497.257~~ Construction of mausoleums, columbaria, and belowground crypts; preconstruction trust fund; compliance requirement.—

(1) A cemetery company shall start construction of that section of a mausoleum, columbarium, or bank of belowground crypts in which sales, contracts for sales, reservations for sales, or agreements for sales are being made within 4 years after the date of the first such sale or 50 percent of the mausoleum, columbarium, or belowground crypts have been sold and the purchase price has been received, whichever occurs first. The construction shall be completed within 5 years after the date of the first sale made. However, extensions for completion, not to exceed 1 year, may be granted by the department for good cause shown. If the units have not been completely constructed at the time of need or the time specified herein, all moneys paid shall be refunded upon request, plus interest earned thereon for that portion of the moneys deposited in the trust fund and an amount equal to the interest that would have been earned on that portion of the moneys that were not in trust.

(2) A cemetery company which plans to offer for sale space in a section of a mausoleum, columbarium, or bank of belowground crypts prior to construction shall establish a preconstruction trust fund by written instrument. The preconstruction trust fund shall be administered by a corporate trustee and operated in conformity with s. *497.458* ~~497.417~~. The preconstruction trust fund shall be separate from any other trust funds that may be required by this chapter. *The written instrument by which the trustee of the preconstruction trust fund agrees to act as trustee shall contain a statement that the trust is created pursuant to the requirements of this section. The trust shall be subject to examination by the licensing authority.*

(3) Before a sale, contract for sale, reservation for sale, or agreement for sale in a mausoleum section, columbarium, or bank of belowground crypts may be made, the cemetery company shall compute the amount to be deposited to the preconstruction trust fund. The total amount to be deposited in the fund for each unit of the project shall be computed by dividing the cost of the project plus 10 percent of the cost, as computed by a licensed contractor, engineer, or architect, by the number of crypts in the section or bank of belowground crypts or the number of niches in the columbarium. When payments are received in installments, the percentage of the installment payment placed in trust must be identical to the percentage which the payment received bears to the total cost of the contract, including other merchandise and services purchased. Preconstruction trust fund payments shall be made within 30 days after the end of the month in which payment is received.

(4) When the cemetery company delivers a completed crypt or niche acceptable to the purchaser in lieu of the crypt or niche purchased prior to construction, all sums deposited to the preconstruction trust fund for that purchaser shall be paid to the cemetery company.

(5) Each cemetery company may negotiate, at the time of establishment of the preconstruction trust fund, a procedure for withdrawal of the escrowed funds as a part of the construction cost of the mausoleum section, columbarium, or bank of belowground crypts contemplated, subject to the approval of the department. Upon completion of the mausoleum section, columbarium, or bank of belowground crypts, the cemetery company shall certify completion to the trustee and shall be entitled to withdraw all funds deposited to the account thereof.

(6) If the mausoleum section, columbarium, or bank of belowground crypts is not completed within the time limits set out in this section, the trustee shall contract for and cause the project to be completed and pay therefor from the trust funds deposited to the project's account paying any balance, less cost and expenses, to the cemetery company. The refund provisions of subsection (1) apply only to the extent there are funds remaining in excess of the costs to complete the facilities, prior to any payments to the cemetery company.

(7) On or before April 1 of each year, the trustee shall file with the *licensing authority* ~~board~~ in the form prescribed by *rule* ~~the board~~ a full and true statement as to the activities of any trust established ~~by the board~~ pursuant to this chapter for the preceding calendar year.

(8) In lieu of the payments outlined hereunder to the preconstruction trust fund, the cemetery company may deliver to the department a performance bond in an amount and by a surety company acceptable to the department.

Section 55. Section 497.305, Florida Statutes, is renumbered as section 497.273, Florida Statutes, and amended to read:

497.273 ~~497.305~~ Cemetery companies; authorized functions.—

(1) Within the boundaries of the cemetery lands it owns, a cemetery company may perform the following functions:

(a) The exclusive care and maintenance of the cemetery.

(b) The exclusive interment, entombment, or inurnment of human remains, including the exclusive right to open, prepare for interment,

and close all ground, mausoleum, and urn burials. Each preneed contract for burial rights or services shall disclose, pursuant to *licensing authority* ~~board~~ rule, whether opening and closing of the burial space is included in the contract and, if not, the current prices for opening and closing and a statement that these prices are subject to change. Each cemetery which sells preneed contracts must offer opening and closing as part of a preneed contract.

(c) The exclusive initial preneed and at-need sale of interment or burial rights in earth, mausoleum, crypt, niche, or columbarium interment; however, nothing herein shall limit the right of a person owning interment or burial rights to sell those rights to third parties subject to the transfer of title by the cemetery company.

(d) The adoption of bylaws regulating the activities conducted within its boundaries, provided that no funeral director licensed pursuant to *this* chapter ~~470~~ shall be denied access to any cemetery to conduct a funeral for or supervise a disinterment of human remains. All bylaws provided for herein shall be subject to the approval of the *licensing authority* ~~board~~ under the provisions of chapter 120 prior to becoming effective. The *licensing authority* ~~board~~ shall not approve any bylaw which unreasonably restricts the use of interment or burial rights, which unreasonably restricts competition, or which unreasonably increases the cost to the owner of interment or burial rights in utilizing these rights.

(e) The nonexclusive preneed and at-need sale of monuments, memorials, markers, burial vaults, urns, flower vases, floral arrangements, and other similar merchandise for use within the cemetery.

(f) The nonexclusive cremation of human remains, subject to provisions of s. *497.606* ~~470.025~~.

(g) The entry into sales or management contracts with other persons. The cemetery company shall be responsible for the deposit of all moneys required by this part to be placed in a trust fund.

(2) A full disclosure shall be made for all fees required for interment, entombment, or inurnment of human remains.

(3) A cemetery company may adopt bylaws establishing minimum standards for burial merchandise or the installation thereof. *Such bylaws shall include minimum standards for access to install burial merchandise. A cemetery company must comply with its adopted bylaws.*

Section 56. Section 497.274, Florida Statutes, is created to read:

497.274 Standards for grave spaces.—

(1) A standard adult grave space shall measure at least 42 inches in width and 96 inches in length, except for preinstalled vaults in designated areas. For interments, except cremated remains, the covering soil shall measure no less than 12 inches from the top of the outer burial container at time of interment, unless such level of soil is not physically possible. In any interment, the family or next of kin may waive the 12-inch coverage minimum.

(2)(a) Prior to the sale of grave spaces in any undeveloped areas of a licensed cemetery, the cemetery company shall prepare a map documenting the establishment of recoverable internal survey reference markers installed by the cemetery company no more than 100 feet apart in the areas planned for development. The internal reference markers shall be established with reference to survey markers that are no more than 200 feet apart which have been set by a surveyor and mapper licensed under chapter 472 and documented in a certified land survey. Both the map and the certified land survey shall be maintained by the cemetery company and shall be made available upon request to the department or members of the public.

(b) The map of the area proposed to be developed shall show:

1. The number of grave spaces available for sale.

2. The location of each grave space.

3. The number designation assigned to each grave space.

4. The dimensions of a standard adult grave space.

(3) Adult grave spaces established prior to October 1, 2005, are not required to meet the standards established under this section for the dimensions or separation of grave spaces.

Section 57. Section 497.275, Florida Statutes, is created to read:

497.275 Identification of human remains in licensed cemeteries.—On and after October 1, 2005, human remains interred, entombed, or otherwise placed for final rest at licensed cemeteries shall be identified as follows:

(1) Each licensed cemetery shall place on the outer burial container, cremation interment container, or other container, or on the inside of a crypt or niche, a tag or a permanent identifying marker containing the name of the decedent and the date of death, if available. The materials and location of the tag or marker shall be more specifically described by rule.

(2) Each licensed cemetery may rely entirely on the identity stated on the burial transit permit or on the identification supplied by a person licensed under part III of this chapter to establish the identity of the dead human remains delivered by such person for burial and shall not be liable for any differences between the identity shown on the burial transit permit or other identification and the actual identity of the dead human remains delivered by such person and buried in the cemetery.

Section 58. Section 497.309, Florida Statutes, is renumbered as section 497.276, Florida Statutes, and amended to read:

497.276 ~~497.309~~ Records.—

(1) A record shall be kept of every burial in the cemetery of a cemetery company, showing the date of burial and the name of the person buried, together with lot, plot, and space in which the burial was made. All financial records of the cemetery company shall be available at its principal place of business in this state and shall be readily available at all reasonable times for examination by the department.

(2) Notwithstanding the provisions of subsection (1), the *licensing authority* ~~board~~ may, upon request, authorize a cemetery company to maintain its financial records at a location other than its principal place of business and may, if necessary, require the company to make its books, accounts, records, and documents available at a reasonable and convenient location in this state.

(3) The *licensing authority* ~~board~~ may prescribe *by rule* the minimum information to be shown in the books, accounts, records, and documents of a cemetery company to enable the department to determine the company's compliance with this chapter*, and may prescribe financial statements that shall be prepared annually by licensed cemetery companies*.

Section 59. Section 497.313, Florida Statutes, is renumbered as section 497.277, Florida Statutes, to read:

497.277 ~~497.313~~ Other charges.—Other than the fees for the sale of burial rights, burial merchandise, and burial services, no other fee may be directly or indirectly charged, contracted for, or received by a cemetery company as a condition for a customer to use any burial right, burial merchandise, or burial service, except for:

(1) Charges paid for opening and closing a grave and vault installation.

(2) Charges paid for transferring burial rights from one purchaser to another; however, no such fee may exceed $50.

(3) Charges for sales, documentary excise, and other taxes actually and necessarily paid to a public official, which charges must be supported in fact.

(4) Charges for credit life and credit disability insurance, as requested by the purchaser, the premiums for which may not exceed the applicable premiums chargeable in accordance with the rates filed with the Office of Insurance Regulation of the Financial Services Commission.

(5) Charges for interest on unpaid balances pursuant to chapter 687.

Section 60. Section 497.317, Florida Statutes, is renumbered as section 497.278, Florida Statutes, to read:

497.278 ~~497.317~~ Monuments; installation fees.—

(1) No cemetery company may charge a fee for the installation of a monument purchased or obtained from and to be installed by a person or firm other than the cemetery company or its agents.

(2) To verify that a monument is installed on the proper grave in accordance with cemetery bylaws, rules, or regulations, the cemetery company shall mark the place on the grave where the marker or monument is to be installed and shall inspect the installation when completed. Nothing in this subsection is intended to imply or require that a cemetery company shall have to lay out or engineer a grave site or grave sites for the installation of a marker or monument.

(3) A cemetery company may not require any person or firm that installs, places, or sets a monument to obtain any form of insurance, bond, or surety or make any form of pledge, deposit, or monetary guarantee as a condition for entry on or access to cemetery property.

Section 61. Section 497.325, Florida Statutes, is renumbered as section 497.280, Florida Statutes, and amended to read:

497.280 ~~497.325~~ Illegal tying arrangements.—

(1) No person authorized to sell grave space may tie the purchase of any grave space to the purchase of a monument from or through the seller of any other designated person or corporation.

(2)(a) Noncemetery licensed persons and firms shall have the right to sell monuments and to perform or provide on cemetery property foundation, preparation, and installation services for monuments. However, a cemetery company *or any other entity owning and operating a cemetery* may establish reasonable rules regarding the style and size of a monument or its foundation, provided such rules are applicable to all monuments from whatever source obtained and are enforced uniformly as to all monuments. Such rules shall be conspicuously posted and readily accessible to inspection and copy by interested persons.

(b) No person who is authorized to sell grave space and no cemetery company *or other entity owning and operating a cemetery* may:

1. Require the payment of a setting or service charge, by whatever name known, from third party installers for the placement of a monument;

2. Refuse to provide care or maintenance for any portion of a gravesite on which a monument has been placed; or

3. *Require waiver of* ~~Waive~~ liability with respect to damage caused by cemetery employees or agents to a monument after installation,

where the monument or installation service is not purchased from the person authorized to sell grave space or the cemetery company providing grave space or from or through any other person or corporation designated by the person authorized to sell grave space or the cemetery company providing grave space. No cemetery company may be held liable for the improper installation of a monument where the monument is not installed by the cemetery company or its agents.

(3) No program offering free burial rights may be conditioned by any requirement to purchase additional burial rights, funeral merchandise, or services. Any program offering free burial rights shall comply with s. 817.415.

Section 62. Section 497.329, Florida Statutes, is renumbered as section 497.281, Florida Statutes, and amended to read:

497.281 ~~497.329~~ *Licensure* ~~Registration~~ of brokers of burial rights.—

(1) No person shall receive compensation to act as a third party to the sale or transfer of three or more burial rights in a 12-month period unless the person pays a *license* ~~registration~~ fee *as determined by licensing authority rule but not to exceed $250* ~~of $150~~ and is *licensed* ~~registered~~ with the department *as a burial rights broker* in accordance with this section.

(2) The department, by rule, shall provide for the biennial renewal of *licenses under this section* ~~registrants~~ and a renewal fee *as determined by licensing authority rule but not to exceed $250* ~~of $100~~.

(3) This section shall not apply to persons otherwise licensed ~~or registered~~ pursuant to this chapter.

(4) The licensing authority may by rule specify records of brokerage transactions which shall be required to be maintained by burial rights brokers licensed under this subsection, and which shall be subject to inspection by the department.

Section 63. Section 497.333, Florida Statutes, is renumbered as section 497.282, Florida Statutes, and amended to read:

497.282 ~~497.333~~ Disclosure of information to public.—A licensee offering to provide burial rights, merchandise, or services to the public shall:

(1) Provide by telephone, upon request, accurate information regarding the retail prices of burial merchandise and services offered for sale by the licensee.

(2) Fully disclose all regularly offered services and merchandise prior to the selection of burial services or merchandise. The full disclosure required shall identify the prices of all burial rights, services, and merchandise provided by the licensee.

(3) Not make any false or misleading statements of the legal requirement as to the necessity of a casket or outer burial container.

(4) Provide a good faith estimate of all fees and costs the customer will incur to use any burial rights, merchandise, or services purchased.

(5) Provide to the customer, upon request, a current copy of the bylaws of the licensee.

(6) Provide to the customer, upon the purchase of any burial right, merchandise, or service, a written contract, the form of which has been approved by the *licensing authority pursuant to procedures specified by rule* ~~board~~.

(a) The written contract shall be completed as to all essential provisions prior to the signing of the contract by the customer.

(b) The written contract shall provide an itemization of the amounts charged for all services, merchandise, and fees, which itemization shall be clearly and conspicuously segregated from everything else on the written contract.

(c) A description of the merchandise covered by the contract to include, when applicable, model, manufacturer, and other relevant specifications.

(7) Provide the licensee's policy on cancellation and refunds to each customer.

(8) In a manner established by rule of the *licensing authority* ~~board~~, provide on the signature page, clearly and conspicuously in boldfaced 10-point type or larger, the following:

(a) The words "purchase price."

(b) The amount to be trusted.

(c) The amount to be refunded upon contract cancellation.

(d) The amounts allocated to merchandise, services, and cash advances.

(e) The toll-free number of the department which is available for questions or complaints.

(f) A statement that the purchaser shall have 30 days from the date of execution of contract to cancel the contract and receive a total refund of all moneys paid *for items not used*.

(9) Effective October 1, 2006, display in its offices for free distribution to all potential customers, and provide to all customers at the time of sale, a brochure explaining how and by whom cemeteries and preneed sales are regulated, summarizing consumer rights under the law, and providing the name, address, and phone number of the department's consumer affairs division. The format and content of the brochure shall be as prescribed by the rule. The licensing authority may cause the publication of such brochures and by rule establishing requirements that cemetery and preneed licensees purchase and make available such brochures as so published, in the licensee's offices, to all potential customers.

(10) Provide to each customer a complete description of any monument, marker, or memorialization to be placed at the gravesite.

Section 64. Section 497.337, Florida Statutes, is renumbered as section 497.283, Florida Statutes, and amended to read:

497.283 ~~497.337~~ Prohibition on sale of personal property or services.—

(1) This section applies to all cemetery companies licensed pursuant to this chapter that offer for sale or sell personal property or services which may be used in a cemetery in connection with the burial of human remains or the commemoration of the memory of a deceased human being and also to any person in direct written contractual relationship with licensed cemetery companies.

(2)(a) Except as otherwise provided in this chapter, no cemetery company shall directly or indirectly enter into a contract for the sale of personal property or services, excluding burial or interment rights, which may be used in a cemetery in connection with disposing of human remains, or commemorating the memory of a deceased human being, if delivery of the personal property or performance of the service is to be made more than 120 days after receipt of final payment under the contract of sale, except as provided in s. *497.458* ~~497.417~~. This shall include, but not be limited to, the sale for future delivery of burial vaults, grave liners, urns, memorials, vases, foundations, memorial bases, and similar merchandise and related services commonly sold or used in cemeteries and interment fees but excluding burial or interment rights.

(b) For the purposes of this section, the term "delivery" means actual delivery and installation at the time of need or at the request of the owner or the owner's agent. Merchandise is not considered delivered under paragraph (a) if it is stored on the grounds of the cemetery or at a storage facility except for monuments, markers, and permanent outer burial receptacles that are stored in a protected environment and are comprised of materials designed to withstand prolonged, protected storage without adversely affecting the structural integrity or aesthetic characteristics of such permanent outer burial receptacles.

(c) In lieu of delivery as required by paragraph (b), for sales to cemetery companies and funeral establishments, and only for such sales, the manufacturer of a permanent outer burial receptacle which meets standards adopted by *rule* ~~the board~~ may elect, at its discretion, to comply with the delivery requirements of this section by annually submitting *for approval pursuant to procedures and forms as specified by rule*, in writing, evidence of the manufacturer's financial responsibility with the *licensing authority* ~~board~~ for its review and approval. The standards and procedures to establish evidence of financial responsibility shall be those in s. *497.461* ~~497.423 or s. 497.425~~, with the manufacturer of permanent outer burial receptacles which meet national industry standards assuming the same rights and responsibilities as those of a *preneed licensee* ~~certificateholder~~ under s. *497.461* ~~497.423 or s. 497.425~~.

(3) No nonprofit cemetery corporation which has been incorporated and engaged in the cemetery business prior to and continuously since 1915 and which has current trust assets exceeding $2 million shall be required to designate a corporate trustee.

Section 65. Section 497.345, Florida Statutes, is renumbered as section 497.284, Florida Statutes, to read:

497.284 ~~497.345~~ Abandoned cemeteries; immunity; actions.—

(1) Notwithstanding any provision of law to the contrary, a county or municipality which has within its jurisdiction an abandoned cemetery or a cemetery that has not been reasonably maintained for a period in excess of 6 months may, upon notice to the department, take such action as is necessary and appropriate to provide for maintenance and security of the cemetery. The solicitation of private funds and the expenditure of public funds for the purposes enumerated in this subsection are hereby authorized, provided that no action taken by a county or municipality under this subsection shall establish an ongoing obligation or duty to provide continuous security or maintenance for any cemetery.

(2) No county or municipality nor any person under the supervision or direction of the county or municipality, providing good faith assistance in securing or maintaining a cemetery under subsection (1), may be subject to civil liabilities or penalties of any type for damages to property at the cemetery.

(3) A county or municipality that has maintained or secured a cemetery pursuant to the provisions of subsection (1) may maintain an action at law against the owner of the cemetery to recover an amount equal to the value of such maintenance or security.

Section 66. Section 497.349, Florida Statutes, is renumbered as section 497.285, Florida Statutes, and amended to read:

497.285 ~~497.349~~ Inactive cemeteries.—

(1) A licensee shall be considered inactive upon the acceptance of the surrender of its license by the department or upon the nonreceipt by the department of the license renewal fees required by s. *497.265* ~~497.213(2)~~.

(2) A *cemetery* licensee *licensed to engage in preneed sales* shall cease all preneed sales to the public upon becoming inactive *in regards to its cemetery license*. At-need sales to the public shall cease within 30 days after becoming inactive.

(3) Any licensee desiring to surrender its license to the department shall first:

(a) File notice with the department.

(b) Submit copies of its existing trust agreements.

(c) Resolve to the department's satisfaction all findings and violations resulting from the last examination conducted.

(d) Pay all outstanding fines and invoices due the department.

(e) Submit its current license.

(4) Upon receipt of the notice, the department shall review the licensee's:

(a) Trust funds.

(b) Trust agreements.

(c) Care and maintenance of the cemetery grounds.

(5) After a review to the department's satisfaction, the department shall terminate the license.

(6)(a) The care and maintenance trust fund of a licensee shall be held intact and in trust after the licensee has become inactive, and funds in that trust fund shall be disbursed to the cemetery on a regular basis for the upkeep of the grounds.

(b) The merchandise trust fund of a licensee shall be held intact and in trust after the licensee has become inactive, and the funds in that trust fund shall be disbursed in accordance with the requirements of the written contracts until the fund has been exhausted.

Section 67. Section 497.353, Florida Statutes, is renumbered as section 497.286, Florida Statutes, and amended to read:

497.286 ~~497.353~~ Owners to provide addresses; presumption of abandonment; abandonment procedures; sale of abandoned unused burial rights.—

(1) For purposes of this section, all owners of burial rights in any cemetery licensed under the provisions of *this chapter* ~~the Florida Funeral and Cemetery Services Act~~ shall have the legal duty to keep the cemetery companies informed in writing of their residence addresses. Cemetery companies shall notify their present burial rights owners by letter at the owner's last known address and notify all future burial rights owners, in the contract for sale and the certificate of ownership, of the requirement to keep the cemetery company informed in writing of their current residence address.

(2) There is hereby created a presumption that burial rights in any cemetery licensed under this chapter have been abandoned when an owner of unused burial rights has failed to provide the cemetery with a current residence address for a period of 50 consecutive years and the cemetery is unable to communicate by certified letter with said owner

of unused burial rights for lack of address. No such presumption of abandonment shall exist for burial rights held in common ownership which are adjoining, whether in a grave space, plot, mausoleum, columbarium, or other place of interment, if any such burial rights have been used within such common ownership.

(3) Upon the occurrence of a presumption of abandonment as set forth in subsection (2), a cemetery may file with the department a certified notice attesting to the abandonment of the burial rights. The notice shall do the following:

(a) Describe the burial rights certified to have been abandoned;

(b) Set forth the name of the owner or owners of the burial rights, or if the owner is known to the cemetery to be deceased, then the names, if known to the cemetery, of such claimants as are heirs at law, next of kin, or specific devisees under the will of the owner;

(c) Detail the facts with respect to the failure of the owner or survivors as outlined in this section to keep the cemetery informed of the owner's address for a period of 50 consecutive years or more; and

(d) Certify that no burial right has been exercised which is held in common ownership with any abandoned burial rights as set forth in subsection (2).

(4) Irrespective of diversity of ownership of the burial rights, a cemetery may include in its certification burial rights in as many owners as are certified to have been abandoned.

(5) The department shall notice and publish the approved abandoned burial rights in the manner provided by s. 717.118.

(6) Within 120 days from the final notice and publication as provided in subsection (5), the department shall notify the cemetery if there has been no claim filed for the burial rights, and the cemetery shall have the right to sell such burial rights at a public sale subject to the approval of the sale price by the department.

(7) Notice of the time and place of any sale held pursuant to the provisions of this section shall be published by the cemetery once in a newspaper of general circulation in the county in which the cemetery is located, such publication to be not less than 30 days prior to the date of sale.

(8) The proceeds derived from any sale shall be disbursed in the following manner: an amount specified in s. *497.268* ~~497.245~~ shall be deposited to the cemetery care and maintenance trust fund; an amount equal to the cemetery company's actual and necessary costs incurred pursuant to this section but not to exceed 10 percent of the selling price of the abandoned burial right shall be deposited to the cemetery company's operating account; and the balance of the proceeds shall be deposited with the department within 20 days after receipt of said funds. The department shall deposit all funds received pursuant to this subsection in accordance with the provisions of s. 717.123.

(9) Persons or their heirs who were owners of burial rights which were sold under this section shall have the right at any time to obtain equivalent burial rights in the cemetery without further charge. If no burial rights are desired, such persons or their heirs may obtain the amount paid to the department in accordance with the provisions of s. 717.124.

(10) The cemetery shall set aside equivalent burial rights equal to 10 percent of the abandoned burial rights sold under this section for the exclusive use of persons or their heirs who were owners of burial rights which were sold under this section, who have the right at any time to obtain equivalent burial rights in the cemetery under this section.

(11) Persons who purchase burial rights at a sale pursuant to this section shall have the right to sell, alienate, or otherwise transfer said burial rights subject to and in accordance with the rules and regulations of the cemetery and payment of a reasonable transfer fee.

Section 68. Section 497.357, Florida Statutes, is renumbered as section 497.287, Florida Statutes, and amended to read:

497.287 ~~497.357~~ Report of identification of exempt cemeteries.—

(1) All cemeteries in excess of 5 acres located in this state that are exempt from the provisions of this chapter shall be required to file a report of identification with the department and pay a $25 fee. The department shall maintain such reports as public records. Such report of identification shall be refiled every 5 years pursuant to a schedule set by board rule. Solely for purposes of chapter 120, such report of identification shall be considered a *license* ~~registration~~ with the department.

(2) The report shall be submitted on a form *and pursuant to procedures specified by rule* ~~approved by the board~~, and shall list the name and address of the authorized agent who is responsible for conducting the business of the cemetery and to whom inquiries about the cemetery can be directed.

(3) The *department* ~~board~~ may institute proceedings in any appropriate court for injunctive relief to enforce this section. *Upon issuance of an injunctive order, the court shall award the department its costs and attorney fees in the action.*

Section 69. Part III of chapter 497, Florida Statutes, consisting of sections 497.365, 497.366, 497.367, 497.368, 497.369, 497.370, 497.371, 497.372, 497.373, 497.374, 497.375, 497.376, 497.377, 497.378, 497.379, 497.380, 497.381, 497.382, 497.383, 497.384, 497.385, 497.386, 497.387, 497.388, 497.389, 497.390, 497.391, and 497.392, is created to read:

PART III
FUNERAL DIRECTING, EMBALMING, AND RELATED SERVICES

Section 70. Section 497.365, Florida Statutes, is created to read:

497.365 Licensure; inactive and delinquent status.—

(1) This section shall apply only to licenses issued under this part. A licensee may practice a profession or occupation regulated under this part only if the licensee has an active status license. A licensee who practices a profession without an active status license is in violation of this chapter and the licensing authority may impose discipline on the licensee.

(2) Pursuant to procedures specified by rule, a licensee shall be permitted to choose, at the time of licensure renewal, an active or inactive status. However, a licensee who changes from inactive to active status is not eligible to return to inactive status until the licensee thereafter completes a licensure cycle on active status.

(3) There shall be imposed pursuant to rule a fee for an inactive status license which is no greater than the fee for an active status license.

(4) An inactive status licensee may change to active status at any time, provided the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the licensing authority, and meets all continuing education requirements as specified in this section.

(5) A licensee shall apply with a complete application, as defined by rule of the licensing authority, to renew an active or inactive status license, before the license expires. Failure of a licensee to renew before the license expires shall cause the license to become delinquent in the license cycle following expiration.

(6) A delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the licensing authority, for active or inactive status during the licensure cycle in which a licensee becomes delinquent. Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license null without any further action by the board or the licensing authority. Any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure.

(7) There shall be imposed pursuant to rule an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, on a delinquent status licensee when such licensee applies for active or inactive status.

(8) There shall be imposed pursuant to rule an additional fee, not to exceed the biennial renewal fee for an active status license, for processing a licensee's request to change licensure status at any time other than at the beginning of a licensure cycle.

(9) There may be imposed pursuant to rule reasonable conditions, excluding full reexamination but including part of a national examination or a special purpose examination, to assess current competency necessary to ensure that a licensee who has been on inactive status for more than 4 consecutive years and who applies for active status can practice with the care and skill sufficient to protect the health, safety, and welfare of the public. Reactivation requirements may differ depending on the length of time licensees are inactive. The costs to meet reactivation requirements shall be borne by licensees requesting reactivation.

(10) Before reactivation, an inactive or delinquent licensee shall meet the same continuing education requirements, if any, imposed on an active status licensee for all licensure periods in which the licensee was inactive or delinquent.

(11) The status or a change in status of a licensee shall not alter in any way the right to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent.

Section 71. Section 497.366, Florida Statutes, is created to read:

497.366 Licensure; renewal and cancellation notices.—

(1) At least 90 days before the end of a licensure cycle, the licensing authority shall:

(a) Forward a licensure renewal notification to an active or inactive licensee at the licensee's last known address of record with the licensing authority.

(b) Forward a notice of pending cancellation of licensure to a delinquent status licensee at the licensee's last known address of record with the licensing authority.

(2) Each licensure renewal notification and each notice of pending cancellation of licensure must state conspicuously that a licensee who remains on inactive status for more than 4 years and who wishes to reactivate the license may be required to demonstrate the competency to resume active practice by sitting for a special purpose examination or by completing other reactivation requirements, as defined by rule of the licensing authority.

(3) This section shall apply only to licensees licensed under this part.

Section 72. Section 497.367, Florida Statutes, is created to read:

497.367 Instruction on HIV and AIDS, funeral directors and embalmers.—

(1) Each person licensed as a funeral director or embalmer under this chapter shall be required to complete an approved continuing educational course on human immunodeficiency virus and acquired immune deficiency syndrome, at least every 2 years. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients.

(2) Confirmation of completed continuing education concerning each funeral director or embalmer licensee shall be submitted according to procedures, forms, and methods as specified by rule of the licensing authority.

(3) There may be approved by the licensing authority by rule or order additional equivalent courses that may be used to satisfy the requirements in subsection (1). There may be counted the hours required for completion of the course included in the total continuing educational requirements as required by law.

(4) Any person holding two or more licenses subject to the provisions of this section shall only be required to take the course once every 2 years notwithstanding the number of licenses held by that person.

(5) Failure to timely comply with the above requirements shall constitute grounds for disciplinary action against the licensee.

(6) It shall be required as a condition of granting a license as a funeral director and embalmer under this chapter that an applicant making initial application for licensure complete an educational course approved by the licensing authority on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

Section 73. Section 470.006, Florida Statutes, is renumbered as section 497.368, Florida Statutes, and amended to read:

497.368 ~~470.006~~ *Embalmers;* licensure as an embalmer by examination; provisional license.—

(1) Any person desiring to be licensed as an embalmer shall apply to the *licensing authority* ~~department~~ to take the licensure examination. The *licensing authority* ~~department~~ shall examine each applicant who has remitted an examination fee set by *rule of the licensing authority* ~~the board~~ not to exceed $200 plus the actual per applicant cost to the *licensing authority* ~~department~~ for portions of the examination and who ~~the board certifies~~ has:

(a) Completed the application form and remitted a nonrefundable application fee set by the *licensing authority* ~~board~~ not to exceed *$200* ~~$50~~.

(b) Submitted proof satisfactory to the *licensing authority* ~~board~~ that the applicant is at least 18 years of age and is a recipient of a high school degree or equivalent.

(c) Had no conviction or finding of guilt, regardless of adjudication, for a crime which directly relates to the ability to practice embalming or the practice of embalming.

(d) Completed a course in mortuary science approved by the *licensing authority* ~~board~~, which course embraces, at least, the following subjects: theory and practice of embalming, restorative art, pathology, anatomy, microbiology, chemistry, hygiene, and public health and sanitation.

(e) Submitted proof of completion of a ~~board-approved~~ course on communicable diseases *approved by the licensing authority*.

(2) The *licensing authority* ~~department~~ shall license the applicant as an embalmer if the applicant:

(a) Passes an examination on the subjects of the theory and practice of embalming, restorative art, pathology, anatomy, microbiology, chemistry, hygiene, public health and sanitation, and local, state, and federal laws and rules relating to the disposition of dead human bodies; however, *there may* ~~the board~~ by rule *be approved by the licensing authority* ~~may adopt~~ the use of a national examination, such as the embalming examination prepared by the Conference of Funeral Service Examining Boards, in lieu of part of this examination requirement; and

(b) Completes a 1-year internship under a licensed embalmer.

(3) Any applicant who has completed the required 1-year internship and has been approved for examination as an embalmer may qualify for a provisional license to work in a licensed funeral establishment, under the direct supervision of a licensed embalmer for a limited period of 6 months as provided by rule of the *licensing authority* ~~board~~. The fee for provisional licensure shall be set by *rule of the licensing authority* ~~the board~~, but may not exceed *$200* ~~$125~~, and shall be nonrefundable and in addition to the fee required in subsection (1). This provisional license may be renewed no more than one time.

Section 74. Section 470.007, Florida Statutes, is renumbered as section 497.369, Florida Statutes, and amended to read:

497.369 ~~470.007~~ *Embalmers;* licensure as an embalmer by endorsement; *licensure* ~~registration~~ of a temporary embalmer.—

(1) The *licensing authority* ~~department~~ shall issue a license by endorsement to practice embalming to an applicant who has remitted an examination fee set by *rule of the licensing authority* ~~the board~~ not to exceed $200 and who the *licensing authority* ~~board~~ certifies:

(a) Has completed the application form and remitted a nonrefundable application fee set by *rule of the licensing authority* ~~the board~~ not to exceed *$200* ~~$50~~.

(b)1. Holds a valid license to practice embalming in another state of the United States, provided that, when the applicant secured ~~his or~~ her *or his* original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in this state; or

2. Meets the qualifications for licensure in s. *497.368* ~~470.006~~, except that the internship requirement shall be deemed to have been satisfied by 1 year's practice as a licensed embalmer in another state, and has, within 10 years prior to the date of application, successfully completed a state, regional, or national examination in mortuary science, which, as determined by rule of the *licensing authority* ~~board~~, is substantially equivalent to or more stringent than the examination given by the *licensing authority* ~~department~~.

(c) Has submitted proof of completion of a *licensing authority approved* ~~board-approved~~ course on communicable diseases.

(2) State, regional, or national examinations and requirements for licensure in another state shall be presumed to be substantially equivalent to or more stringent than the examination and requirements in this state unless found otherwise by rule of the *licensing authority* ~~board~~.

(3) The *licensing authority* ~~department~~ shall not issue a license by endorsement or a temporary *license* ~~registration~~ to any applicant who is under investigation or prosecution in any jurisdiction for an act which would constitute a violation of this chapter until such time as the investigation or prosecution is complete.

(4) Each applicant for licensure by endorsement must pass the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies which is required under s. *497.368* ~~470.006~~ and which shall be given by the *licensing authority* ~~department~~.

(5) *There may be adopted by the licensing authority* ~~The board may adopt~~ rules authorizing an applicant who has met the requirements of paragraphs (1)(b) and (c) and who is awaiting an opportunity to take the examination required by subsection (4) to *be licensed* ~~register~~ as a temporary *licensed* embalmer. A *temporary licensed* ~~registered~~ temporary embalmer may work as an embalmer in a licensed funeral establishment under the general supervision of a licensed embalmer. Such *temporary license* ~~registration~~ shall expire 60 days after the date of the next available examination required under subsection (4); however, the temporary *license* ~~registration~~ may be renewed one time under the same conditions as initial issuance. The fee for *issuance* ~~registration~~ or renewal of *an embalmer temporary license* ~~registration as a temporary embalmer~~ shall be set by *rule of the licensing authority* ~~the board~~ but may not exceed *$200* ~~$125~~. The fee required in this subsection shall be nonrefundable and in addition to the fee required in subsection (1).

Section 75. Section 470.008, Florida Statutes, is renumbered as section 497.370, Florida Statutes, and amended to read:

497.370 ~~470.008~~ *Embalmers; licensure* ~~Registration~~ of an embalmer intern.—

(1) Any person desiring to become an embalmer intern shall make application to the *licensing authority* ~~department~~ on forms *specified by rule* ~~provided by the department~~, together with a nonrefundable fee *determined by rule of the licensing authority but* not to exceed *$200* ~~$100~~. The application shall indicate the name and address of the licensed embalmer under whose supervision the intern will receive training and the name of the licensed funeral establishment or centralized embalming facility where such training is to be conducted. The embalmer intern shall intern under the direct supervision of a licensed embalmer who has an active, valid license *under s. 497.368 or s. 497.369*.

(2) An applicant for internship under this section shall meet the requirements of s. *497.368(1)(b)-(e)* ~~470.006(1)(b)-(e)~~ prior to being *licensed* ~~registered by the board~~ as an embalmer intern.

(3) *There shall be adopted* ~~The board shall adopt~~ rules establishing an embalmer internship program and criteria for embalmer intern training agencies and supervisors. Any funeral establishment or centralized embalming facility where embalming is conducted must apply to the *licensing authority* ~~board~~ for approval as an embalmer intern training agency.

(4) A funeral establishment or centralized embalming facility designated as an embalmer intern training agency may not exact a fee from any person obtaining intern training at such funeral establishment or centralized embalming facility.

Section 76. Section 470.0085, Florida Statutes, is renumbered as section 497.371, Florida Statutes, and amended to read:

497.371 ~~470.0085~~ *Embalmers;* establishment of embalmer apprentice program.—The *licensing authority adopts* ~~board may adopt~~ rules establishing an embalmer apprentice program. An embalmer apprentice may perform only those tasks, functions, and duties relating to embalming which are performed under the direct supervision of *an* ~~a licensed~~ embalmer *who has an active, valid license under s. 497.368 or s. 497.369*. An embalmer apprentice shall be eligible to serve in an apprentice capacity for a period not to exceed *3 years* ~~1 year~~ as may be determined by *licensing authority* ~~board~~ rule or for a period not to exceed *5* ~~3~~ years if the apprentice is enrolled in and attending a course in mortuary science or funeral service education at any mortuary college or funeral service education college or school. An embalmer apprentice shall be *licensed* ~~registered with the board~~ upon payment of a *licensure* ~~registration~~ fee *as determined by licensing authority rule but* not to exceed *$200* ~~$50~~.

Section 77. Section 470.0087, Florida Statutes, is renumbered as section 497.372, Florida Statutes, and amended to read:

497.372 ~~470.0087~~ *Funeral directing; conduct constituting* ~~Practice of~~ funeral directing.—

(1) The practice of funeral directing shall be construed to consist of the following functions, which may be performed only by a licensed funeral director:

(a) Selling or offering to sell funeral services on an at-need basis.

(b) Planning or arranging, on an at-need basis, the details of a funeral service with the family or friends of the decedent or any other person responsible for such service; setting the time of the service; establishing the type of service to be rendered; acquiring the services of the clergy; and obtaining vital information for the filing of death certificates and obtaining of burial transit permits.

(c) Making, negotiating, or completing the financial arrangements for a funeral service on an at-need basis, provided that nonlicensed personnel may assist the funeral director in performing such tasks.

(d) Directing, being in charge or apparent charge of, or supervising, directly or indirectly, a visitation or viewing. Such functions shall not require that a licensed funeral director be physically present throughout the visitation or viewing, provided that the funeral director is readily available by telephone for consultation.

(e) Directing, being in charge or apparent charge of, or supervising, directly or indirectly, any funeral service held in a funeral establishment, cemetery, or elsewhere.

(f) Directing, being in charge or apparent charge of, or supervising, directly or indirectly, any memorial service held prior to or within 72 hours of the burial or cremation, if such memorial service is sold or arranged by a *licensee* ~~certificateholder or registrant~~.

(g) Using in connection with one's name or employment the words or terms "funeral director," "funeral establishment," "undertaker," "mortician," or any other word, term, title, or picture, or combination of any of the above, that when considered in the context in which used would imply that such person is engaged in the practice of funeral directing or that such person is holding ~~himself or~~ herself *or himself* out to the public as being engaged in the practice of funeral directing; provided, however, that nothing in this paragraph shall prevent using the name of any owner, officer, or corporate director of a funeral establishment, who is not a licensee, in connection with the name of the funeral establishment with which such individual is affiliated, so long as such individual's affiliation is properly specified.

(h) Managing or supervising the operation of a funeral establishment, except for administrative matters such as budgeting, accounting and personnel, maintenance of buildings, equipment and grounds, and routine clerical and recordkeeping functions.

(2) The practice of funeral directing shall not be construed to consist of the following functions:

(a) The phoning-in or faxing of obituary notices; ordering of flowers or merchandise; delivery of death certificates to attending physicians; or clerical preparation of death certificates, insurance forms, and any clerical tasks that record the information compiled by the funeral director or that are incidental to any of the functions specified above.

(b) Furnishing standard printed price lists and other disclosure information to the public by telephone or by providing such lists to persons making inquiry.

(c) Removing or transporting human remains from the place of death, or removing or transporting human remains from or to a funeral establishment, centralized embalming facility, refrigeration facility, cemetery, crematory, medical examiner's office, common carrier, or other locations as authorized and provided by law.

(d) Arranging, coordinating, or employing *licensed* ~~registered~~ removal services, *licensed* ~~registered~~ refrigeration facilities, or *licensed* ~~registered~~ centralized embalming facilities.

(e) Any aspect of making preneed funeral arrangements or entering into preneed contracts.

(f) Any functions normally performed by cemetery or crematory personnel.

Section 78. Section 470.009, Florida Statutes, is renumbered as section 497.373, Florida Statutes, and amended to read:

497.373 ~~470.009~~ *Funeral directing;* licensure as a funeral director by examination; provisional license.—

(1) Any person desiring to be licensed as a funeral director shall apply to the *licensing authority* ~~department~~ to take the licensure examination. The *licensing authority* ~~department~~ shall examine each applicant who has remitted an examination fee set by *rule of the licensing authority* ~~the board~~ not to exceed $200 plus the actual per applicant cost to the *licensing authority* ~~department~~ for portions of the examination and who the *licensing authority* ~~board~~ certifies has:

(a) Completed the application form and remitted a nonrefundable application fee set by *rule of the licensing authority* ~~the board~~ not to exceed *$200* ~~$50~~.

(b) Submitted proof satisfactory to the *licensing authority* ~~board~~ that the applicant is at least 18 years of age and is a recipient of a high school degree or equivalent.

(c) Had no conviction or finding of guilt, regardless of adjudication, for a crime which directly relates to the ability to practice funeral directing or the practice of funeral directing.

(d)1. Received an associate in arts degree, associate in science degree, or an associate in applied science degree in mortuary science approved by the *licensing authority* ~~board~~; or

2. Holds an associate degree or higher from a college or university accredited by a regional association of colleges and schools recognized by the United States Department of Education and is a graduate of at least *an approved* ~~a~~ 1-year course in mortuary science approved by the *licensing authority* ~~board~~.

(e) Submitted proof of completion of a ~~board-approved~~ course on communicable diseases *approved by the licensing authority*.

(2) The *licensing authority* ~~department~~ shall license the applicant as a funeral director if ~~he or~~ she *or he*:

(a) Passes an examination on the subjects of the theory and practice of funeral directing, public health and sanitation, and local, state, and federal laws and rules relating to the disposition of dead human bodies; however, *there may be approved by rule* ~~the board by rule may adopt~~ the use of a national examination, such as the funeral service arts examination prepared by the Conference of Funeral Service Examining Boards, in lieu of part of this examination requirement.

(b) Completes a 1-year internship under a licensed funeral director.

(3) Any applicant who has completed the required 1-year internship and has been approved for examination as a funeral director may qualify for a provisional license to work in a licensed funeral establishment, under the direct supervision of a licensed funeral director for a limited period of 6 months as provided by rule of the *licensing authority* ~~board~~. The fee for provisional licensure shall be set by *rule of the licensing authority* ~~the board~~ but may not exceed *$200* ~~$125~~. The fee required in this subsection shall be nonrefundable and in addition to the fee required by subsection (1). This provisional license may be renewed no more than one time.

Section 79. Section 470.011, Florida Statutes, is renumbered as section 497.374, Florida Statutes, and amended to read:

497.374 ~~470.011~~ *Funeral directing;* licensure as a funeral director by endorsement; *licensure* ~~registration~~ of a temporary funeral director.—

(1) The *licensing authority* ~~department~~ shall issue a license by endorsement to practice funeral directing to an applicant who has remitted a fee set by *rule of the licensing authority* ~~the board~~ not to exceed $200 and who ~~the board certifies~~:

(a) Has completed the application form and remitted a nonrefundable application fee set by *rule of the licensing authority* ~~the board~~ not to exceed *$200* ~~$50~~.

(b)1. Holds a valid license to practice funeral directing in another state of the United States, provided that, when the applicant secured ~~his or~~ her *or his* original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in this state; or

2. Meets the qualifications for licensure in s. *497.373* ~~470.009~~ and has, within 10 years prior to the date of application, successfully completed a state, regional, or national examination in mortuary science, which, as determined by rule of the *licensing authority* ~~board~~, is substantially equivalent to or more stringent than the examination given by the *licensing authority* ~~department~~.

(c) Has submitted proof of completion of a *licensing authority approved* ~~board-approved~~ course on communicable diseases.

(2) The *licensing authority* ~~department~~ shall not issue a license by endorsement or a temporary *license* ~~registration~~ to any applicant who is under investigation or prosecution in any jurisdiction for acts which would constitute a violation of this chapter until such time as the investigation or prosecution is complete.

(3) State, regional, or national examinations and requirements for licensure in another state shall be presumed to be substantially equivalent to or more stringent than the examination and requirements in this state unless found otherwise by rule of the *licensing authority* ~~board~~.

(4) Each applicant for licensure by endorsement must pass the examination on local, state, and federal laws and rules relating to the disposition of dead human bodies which is required under s. *497.373* ~~470.009~~ and which shall be given by the *licensing authority* ~~department~~.

(5) *There may be adopted* ~~The board may adopt~~ rules authorizing an applicant who has met the requirements of paragraphs (1)(b) and (c) and who is awaiting an opportunity to take the examination required by subsection (4) to *obtain a license* ~~register~~ as a temporary funeral director. A *licensed* ~~registered~~ temporary funeral director may work as a funeral director in a licensed funeral establishment under the general supervision of a ~~licensed~~ funeral director *licensed under subsection (1) or s. 497.373*. Such *license* ~~registration~~ shall expire 60 days after the date of the next available examination required under subsection (4); however, the temporary *license* ~~registration~~ may be renewed one time under the same conditions as initial issuance. The fee for *initial issuance or renewal of a temporary license under this subsection* ~~registration or renewal of registration as a temporary funeral director~~ shall be set by *rule of the licensing authority* ~~the board~~ but may not exceed *$200* ~~$125~~. The fee required in this subsection shall be nonrefundable and in addition to the fee required in subsection (1).

Section 80. Section 470.012, Florida Statutes, is renumbered as section 497.375, Florida Statutes, and amended to read:

497.375 ~~470.012~~ *Funeral directing; licensure* ~~Registration~~ of a funeral director intern.—

(1) Any person desiring to become a funeral director intern shall make application ~~to the department~~ on forms *as required by rule* ~~provided by the department~~, together with a nonrefundable fee *as determined by rule of the licensing authority but* not to exceed *$200* ~~$100~~. The application shall indicate the name and address of the licensed funeral director *licensed under s. 497.373 or s. 497.374(1)* under whose supervision the intern will receive training and the name of the licensed funeral establishment where such training is to be conducted. The funeral director intern shall intern under the direct supervision of a licensed funeral director who has an active, valid license *under s. 497.373 or s. 497.374(1)*.

(2) *Rules shall be adopted* ~~The board shall adopt rules~~ establishing a funeral director internship program and criteria for funeral director intern training agencies and supervisors. Any funeral establishment where funeral directing is conducted may apply to the *licensing authority* ~~board~~ for approval as a funeral director intern training agency.

(3) A funeral establishment designated as a funeral director intern training agency may not exact a fee from any person obtaining intern training at such funeral establishment.

Section 81. Section 470.013, Florida Statutes, is renumbered as section 497.376, Florida Statutes, and amended to read:

497.376 ~~470.013~~ License as funeral director and embalmer permitted; display of license.—

(1) Nothing in this chapter may be construed to prohibit a person from holding a license as an embalmer and a license as a funeral director at the same time.

(2) *There shall be adopted* ~~The board shall adopt~~ rules which require each license issued under this chapter to be displayed in such a manner as to make it visible to the public and to facilitate inspection by the *licensing authority* ~~department~~. However, each licensee shall permanently affix a recent photograph of the licensee to each displayed license issued to that licensee as a funeral director or embalmer.

Section 82. Section 470.014, Florida Statutes, is renumbered as section 497.377, Florida Statutes, and amended to read:

497.377 ~~470.014~~ Concurrent internships.—The internship requirement for embalmers and funeral directors may be served concurrently pursuant to rules adopted by the *licensing authority* ~~board~~.

Section 83. Section 470.015, Florida Statutes, is renumbered as section 497.378, Florida Statutes, and amended to read:

497.378 ~~470.015~~ Renewal of funeral director and embalmer licenses.—

(1) *There shall be renewed* ~~The department shall renew~~ a funeral director or embalmer license upon receipt of the renewal application and fee set by the *licensing authority* ~~board~~ not to exceed $250. The *licensing authority* ~~board~~ may prescribe by rule continuing education requirements of up to 12 classroom hours and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to a *licensing authority-approved* ~~board-approved~~ course on communicable diseases that includes the course on human immunodeficiency virus and acquired immune deficiency syndrome required by s. *497.367* ~~455.2226~~, for the renewal of a funeral director or embalmer license. The *rule* ~~board~~ may provide for the waiver of continuing education requirements in circumstances that would justify the waiver, such as hardship, disability, or illness. The continuing education requirement is not required after July 1, 1996, for a licensee who is over the age of 75 years if the licensee does not qualify as the sole person in charge of an establishment or facility.

(2) The *licensing authority* ~~department~~ shall adopt rules establishing a procedure for the biennial renewal of licenses.

(3) The *licensing authority* ~~board~~ shall adopt rules to establish requirements for the advertising of continuing education courses.

Section 84. Section 470.016, Florida Statutes, is renumbered as section 497.379, Florida Statutes, and amended to read:

497.379 ~~470.016~~ Inactive status.—

(1) A funeral director or embalmer license that has become inactive may be reactivated under s. *497.378* ~~470.015~~ upon application to the *licensing authority* ~~department~~. The *licensing authority* ~~board~~ shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license may not exceed 12 classroom hours, and the *licensing authority* ~~board~~ may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to a *licensing authority-approved* ~~board-approved~~ course on communicable diseases, for each year the license was inactive.

(2) The *licensing authority* ~~board~~ shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, a delinquency fee, and a fee for reactivation of a license. None of these fees may exceed the biennial renewal fee established by the *licensing authority* ~~board~~ for an active license.

(3) The *licensing authority* ~~department~~ may not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

Section 85. Section 470.024, Florida Statutes, is renumbered as section 497.380, Florida Statutes, and amended to read:

497.380 ~~470.024~~ Funeral establishment; licensure.—

(1) A funeral establishment shall be a place at a specific street address or location consisting of at least 1,250 contiguous interior square feet and must maintain or make arrangements for either ~~suitable~~ capacity for the refrigeration and storage of dead human bodies handled and stored by the establishment *and* ~~or~~ a preparation room equipped with necessary ventilation and drainage and containing necessary instruments for embalming dead human bodies *or must make arrangements for a preparation room as established by rule*.

(2) Each licensed funeral establishment may operate a visitation chapel at a separate location within the county in which the funeral establishment is located. A visitation chapel must be a facility of not less than 500 square feet and not more than 700 square feet and may be operated only when a licensed funeral director is present at the facility. A visitation chapel may be used only for visitation of a deceased human body and may not be used for any other activity permitted by this chapter.

(3) No person may conduct, maintain, manage, or operate a funeral establishment unless *a funeral* ~~an~~ establishment operating license has been issued *under this chapter* ~~by the department~~ for that funeral establishment.

(4) Application for a funeral establishment license shall be made on forms *and pursuant to procedures specified by rule* ~~furnished by the department~~, shall be accompanied by a nonrefundable fee not to exceed $300 as set by *licensing authority* ~~board~~ rule, and shall include the name of the licensed funeral director who is in charge of that establishment.

(5) A funeral establishment license shall be renewable biennially pursuant to procedures, and upon payment of a nonrefundable fee not to exceed $300, as set by *licensing authority* ~~board~~ rule. The *licensing authority* ~~board~~ may also establish by rule a delinquency fee not to exceed $50 *per day*.

(6) The practice of embalming done at a funeral establishment shall only be practiced by an embalmer licensed under this chapter.

(7) Each licensed funeral establishment shall have one full-time funeral director in charge and shall have a licensed funeral director reasonably available to the public during normal business hours for that establishment. The full-time funeral director in charge must have an active license and may not be the full-time funeral director in charge of any other funeral establishment or of any other direct disposal establishment.

(8) The issuance of a license to operate a funeral establishment to a person or entity who is not individually licensed as a funeral director does not entitle the person to practice funeral directing.

(9) Each funeral establishment located at a specific address shall be deemed to be a separate entity and shall require separate licensing and compliance with the requirements of this chapter. A funeral establishment may not be operated at the same location as any other funeral

establishment or direct disposal establishment unless such establishments were licensed as colocated establishments on October 1, 1993.

(10) Every funeral establishment licensed under this chapter shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department or any of its designated representatives or agents, or local or Department of Health inspectors. The *licensing authority* ~~board~~ shall by rule establish requirements for inspection of funeral establishments.

(11) The *licensing authority* ~~board~~ shall set by rule an annual inspection fee not to exceed *$300* ~~$100~~, payable upon application for licensure and upon each renewal of such license.

(12) A change in ownership of a funeral establishment shall be promptly reported *pursuant to procedures established by rule* ~~to the department~~ and shall require the relicensure of the funeral establishment, including reinspection and payment of applicable fees.

(13) Each application for a funeral establishment license shall identify every person with the ability to direct the management or policies of the establishment and must identify every person having more than a 10-percent ownership interest in the establishment or the business or corporation which owns the establishment. The *licensing authority* ~~board~~ may deny, suspend, or revoke the license if any person identified in the application has *been or thereafter is* ~~ever been~~ disciplined by a regulatory agency in any jurisdiction for any offense that would constitute a violation of this chapter. The *licensing authority* ~~board~~ may deny, suspend, or revoke the license if any person identified in the application has ever been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the ability to operate a funeral establishment.

(14) Each funeral establishment must display at the public entrance the name of the establishment and the name of the full-time funeral director in charge. A funeral establishment must transact its business under the name by which it is licensed.

Section 86. Section 470.026, Florida Statutes, is renumbered as section 497.381, Florida Statutes, and amended to read:

497.381 ~~470.026~~ Solicitation of goods or services.—

(1) The *licensing authority* ~~board~~ shall adopt rules regulating the solicitation of goods or services by licensees ~~or registrants~~.

(2) The *licensing authority* ~~board~~ shall regulate such solicitation to protect the public from solicitation which is intimidating, overreaching, ~~vexatious,~~ fraudulent, or misleading; which utilizes undue influence; or which takes undue advantage of a person's ignorance or emotional vulnerability.

(3) The *licensing authority* ~~board~~ shall regulate such solicitation which comprises an uninvited invasion of personal privacy. It is the express finding of the Legislature that the public has a high expectation of privacy in one's personal residence, and the *licensing authority* ~~board~~ by rule may restrict the hours or otherwise regulate such solicitation in the personal residence of a person unless the solicitation has been previously and expressly requested by the person solicited.

(4) Nothing in this chapter may be construed to restrict the right of a person to lawfully advertise, direct mail, or otherwise communicate in a manner not within the definition of solicitation or to solicit the business of anyone responding to such communication or otherwise initiating discussion of the goods or services being offered.

(5) At-need solicitation of funeral merchandise or services is prohibited. No funeral director or direct disposer or her or his agent or representative may contact the family or next of kin of a deceased person to sell services or merchandise unless the funeral director or direct disposer or her or his agent or representative has been initially called or contacted by the family or next of kin of such person and requested to provide her or his services or merchandise.

Section 87. Section 470.029, Florida Statutes, is renumbered as section 497.382, Florida Statutes, and amended to read:

497.382 ~~470.029~~ Reports of cases embalmed and bodies handled.—

(1) Each funeral establishment, direct disposal establishment, cinerator facility, and centralized embalming facility shall report on a form prescribed and furnished by the *licensing authority* ~~department~~ the name of the deceased and such other information as may be required with respect to each dead human body embalmed or otherwise handled by the establishment or facility. Such forms shall be signed by the embalmer who performs the embalming, if the body is embalmed, and the funeral director in charge of the establishment or facility or by the direct disposer who disposes of the body. The *licensing authority* ~~board~~ shall prescribe by rule the procedures in submitting such documentation. Reports required by this subsection shall be filed by the *20th* ~~10th~~ day of each month for final dispositions handled the preceding month.

(2) Funeral directors performing disinterments shall report, *using a form and procedures specified by rule* ~~on a form prescribed and furnished by the department~~, the name of the deceased and such other information as may be required *by rule* with respect to each dead human body disinterred.

Section 88. Section 470.0294, Florida Statutes, is renumbered as section 497.383, Florida Statutes, and amended to read:

497.383 ~~470.0294~~ Additional rights of legally authorized persons.—

(1) In addition to any other common law or statutory rights a legally authorized person may otherwise have, that person may authorize a funeral director or direct disposer licensed under this chapter to lawfully dispose of fetal remains in circumstances when a fetal death certificate is not issued under chapter 382. A person licensed under *this* chapter *or former chapter* 470 is not liable for damages as a result of following the instructions of the legally authorized person in connection with the final disposition of fetal remains in circumstances in which a fetal death certificate is not issued under chapter 382 or in connection with the final disposition of a dead human body.

(2) Any ambiguity or dispute concerning the right of any legally authorized person to provide authorization under this chapter or the validity of any documentation purporting to grant that authorization shall be resolved by a court of competent jurisdiction.

Section 89. Section 470.0295, Florida Statutes, is renumbered as section 497.384, Florida Statutes, and amended to read:

497.384 ~~470.0295~~ Disinterment; transportation; authorization and notification.—

(1) The disinterment and reinterment of human remains shall require the physical presence of a licensed funeral director, unless the reinterment is to be made in the same cemetery.

(2) In order to ensure that any disinterment or transportation of a dead human body is conducted in a manner that properly protects the public health, safety, and welfare, the *licensing authority* ~~board~~ may adopt rules to regulate the disinterment and transportation of human remains.

(3) The funeral director shall obtain written authorization from a legally authorized person or a court of competent jurisdiction prior to the disinterment and reinterment of a dead human body.

(4) Notification must be provided *licensing authority* ~~to the board and department~~ as provided in s. *497.382* ~~470.029~~.

(5) The removal of human remains from a designated temporary storage area to a place of permanent burial within a cemetery shall not be considered a disinterment or reinterment.

Section 90. Section 470.0301, Florida Statutes, is renumbered as section 497.385, Florida Statutes, and amended to read:

497.385 ~~470.0301~~ Removal services; refrigeration facilities; centralized embalming facilities.—In order to ensure that the removal, refrigeration, and embalming of all dead human bodies is conducted in a manner that properly protects the public's health and safety, the *licensing authority* ~~board~~ shall adopt rules to provide for the *licensure* ~~registration~~ of removal services, refrigeration facilities, and centralized embalming facilities operated independently of funeral establishments, direct disposal establishments, and cinerator facilities.

(1) REMOVAL SERVICES AND REFRIGERATION SERVICES.—

(a) Application for *licensure* ~~registration~~ of a removal service or a refrigeration service shall be made *using forms and procedures as specified by rule* ~~on forms furnished by the department~~, shall be accompanied by a nonrefundable fee not to exceed $300 as set by *licensing authority* ~~board~~ rule, and shall include the name of the business owner, manager in charge, business address, and copies of occupational and other local permits.

(b) The *licensing authority* ~~board~~ shall set by rule requirements for *licensure* ~~registration~~ of removal services and refrigeration services.

(c) *The licensure* ~~Registration~~ shall be renewed biennially pursuant to procedures and upon payment of a nonrefundable fee not to exceed $300 as set by *licensing authority* ~~board~~ rule. The *licensing authority* ~~board~~ may also establish by rule a *late* renewal penalty fee not to exceed $50 *per day*. Any *licensure* ~~registration~~ not renewed within 30 days after its renewal date shall expire without further action ~~by the department~~.

(d) Each business located at a specific address shall be deemed to be a separate entity and shall require separate *licensure* ~~registration~~ and compliance with the requirements of this chapter.

(e) Every *licensee* ~~registrant~~ under this section shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department or any of its designated representatives or agents, or local or Department of Health inspectors. The *licensing authority* ~~board~~ shall by rule establish requirements for inspection of removal services and refrigeration services.

(f) The *licensing authority* ~~board~~ shall set by rule an annual inspection fee not to exceed *$300* ~~$100~~, payable upon application for *licensure* ~~registration~~ and upon each renewal of such *licensure* ~~registration~~.

(g) A change in ownership shall be promptly reported *using forms and procedures specified by rule* ~~to the department~~ and may require the relicensure of the *licensee* ~~registrant~~, including reinspection and payment of applicable fees*, as required by rule*.

(h) The *licensing authority* ~~board~~ may deny, suspend, or revoke the *licensure* ~~registration~~ if any person identified in the application has ever been disciplined by a regulatory agency in any jurisdiction for any offense that would constitute a violation of this chapter. The *licensing authority* ~~board~~ may deny, suspend, or revoke the *license of* ~~registration if~~ any person identified in the application *who* has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the ability to operate a removal service or refrigeration service.

(i) Each business must display at the public entrance the name of the establishment and the name of the full-time manager in charge. Each *licensee* ~~registrant~~ must transact its business under the name by which it is *licensed* ~~registered~~ with the *licensing authority* ~~department~~.

(j) No person may conduct, maintain, manage, or operate a removal service or refrigeration service unless *licensed* ~~registration~~ for such service *under this chapter* ~~has been issued by the department~~.

(k) Such removal services and refrigeration services may not enter into removal or refrigeration contracts with the general public.

(2) CENTRALIZED EMBALMING FACILITIES.—In order to ensure that all funeral establishments have access to embalming facilities that comply with all applicable health and safety requirements, the *licensing authority* ~~board~~ shall adopt rules to provide for the *licensure* ~~registration~~ and operation of centralized embalming facilities and shall require, at a minimum, the following:

(a) All centralized embalming facilities shall contain all of the equipment and meet all of the requirements that a preparation room located in a funeral establishment is required to meet, but such facilities shall not be required to comply with any of the other requirements for funeral establishments, as set forth in s. *497.380* ~~470.024~~.

(b) Each licensed centralized embalming facility shall have at least one full-time embalmer in charge. The full-time embalmer in charge must have an active license and may not be the full-time embalmer in charge, full-time funeral director in charge, or full-time direct disposer in charge of any other establishment licensed under this chapter.

(c) Any person, regardless of whether such person is otherwise regulated by this chapter, may own such a facility, provided that such facility is operated in accordance with the rules established by the *licensing authority* ~~board~~.

(d) A centralized embalming facility may only provide services to funeral establishments.

(e) The practice of embalming done at a centralized embalming facility shall only be practiced by an embalmer licensed under this chapter and shall be provided only to licensed funeral establishments.

(f) Application for *licensure* ~~registration~~ of a centralized embalming facility shall be made *utilizing forms and procedures prescribed by rule* ~~on forms furnished by the department~~ and shall be accompanied by a nonrefundable fee not to exceed $300 as set by *licensing authority* ~~board~~ rule, and *licensure* ~~registration~~ shall be renewed biennially pursuant to procedures and upon payment of a nonrefundable fee not to exceed $300 as set by *licensing authority* ~~board~~ rule. The *licensing authority* ~~board~~ may also establish by rule a late fee not to exceed $50 *per day*. Any *licensure* ~~registration~~ not renewed within 30 days after the renewal date shall expire without further action by the department.

(g) The *licensing authority* ~~board~~ shall set by rule an annual inspection fee not to exceed *$300* ~~$100~~, payable upon application for *licensure* ~~registration~~ and upon renewal of such *licensure* ~~registration~~.

(h) The *licensing authority* ~~board~~ shall, by rule, establish operating procedures which shall require, at a minimum, that centralized embalming facilities maintain a system of identification of human remains received for embalming.

Section 91. Section 470.0315, Florida Statutes, is renumbered as section 497.386, Florida Statutes, and amended to read:

497.386 ~~470.0315~~ Storage, preservation, and transportation of human remains.—

(1) A person may not store or maintain human remains at any establishment or facility except an establishment or facility licensed ~~or registered~~ under this chapter or a health care facility, medical examiner's facility, morgue, or cemetery holding facility.

(2) A dead human body may not be held in any place or in transit over 24 hours after death or pending final disposition unless the body is maintained under refrigeration at a temperature of 40 degrees Fahrenheit or below or is embalmed or otherwise preserved in a manner approved by the *licensing authority* ~~board~~ in accordance with the provisions of this chapter.

(3) A dead human body transported by common carrier or any agency or individual authorized to carry dead human bodies must be placed in a carrying container adequate to prevent the seepage of fluids and escape of offensive odors. A dead human body may be transported only when accompanied by a properly completed burial-transit permit issued in accordance with the provisions of chapter 382.

(4) The *licensing authority* ~~board~~ shall establish by rule the minimal standards of acceptable and prevailing practices for the handling and storing of dead human bodies, provided that all human remains transported or stored must be completely covered and at all times treated with dignity and respect.

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

Section 92. Section 470.032, Florida Statutes, is renumbered as section 497.387, Florida Statutes, and amended to read:

497.387 ~~470.032~~ Unlawful to remove or embalm body without consent of proper official when crime is suspected.—It is unlawful for a licensee *under this chapter* ~~or registrant~~ to remove or embalm a dead human body when she or he has information indicating crime or violence of any sort in connection with the cause of death until permission of the medical examiner or other lawfully authorized official has first been obtained.

Section 93. Section 470.0355, Florida Statutes, is renumbered as section 497.388, Florida Statutes, and amended to read:

497.388 ~~470.0355~~ Identification of human remains.—

(1) *PRIOR TO FINAL DISPOSITION.—*

(a) The licensee ~~or registrant~~ in charge of the final disposition of dead human remains shall, prior to final disposition of such dead human remains, affix on the ankle or wrist of the deceased, *and* ~~or~~ in the casket or alternative container or cremation container, proper identification of the dead human remains. The identification or tag shall be encased in or consist of durable and long-lasting material containing the name, date of birth, *and* date of death~~, and social security number~~ of the deceased, if available. If the dead human remains are cremated, proper identification shall be placed in the container or urn containing the remains.

(b)~~(2)~~ Any licensee ~~or registrant~~ responsible for removal of dead human remains to any establishment, facility, or location shall ensure that the remains are identified by a tag or other means of identification that is affixed to the ankle or wrist of the deceased at the time the remains are removed from the place of death or other location.

(c)~~(3)~~ Any licensee ~~or registrant~~ may rely on the representation of a legally authorized person to establish the identity of dead human remains.

(2) IN UNLICENSED CEMETERIES.—The identification of human remains interred in an unlicensed cemetery shall be the responsibility of the licensed funeral establishment in charge of the funeral arrangements for the deceased person. The licensed funeral establishment in charge of the funeral arrangements for the interment in an unlicensed cemetery of human remains shall place on the outer burial container, cremation internment container, or other container or on the inside of a crypt or niche a tag or permanent identifying mark containing the name of the decedent and the date of death, if available. The materials and locations of the tag or mark shall be more specifically described by rule of the licensing authority.

(3) IN LICENSED CEMETERIES.—Human remains at licensed cemeteries shall be identified as follows:

(a) Each licensed cemetery shall place on the outer burial container, cremation interment container, or other container or on the inside of a crypt or niche a tag or permanent identifying marker containing the name of the decedent and the date of death, if available. The materials and the location of the tag or marker shall be more specifically described by rule of the board.

(b) Each licensed cemetery may rely entirely on the identity stated on the burial transit permit or on the identification supplied by a person licensed under this chapter to establish the identity of the dead human remains delivered by such person for burial and shall not be liable for any differences between the identity shown on the burial transit permit or identification and the actual identity of the dead human remains delivered by such person and buried in the cemetery.

(4) DIRECT DISPOSAL ESTABLISHMENTS.—Direct disposal establishments shall establish a system of identification of human remains received which shall be designed to track the identity of the remains from the time of receipt until delivery of the remains to the authorized persons. This is in addition to the requirements for identification of human remains set forth in subsection (1). A copy of the identification procedures shall be available, upon request, to the department and legally authorized persons.

Section 94. Section 470.0375, Florida Statutes, is renumbered as section 497.389, Florida Statutes, and amended to read:

497.389 ~~470.0375~~ *Funeral establishments;* cash advance accounts; escrow refund accounts.—

(1) Funeral establishments may elect to maintain special, segregated bank accounts to be used in conjunction with making cash advances to vendors. The money in such accounts may be used by the funeral establishments to pay third-party vendors when such amounts must be paid before the funeral establishment has been paid by the purchaser.

(2) Funeral establishments may elect to maintain special, segregated escrow accounts to be used in conjunction with making cash refunds to their purchasers. A funeral establishment may deposit in such accounts any amounts paid by its purchasers that were in excess of the actual funeral costs incurred and cash advances made by the funeral establishment.

Section 95. Section 470.038, Florida Statutes, is renumbered as section 497.390, Florida Statutes, and amended to read:

497.390 ~~470.038~~ Reciprocity.—In order to ensure that funeral directors, embalmers, and direct disposers who are licensed ~~or registered~~ in this state may be considered for licensure or registration in other jurisdictions, the *licensing authority* ~~board~~ may enter into reciprocity agreements with other jurisdictions.

Section 96. Section 470.039, Florida Statutes, is renumbered as section 497.391, Florida Statutes, and amended to read:

497.391 ~~470.039~~ Exceptions.—

(1) Nothing in this chapter may be construed to limit the sale of caskets, alternative containers, outer burial containers, or funeral merchandise by any person *on an at-need basis*.

(2) Nothing in this chapter may be construed to override the written instructions or wishes of the deceased as to how ~~his or~~ her *or his* body is to be disposed of, if such instructions are reasonably available at the time of death.

Section 97. Section 470.0395, Florida Statutes, is renumbered as section 497.392, Florida Statutes, and amended to read:

497.392 ~~470.0395~~ Branch chapels.—Notwithstanding the provisions of s. *497.380* ~~470.024~~, any licensed establishment operating a branch chapel on June 30, 1979, in accordance with the law then in effect, as determined by the *licensing authority* ~~board~~, may continue to operate such branch chapel for the sole and exclusive purpose of providing and holding funeral services.

Section 98. Part IV of chapter 497, Florida Statutes, consisting of sections 497.450, 497.451, 497.452, 497.453, 497.454, 497.455, 497.456, 497.457, 497.458, 497.459, 497.460, 497.461, 497.462, 497.463, 497.464, 497.465, 497.466, and 497.467, is created to read:

PART IV
PRENEED SALES

Section 99. Section 497.401, Florida Statutes, is renumbered as section 497.450, Florida Statutes, to read:

497.450 ~~497.401~~ Preneed sales; chapter exclusive; applicability of other laws.—Except as provided in this chapter, preneed funeral merchandise or service contract businesses and preneed burial merchandise or service contract businesses shall be governed by this chapter and shall be exempt from all provisions of the Florida Insurance Code.

Section 100. Section 497.403, Florida Statutes, is renumbered as section 497.451, Florida Statutes, to read:

497.451 ~~497.403~~ Insurance business not authorized.—Nothing in the Florida Insurance Code or this chapter shall be deemed to authorize any preneed funeral merchandise or service contract business or any preneed burial merchandise or service business to transact any insurance business, other than that of preneed funeral merchandise or service insurance or preneed burial merchandise or service insurance, or otherwise to engage in any other type of insurance unless it is authorized under a certificate of authority issued under the provisions of the Florida Insurance Code. Any insurance business transacted under this section must comply with the provisions of s. 626.785.

Section 101. Section 497.405, Florida Statutes, is renumbered as section 497.452, Florida Statutes, and amended to read:

497.452 ~~497.405~~ *Preneed license* ~~Certificate of authority~~ required.—

(1)(a) No person, including any cemetery exempt under s. *497.260* ~~497.003~~, may sell*, advertise to sell, or make an arrangement for* a preneed contract without first having a valid *preneed license* ~~certificate of authority~~.

(b) No person, including any cemetery exempt under s. *497.260* ~~497.003~~, may sell*, advertise to sell, or make an arrangement for* services,

merchandise, or burial rights on a preneed basis unless such person is authorized pursuant to this chapter to provide such services, merchandise, or burial rights on an at-need basis.

(2)(a) No person may receive any funds for payment on a preneed contract who does not hold a valid *preneed license* ~~certificate of authority~~.

(b) The provisions of paragraph (a) do not apply to a trust company operating pursuant to chapter 660, to a national or state bank holding trust powers, or to a federal or state savings and loan association having trust powers which company, bank, or association receives any money in trust pursuant to the sale of a preneed contract.

(c) The provisions of paragraph (a) do not apply to any Florida corporation existing under chapter 607 acting as a servicing agent hereunder in which the stock of such corporation is held by 100 or more persons licensed pursuant to *part III of this* chapter ~~470~~, provided no one stockholder holds, owns, votes, or has proxies for more than 5 percent of the issued stock of such corporation; provided the corporation has a blanket fidelity bond, covering all employees handling the funds, in the amount of $50,000 or more issued by a licensed insurance carrier in this state; and provided the corporation processes the funds directly to and from the trustee within the applicable time limits set forth in this chapter. The department may require any person claiming that the provisions of this paragraph exempt it from the provisions of paragraph (a) to demonstrate to the satisfaction of the department that it meets the requirements of this paragraph.

(3) No person may obtain a *preneed license* ~~certificate of authority~~ under this chapter for the preneed sale of *merchandise or* services unless such person or its agent, in the case of a corporate entity, holds a license as a funeral establishment*,* ~~or~~ cemetery company*,* ~~or registration as a~~ direct disposal establishment*, or monument establishment* ~~under chapter 470~~.

(4) The provisions of this section do not apply to religious-institution-owned cemeteries exempt under s. *497.260(1)(d)* ~~497.003(1)(d)~~, in counties with a population of at least 960,000 persons on July 1, 1996, with respect to the sale to the religious institution's members and their families of interment rights, mausoleums, crypts, cremation niches, *cremation interment containers,* vaults, liners, urns, memorials, vases, foundations, memorial bases, floral arrangements, monuments, markers, engraving, and the opening and closing of interment rights, mausoleums, crypts*,* ~~and~~ cremation niches*, and cremation interment containers*, if such cemeteries have engaged in the sale of preneed contracts prior to October 1, 1993, and maintain a positive net worth at the end of each fiscal year of the cemetery.

Section 102. Section 497.407, Florida Statutes, is renumbered as section 497.453, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 497.407, F.S., for present text.)

497.453 Application for preneed license, procedures and criteria; renewal; reports.—

(1) PRENEED LICENSE APPLICATION PROCEDURES.—

(a) A person seeking a license to enter into preneed contracts shall apply for such licensure using forms prescribed by rule.

(b) The application shall require the name, business address, residence address, date and place of birth or incorporation, and business phone number, of applicant and all principals of applicant. The application shall require the applicant's social security number, or if the applicant is an entity, its federal tax identification number.

(c) The application may require information as to the applicant's financial resources.

(d) The application may require information as to the educational and employment history of an individual applicant; and as to applicants that are not natural persons, the business and employment history of the applicant and principals of applicant.

(e) The application shall require the applicant to disclose whether the applicant or any of applicant's principals has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(f) The application shall require the applicant to disclose whether the applicant or any of applicant's principals has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) The application shall require the applicant and its principals to provide fingerprints in accordance with part I of this chapter.

(h) The application shall state the name and license number of the funeral establishment, cemetery company, direct disposal establishment, or monument establishment, under whose license the preneed application is made.

(i) The application shall state the types of preneed contracts proposed to be written.

(j) The application shall disclose the existence of all preneed contracts for service or merchandise entered into by the applicant, or by any other entity under common control with the applicant, without or prior to authorization under this section or predecessors to this section. As to each such contract the applicant shall disclose the name and address of the contract purchaser, the status of the contract, and what steps or measures the applicant has taken to ensure performance of unfulfilled contracts, setting forth the treatment and status of funds received from the customer in regard to the contract, and stating the name and address of any institution where such funds are deposited and the number used by the institution to identify the account. With respect to contracts entered into before January 1, 1983, an application to issue or renew a preneed license may not be denied solely on the basis of such disclosure. The purchaser of any such contract may not be required to liquidate the account if such account was established before July 1, 1965. Information disclosed may be used by the licensing authority to notify the contract purchaser and the institution in which such funds are deposited should the holder of a preneed be unable to fulfill the requirements of the contract.

(k) The application shall require the applicant to demonstrate that applicant complies and will comply with all requirements for preneed contract licensure under this chapter.

(l) The application may require any other information considered necessary by the department or board to meet its responsibilities under this chapter.

(m) The application shall be sworn to and signed by the applicant if a natural person, or by the president of an applicant that is not a natural person.

(n) The application shall be accompanied by a nonrefundable fee as determined by licensing authority rule but not to exceed $500.

(2) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fees, shall be approved and license issued, if the licensing authority determines that the following conditions are met:

(a) The application is made by a funeral establishment, cemetery company, direct disposal establishment, or monument establishment, or on behalf of one of the preceding licensees by its agent in the case of a corporate entity, licensed and in good standing under this chapter.

(b) Applicant meets net worth requirements specified by rule of the licensing authority.

(c) Applicant has and will have the ability to discharge her or his liabilities as they become due in the normal course of business, and has and will have sufficient funds available during the calendar year to perform her or his obligations under her or his contracts.

(d) If the applicant or any entity under common control with the applicant has entered into preneed contracts prior to being authorized to do so under the laws of this state:

1. The licensing authority determines that adequate provision has been made to ensure the performance of such contracts.

2. The licensing authority determines that the improper sale of such preneed contracts prior to authorization under this chapter does not indicate , under the facts of the particular application in issue, that applicant has a disregard of the laws of this state such as would expose the public to unreasonable risk if the applicant were issued a preneed license.

3. Nothing in this section shall imply any authorization to enter into preneed contracts without authorization under this chapter.

(e) Neither applicant nor applicant's principals have a demonstrated history of conducting their business affairs to the detriment of the public.

(f) Applicant and applicant's principals are of good character and have no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

(g) The applicant does and will comply with all other requirements of this chapter relating to preneed licensure.

(3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the preneed contract business by, among other means, the entry of new licensees into that business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 12 months of licensure, to ensure the licensee's responsibleness, competency, financial stability, and compliance with this chapter. Provided, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 12 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure.

(4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.—

(a) Each licensee under this section must provide notice as required by rule prior to any change in control of the licensee. Any such change is subject to disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter, based upon criteria established by rule, which criteria shall promote the purposes of this part in protecting the consumer.

(b) The licensing authority may authorize the transfer of a preneed license and establish by rule a fee for the transfer in an amount not to exceed $500. Upon receipt of an application for transfer, the executive director may grant a temporary preneed license to the proposed transferee, based upon criteria established by the licensing authority by rule, which criteria shall promote the purposes of this chapter in protecting the consumer. Such a temporary preneed license shall expire at the conclusion of the next regular meeting of the board unless renewed by the board. The licensing authority may by rule establish forms and procedures for the implementation of this paragraph.

(5) RENEWAL OF LICENSES.—

(a) A preneed license shall expire annually on June 1, unless renewed, or at such other time or times as may be provided by rule. The application for renewal of the license shall be on forms prescribed by rule and shall be accompanied a renewal fee as specified in paragraph (c).

(b) Within 3 months after the end of its fiscal period, or within an extension of time therefore, as the department for good cause may grant, the licensee shall file with the department a full and true statement of her or his financial condition, transactions, and affairs, prepared on a basis as adopted by rule, as of the end of the preceding fiscal period or at such other time or times as may be required by rule, together with such other information and data which may be required by rule. To facilitate uniformity in financial statements and to facilitate department analysis, there may be adopted by rule a form for financial statements.

(c) Each annual application for renewal of a preneed license shall be accompanied by the appropriate fee as follows:

1. For a preneed licensee with no preneed contract sales during the immediately preceding year . . . . . $ 300.

2. For a preneed licensee with at least 1 but fewer than 50 preneed contract sales during the immediately preceding year . . . . . $400.

3. For a preneed licensee with at least 50 but fewer than 250 preneed contract sales during the immediately preceding year . . . . . $500.

4. For a preneed licensee with at least 250 but fewer than 1,000 preneed contract sales during the immediately preceding year . . $850.

5. For a preneed licensee with at least 1,000 but fewer than 2,500 preneed contract sales during the immediately preceding ear . . . . . $1,500.

6. For a preneed licensee with at least 2,500 but fewer than 5,000 preneed contract sales during the immediately preceding year . . . . . $2,500.

7. For a preneed licensee with at least 5,000 but fewer than 15,000 preneed contract sales during the immediately preceding year . . . . . $6,000.

8. For a preneed licensee with at least 15,000 but fewer than 30,000 preneed contract sales during the immediately preceding year . . . . . $12,500.

9. For a preneed licensee with 30,000 preneed contract sales or more during the immediately preceding year . . . . . $18,500.

(d) An application for renewal shall disclose the existence of all preneed contracts for service or merchandise funded by any method other than a method permitted by this chapter, which contracts are known to the applicant and were entered into by the applicant, or any other entity under common control with the applicant, during the annual license period then ending. Such disclosure shall include the name and address of the contract purchaser, the name and address of the institution where such funds are deposited, and the number used by the institution to identify the account.

(e) In addition to any other penalty that may be provided for under this chapter, there may be levied a late fee as determined by licensing authority rule but not to exceed $50 a day for each day the preneed licensee fails to file its annual statement, and there may be levied a late fee as determined by licensing authority rule but not to exceed $50 a day for each day the preneed licensee fails to file the statement of activities of the trust. Upon notice to the preneed licensee by the department that the preneed licensee has failed to file the annual statement or the statement of activities of the trust, the preneed licensee's authority to sell preneed contracts shall cease while such default continues.

(6) QUARTERLY PAYMENTS.—In addition to other amounts required to be paid by this section, each preneed licensee shall pay to the Regulatory Trust Fund an amount established by rule not to exceed $10 for each preneed contract entered into. This amount must be paid within 60 days after the end of each quarter. These funds must be used to defray the cost of in administering the provisions of this part.

(7) BRANCH OPERATIONS AND LICENSURE.—

(a) Any person or entity that is part of a common business enterprise that has a preneed license issued pursuant to this section and desires to operate under a name other than that of the common business enterprise, may submit an application on a form adopted by rule to become a branch licensee. The application shall be accompanied by an application fee as determined by licensing authority rule but not to exceed $300.

(b) Upon a determination that such applicant qualifies to sell preneed contracts under this part except for the requirements of paragraph (2)(c), and if the preneed licensee meets the requirements of such paragraph and is in compliance with all requirements of this part regarding its preneed license and operations thereunder, a branch license shall be issued.

(c) Branch licenses shall be renewed annually by payment of a renewal fee set by licensing authority rule and not to exceed $300. Branch licenses may be renewed only so long as the preneed license of the sponsoring preneed licensee remains in good standing.

(d) Violations of this part by the branch shall be deemed to be violations of this part by its sponsoring preneed licensee, unless the licensing authority determines that extenuating circumstances indicate that it

would be unjust to attribute the branch's misconduct to the sponsoring preneed licensee. Preneed sales of the branch shall be deemed to be sales of the sponsoring licensee for purposes of renewal fees and trust requirements under this chapter.

(e) The sponsoring preneed licensee shall be responsible for performance of preneed contracts entered into by its branches if the branch does not timely fulfill any such contract.

(8) ANNUAL TRUST REPORTS.—On or before April 1 of each year, the preneed licensee shall file in the form prescribed by rule a full and true statement as to the activities of any trust established by it pursuant to this part for the preceding calendar year.

(9) DEPOSIT OF FUNDS.—All sums collected under this section shall be deposited to the credit of the Regulatory Trust Fund.

Section 103. Section 497.409, Florida Statutes, is renumbered as section 497.454, Florida Statutes, and amended to read:

497.454 ~~497.409~~ Approval of *preneed contract and related* forms.—

(1) Preneed contract forms and related forms shall be filed with and approved by the *licensing authority prior to use, pursuant to procedures specified by rule* ~~board~~. The *licensing authority* ~~board~~ may not approve any preneed contract form that does not provide for sequential prenumbering thereon.

(2) A form filed for approval under this section shall be approved unless it is determined that it:

(a) Is in any respect in violation of, or does not comply with, this chapter.

(b) Contains, or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the benefits purportedly provided to the customer in the general terms of the contract.

(c) Has any title, heading, or other indication of its contents which is misleading.

(d) Is printed or otherwise reproduced in such manner as to render any material provision substantially illegible, or contains variations in print size which de-emphasize provisions which limit or restrict the customers rights under the contract.

(e) Contains provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation.

(f) Does not provide for the specification in reasonable detail of the type, size, and design of merchandise and the description of service to be delivered or performed.

(3)~~(2)~~ Specific disclosure regarding the *preneed licensee's* ~~certificateholder's~~ ability to select either trust funding or the financial responsibility alternative as set forth in s. *497.461* ~~497.423 or s. 497.425~~ in connection with the receipt of preneed contract proceeds is required in the preneed contract.

Section 104. Section 497.411, Florida Statutes, is renumbered as section 497.455, Florida Statutes, and amended to read:

497.455 ~~497.411~~ Nonconforming contracts.—Any preneed contract that requires the moneys paid to the seller or trustee to be placed in trust and fails to comply with s. *497.458* ~~497.417~~ shall comply with and be construed under s. *497.464* ~~497.429~~.

Section 105. Section 497.413, Florida Statutes, is renumbered as section 497.456, Florida Statutes, and amended to read:

497.456 ~~497.413~~ Preneed Funeral Contract Consumer Protection Trust Fund.—

(1) There is hereby created in the department the Preneed Funeral Contract Consumer Protection Trust Fund to be administered and regulated by the *licensing authority* ~~board~~.

(2) Within 60 days after the end of each calendar quarter, for each preneed contract written during the quarter and not canceled within 30 days after the date of the execution of the contract, each *preneed licensee* ~~certificateholder~~, whether funding preneed contracts by the sale of insurance or by establishing a trust pursuant to s. *497.458 or s. 497.464* ~~497.417 or s. 497.429~~, shall remit the sum of $2.50 for each preneed contract having a purchase price of $1,500 or less, and the sum of $5 for each preneed contract having a purchase price in excess of $1,500; and each *preneed licensee* ~~certificateholder~~ utilizing s. *497.461 or s. 497.462* ~~497.423 or s. 497.425~~ shall remit the sum of $5 for each preneed contract having a purchase price of $1,500 or less, and the sum of $10 for each preneed contract having a purchase price in excess of $1,500.

(3) In addition to the amounts specified in subsection (2), each remittance shall contain such other additional information as needed by the *licensing authority* ~~board~~ to carry out its responsibilities under this chapter and as prescribed by rule ~~of the board~~.

(4) All funds received by the *licensing authority* ~~board or the department~~ pursuant to this section shall be deposited into the Preneed Funeral Contract Consumer Protection Trust Fund.

(5) The amounts remitted for deposit into the Preneed Funeral Contract Consumer Protection Trust Fund shall not be deemed proceeds from the sale of a preneed contract within the meaning of this chapter.

(6) Upon the commencement of a delinquency proceeding pursuant to this chapter against a *preneed licensee*~~certificateholder~~, the *licensing authority* ~~board~~ may use up to 50 percent of the balance of the trust fund not already committed to a prior delinquency proceeding solely for the purpose of providing restitution to preneed contract purchasers and their estates due to a *preneed licensee's* ~~certificateholder's~~ failure to provide the benefits of a preneed contract or failure to refund the appropriate principal amount by reason of cancellation thereof. The balance of the trust fund shall be determined as of the date of the delinquency proceeding.

(7) In any situation in which a delinquency proceeding has not commenced, the *licensing authority* ~~board~~ may, in its discretion, use the trust fund for the purpose of providing restitution to any consumer, owner, or beneficiary of a preneed contract or similar regulated arrangement under this chapter entered into after June 30, 1977. If, after investigation, the *licensing authority* ~~board~~ determines that a *preneed licensee* ~~certificateholder~~ has breached a preneed contract by failing to provide benefits or an appropriate refund, or that a provider, who is a former *preneed licensee* ~~certificateholder~~ or an establishment which has been regulated under this chapter ~~or chapter 470~~, has sold a preneed contract and has failed to fulfill the arrangement or provide the appropriate refund, and such *preneed licensee* ~~certificateholder~~ or provider does not provide or does not possess adequate funds to provide appropriate refunds, payments from the trust fund may be authorized by the *licensing authority* ~~board~~. In considering whether payments shall be made or when considering who will be responsible for such payments, the *licensing authority* ~~board~~ shall consider whether the *preneed licensee* ~~certificateholder~~ or previous provider has been acquired by a successor who is or should be responsible for the liabilities of the defaulting entity. With respect to preneed contracts funded by life insurance, payments from the fund shall be made: if the insurer is insolvent, but only to the extent that funds are not available through the liquidation proceeding of the insurer; or if the *preneed licensee* ~~certificateholder~~ is unable to perform under the contract and the insurance proceeds are not sufficient to cover the cost of the merchandise and services contracted for. In no event shall the *licensing authority* ~~board~~ approve payments in excess of the insurance policy limits unless it determines that at the time of sale of the preneed contract, the insurance policy would have paid for the services and merchandise contracted for. Such monetary relief shall be in an amount as the *licensing authority* ~~board~~ may determine and shall be payable in such manner and upon such conditions and terms as the *licensing authority* ~~board~~ may prescribe. However, with respect to preneed contracts to be funded pursuant to *s. 497.458, s. 497.459, s. 497.461, or s. 497.462* ~~s. 497.417, s. 497.419, s. 497.423, or s. 497.425~~, any restitution made pursuant to this subsection shall not exceed, as to any single contract or arrangement, the lesser of the gross amount paid under the contract or 4 percent of the uncommitted assets of the trust fund. With respect to preneed contracts funded by life insurance policies, any restitution shall not exceed, as to any single contract or arrangement, the lesser of the face amount of the policy, the actual cost of the arrangement contracted for, or 4 percent of the uncommitted assets of the trust fund. The total of all restitutions made to all applicants under this subsection in a single fiscal year shall not exceed the greater of 30 percent of the

uncommitted assets of the trust fund as of the end of the most recent fiscal year or $120,000. The department may use moneys in the trust fund to contract with independent vendors pursuant to chapter 287 to administer the requirements of this subsection.

(8) All moneys deposited in the Preneed Funeral Contract Consumer Protection Trust Fund together with all accumulated income shall be used only for the purposes expressed *authorized by this chapter* ~~in this section~~ and shall not be subject to any liens, charges, judgments, garnishments, or other creditor's claims against the *preneed licensee* ~~certificateholder~~, any trustee utilized by the *preneed licensee* ~~certificateholder~~, any company providing a surety bond as specified in this chapter, or any purchaser of a preneed contract. No preneed contract purchaser shall have any vested rights in the trust fund.

(9) If restitution is paid to a preneed contract purchaser or her or his estate in accordance with this section, the amount of restitution paid shall not exceed the gross amount of the principal payments made by the purchaser on its contract.

(10) Whenever the *licensing authority* ~~board~~ makes payments from the trust fund to a purchaser or its estate, the *licensing authority* ~~board~~ shall be subrogated to the purchaser's rights under the contract, and any amounts so collected by the *licensing authority* ~~board~~ shall be deposited in the Preneed Funeral Contract Consumer Protection Trust Fund.

(11) No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement which uses the existence of the Preneed Funeral Contract Consumer Protection Trust Fund for the purpose of sales, solicitation, or inducement to purchase any form of preneed contract covered under this chapter.

(12) Notwithstanding the fee structure in subsection (2), the department shall review the status of the trust fund annually, and if it determines that the uncommitted trust fund balance exceeds $1 million, the *licensing authority* ~~board~~ may by rule lower the required payments to the trust fund to an amount not less than $1 per preneed contract.

(13) Regarding the Preneed Funeral Contract Consumer Protection Trust Fund, the licensing authority shall have authority to adopt rules for the implementation of this section, including:

(a) Forms to be used in filing claims against the trust fund.

(b) Procedures to be used for filing claims against the trust fund.

(c) Information and supporting documentation that must be provided by claimants to support claims against the trust fund.

(d) Procedures for the investigation of claims against the trust fund.

(e) Criteria to be used in determining whether a claim is allowable and in what amount.

(f) Forms and procedures to be used by preneed licensees in making remittances to the trust fund required by this chapter.

Section 106. Section 497.415, Florida Statutes, is renumbered as section 497.457, Florida Statutes, and amended to read:

497.457 ~~497.415~~ Ownership of proceeds received on contracts.—

(1) Subject to the provisions of this chapter, all funds paid pursuant to a preneed contract by a purchaser to a *preneed licensee* ~~certificateholder~~ shall be the sole property of, and within the full dominion and control of, said *preneed licensee* ~~certificateholder~~.

(2) Subject to the provisions of this chapter, the relationship between the purchaser of a preneed contract and a *preneed licensee* ~~certificateholder~~ shall be deemed for all purposes as a debtor-creditor relationship.

Section 107. Section 497.417, Florida Statutes, is renumbered as section 497.458, Florida Statutes, and amended to read:

497.458 ~~497.417~~ Disposition of proceeds received on contracts.—

(1)*(a)* Any person who is paid, collects, or receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise shall deposit an amount at least equal to the sum of 70 percent of the purchase price collected for all services sold and facilities rented; 100 percent of the purchase price collected for all cash advance items sold; and 30 percent of the purchase price collected or 110 percent of the wholesale cost, whichever is greater, for each item of merchandise sold.

(b) The method of determining wholesale cost shall be established by rule of the *licensing authority* ~~board~~ and shall be based upon the *preneed licensee's* ~~certificateholder's~~ stated wholesale cost for the 12-month period beginning July 1 during which the initial deposit to the preneed trust fund for the preneed contract is made.

(c) Such deposits shall be made within 30 days after the end of the calendar month in which payment is received, under the terms of a revocable trust instrument entered into with a trust company operating pursuant to chapter 660, with a national or state bank holding trust powers, or with a federal or state savings and loan association holding trust powers.

(d) The trustee shall take title to the property conveyed to the trust for the purpose of investing, protecting, and conserving it for the *preneed licensee* ~~certificateholder~~; collecting income; and distributing the principal and income as prescribed in this chapter. The *preneed licensee* ~~certificateholder~~ is prohibited from sharing in the discharge of these responsibilities, except that the *preneed licensee* ~~certificateholder~~ may request the trustee to invest in tax-free investments and may appoint an adviser to the trustee. *The licensing authority may adopt rules limiting or otherwise specifying the degree to which the trustee may rely on the investment advice of an investment adviser appointed by the preneed licensee. The licensing authority may adopt rules limiting or prohibiting payment of fees by the trust to investment advisors that are employees or principals of the licensee to whom the trust fund relates.*

(e) The trust agreement shall be submitted to the *licensing authority* ~~board~~ for approval and filing *prior to use. The licensing authority may adopt rules specifying procedures and establishing criteria and requirements not inconsistent with this chapter for approval of trusts submitted under this paragraph*.

(f) The *deposited* funds shall be held in trust, both as to principal and income earned thereon, and shall remain intact, except that the cost of the operation of the trust or trust account authorized by this section may be deducted from the income earned thereon.

(g) The *preneed* contract purchaser shall have no interest whatsoever in, or power whatsoever over, funds deposited in trust pursuant to this section.

(h) In no event may said funds be loaned to a *preneed licensee* ~~certificateholder~~, an affiliate of a *preneed licensee* ~~certificateholder~~, or any person directly or indirectly engaged in the burial, funeral home, or cemetery business.

(i) ~~Furthermore,~~ The *preneed licensee's* ~~certificateholder's~~ interest in said trust shall not be pledged as collateral for any loans, debts, or liabilities of the *preneed licensee* ~~certificateholder~~ and shall not be transferred to any person without the prior written approval from the department and the trustee which shall not be unreasonably withheld.

(j) Even though the *preneed licensee* ~~certificateholder~~ shall be deemed and treated as the settlor and beneficiary of said trust for all purposes, all of said trust funds are exempt from all claims of creditors of the *preneed licensee* ~~certificateholder~~ except as to the claims of the *preneed* contract purchaser, her or his representative, the board, or the department.

(2) Except as provided in s. *497.283* ~~497.337~~, the delivery of funeral merchandise before the death of the person for whom it is purchased does not constitute performance or fulfillment, either wholly or in part, of any preneed contract entered into after July 1, 1977.

(3)*(a)* The trustee shall make regular valuations of assets it holds in trust and provide a report of such valuations to the *preneed licensee* ~~certificateholder~~ at least quarterly.

(b) Any person who withdraws appreciation in the value of trust, other than the pro rata portion of such appreciation which may be withdrawn upon the death of a contract beneficiary or upon cancellation of a preneed contract, shall be required to make additional deposits from her or his own funds to restore the aggregate value of assets to the value of funds deposited in trust, but excluding from the funds deposited those funds paid out upon preneed contracts which such person has fully performed or which have been otherwise withdrawn, as provided for in this chapter.

(c) The *preneed licensee* ~~certificateholder~~ shall be liable to third parties to the extent that income from the trust is not sufficient to pay the expenses of the trust.

(4)(a) Trust funds shall not be invested in or loaned to or for the benefit of any business venture in which the preneed licensee, its principals, or persons related by blood or marriage to the licensee or its principals, have a direct or indirect interest, without the prior approval of the licensing authority.

(b) Trust funds shall not be loaned to or for the benefit of the preneed licensee, its principals, or persons related by blood or marriage to the licensee or its principals, without the prior approval of the licensing authority.

(c) No approval of such loans or investments shall be given unless it be shown by clear and convincing evidence that such loan or investment would be in the interest of the preneed contract holders whose contracts are secured by the trust funds.

(d) The licensing authority may adopt rules exempting from the prohibition of this subsection, pursuant to criteria established in such rule, the investment of trust funds in investments, such as widely and publicly traded stocks and bonds, notwithstanding that the licensee, its principals, or persons related by blood or marriage to the licensee or its principals have an interest by investment in the same entity, where neither the licensee, its principals, or persons related by blood or marriage to the licensee or its principals, have the ability to control the entity invested in, and it would be in the interest of the preneed contract holders whose contracts are secured by the trust funds, to allow the investment.

(5)~~(4)~~ The trustee of the trust established pursuant to this section shall only have the power to:

(a) Invest in investments as prescribed in s. 215.47 and exercise the powers set forth in part IV of chapter 737, provided that the *licensing authority* ~~board~~ may by order require the trustee to liquidate or dispose of any investment within 30 days after such order*, or within such other times as the order may direct. The licensing authority may issue such order if it determines that the investment violates any provision of this chapter or is not in the best interests of the preneed contract holders whose contracts are secured by the trust funds*.

(b) Borrow money up to an aggregate amount of 10 percent of trust assets, at interest rates then prevailing from any individual, bank, insurance company, or other source, irrespective of whether any such person is then acting as trustee, and to create security interests in no more than 10 percent of trust assets by mortgage, pledge, or otherwise, upon the terms and conditions and for such purposes as the trustee may deem advisable.

(c) Commingle the property of the trust with the property of any other trust established pursuant to this chapter and make corresponding allocations and divisions of assets, liabilities, income, and expenses.

(6)~~(5)~~ The *preneed licensee* ~~certificateholder~~, at her or his election, shall have the right and power, at any time, to revest in it title to the trust assets, or its pro rata share thereof, provided it has complied with *s. 497.461.*~~:~~

~~(a) Section 497.423;~~

~~(b) Contracts written prior to July 1, 2001, under s. 497.425; or~~

~~(c) Contracts written prior to December 31, 2004, under s. 497.425 for any certificateholder authorized to do business in this state that has total bonded liability exceeding $100 million as of July 1, 2001.~~

(7)~~(6)~~ Notwithstanding anything contained in this chapter to the contrary, the *preneed licensee* ~~certificateholder~~, via its election to sell or offer for sale preneed contracts subject to this section, shall represent and warrant, and is hereby deemed to have done such, to all federal and Florida taxing authorities, as well as to all potential and actual preneed contract purchasers, that:

(a) Section *497.461* ~~497.423~~ is a viable option available to it at any and all relevant times;

(b) Section *497.462* ~~497.425~~ is a viable option available to it at any and all relevant times for contracts written prior to July 1, 2001, for funds not held in trust as of July 1, 2001; or

(c) For any *preneed licensee* ~~certificateholder~~ authorized to do business in this state that has total bonded liability exceeding $100 million as of July 1, 2001, s. *497.462* ~~497.425~~ is a viable option to it at any and all relevant times for contracts written prior to December 31, 2004, for funds not held in trust as of July 1, 2001.

(8)~~(7)~~ If in the *preneed licensee's* ~~certificateholder's~~ opinion it does not have the ability to select the financial responsibility alternative of s. *497.461 or s. 497.462* ~~497.423 or s. 497.425~~, then *the preneed license* ~~it~~ shall not have the right to sell or solicit *preneed* contracts ~~pursuant to this section~~.

(9) The amounts required to be placed in trust by this section for contracts previously entered into shall be as follows:

(a) For contracts entered into before October 1, 1993, the trust amounts as amended by s. 6, chapter 83-816, Laws of Florida, shall apply.

(b) For contracts entered into on or after October 1, 1993, the trust amounts as amended by s. 98, chapter 93-399, Laws of Florida shall apply.

~~(8) This section, as amended by s. 6, chapter 83-316, Laws of Florida, applies to preneed contracts entered into before October 1, 1993, and as amended by s. 98, chapter 93-399, Laws of Florida, applies to preneed contracts entered into on or after October 1, 1993.~~

Section 108. Section 497.419, Florida Statutes, is renumbered as section 497.459, Florida Statutes, and amended to read:

497.459 ~~497.419~~ Cancellation of, or default on, preneed contracts.—

(1) *CANCELLATION BY CUSTOMER WITHIN 30 DAYS.*— A purchaser, by providing written notice to the *preneed licensee* ~~certificateholder~~, may cancel a preneed contract within 30 days of the date that the contract was executed provided that the burial rights, merchandise and services have not yet been used. Upon providing such notice, the purchaser shall be entitled to a complete refund of the amount paid, except for the amount allocable to any burial rights, merchandise or services that have been used, and shall be released from all obligations under the contract. This subsection shall apply to all items that are purchased as part of a preneed contract, including burial rights, regardless of whether such burial rights are purchased as part of a preneed contract or purchased separately.

(2) *CANCELLATION BY PURCHASER AFTER 30 DAYS.*—

(a) A purchaser, by providing written notice to the *preneed licensee* ~~certificateholder~~ , may cancel the services, facilities, and cash advance items portions of a preneed contract at any time, and shall be entitled to a full refund of the purchase price allocable to such items. Any accumulated earnings allocable to such preneed contract shall be paid to the *preneed licensee* ~~certificateholder~~ upon such cancellation.

(b)~~(3)~~ Subject to *subparagraphs 1. and 2.,* ~~paragraphs (a) and (b)~~ a purchaser may cancel the merchandise portion of a preneed contract by providing written notice to the *preneed licensee* ~~certificateholder~~, and shall be entitled to a full refund of the purchase price allocable to the specific item or items of merchandise that the *preneed licensee* ~~certificateholder~~ cannot or does not deliver in accordance with this subsection.

1.~~(a)~~ Such refund shall be provided only if at the time that the *preneed licensee* ~~certificateholder~~ is required to fulfill its obligations under the preneed contract the *preneed licensee* ~~certificateholder~~ does not or cannot comply with the terms of the contract by actually delivering the merchandise, within a reasonable time, depending upon the nature of the merchandise purchased, after having been requested to do so.

2.~~(b)~~ In order to fulfill its obligations under the preneed contract, a *preneed licensee* ~~certificateholder~~ may elect either or both of the following options:

a.~~1.~~ Subcontract with a person located outside the *preneed licensee's* ~~certificateholder's~~ market area to provide the merchandise; or

b.~~2.~~ Provide other items of equal or greater quality.

(3)~~(4)~~ *REQUIRED DISCLOSURE.*—Each *preneed licensee* ~~certificateholder~~ shall provide in conspicuous type in its contract that the contract purchaser may cancel the contract and receive a full refund within 30 days of the date of execution of the contract. The failure to make such provision shall not impair the contract purchaser's right to cancellation and refund as provided in this section.

(4)~~(5)~~ *BREACH OF CONTRACT BY SELLER.*—Upon breach of contract or failure of the *preneed licensee* ~~certificateholder~~ to provide funeral merchandise or services under a preneed contract, the contract purchaser shall be entitled to a refund of all money paid on the contract. Such refund shall be made within 30 days after receipt by the *preneed licensee* ~~certificateholder~~ of the contract purchaser's written request for refund.

(5)~~(6)~~ *DEFAULT BY PURCHASER.*—If a purchaser is 90 days past due in making payments on a preneed contract, the contract shall be considered to be in default, and the *preneed licensee* ~~certificateholder~~ shall be entitled to cancel the contract, withdraw all funds in trust allocable to merchandise items, and retain such funds as liquidated damages. Upon making such withdrawal, the *preneed licensee* ~~certificateholder~~ shall return all funds in trust allocable to services, facilities, or cash advance items to the purchaser, provided that the *preneed licensee* ~~certificateholder~~ has provided the purchaser with 30 days' written notice of its intention to exercise any of its rights under this provision. *The board may by rule specify the required format and content of the notice required under this subsection and the manner in which the notice shall be sent.*

(6)~~(7)~~ *OTHER PROVISIONS.*—

(a) All preneed contracts are cancelable and revocable as provided in this section, provided that a preneed contract does not restrict any contract purchaser who is a qualified applicant for, or a recipient of, supplemental security income, temporary cash assistance, or Medicaid from making her or his contract irrevocable.

(b) The amounts required to be refunded by this section for contracts previously entered into shall be as follows:

1. For contracts entered into before October 1, 1993, the refund amounts as amended by s. 7, chapter 83-816, Laws of Florida, shall apply.

2. For contracts entered into on or after October 1, 1993, the refund amounts as amended by s. 99, chapter 93-399, Laws of Florida, shall apply.

~~(8) This section, as amended by s. 7, chapter 83-316, Laws of Florida, applies to preneed contracts entered into before October 1, 1993, and as amended by s. 98, chapter 93-399, Laws of Florida, applies to preneed contracts entered into on or after October 1, 1993.~~

(c)~~(9)~~ Persons who purchase merchandise or burial rights pursuant to this chapter shall have the right to sell, alienate, or otherwise transfer the merchandise or burial rights subject to and in accordance with rules adopted by the *licensing authority* ~~board~~.

(d)~~(10)~~ All refunds required to be made under this section to a purchaser who has canceled a contract must be made within 30 days after the date written notice of cancellation is received by the *preneed licensee* ~~certificateholder~~.

Section 109. Section 497.421, Florida Statutes, is renumbered as section 497.460, Florida Statutes, and amended to read:

497.460 ~~497.421~~ Payment of funds upon death of named beneficiary.—Disbursements of funds discharging any preneed contract fulfilled after September 30, 1993, shall be made by the trustee to the *preneed licensee* ~~certificateholder~~ upon receipt of a certified copy of the death certificate of the contract beneficiary or satisfactory evidence as established by *rule of the licensing authority* ~~the board~~ that the preneed contract has been performed in whole or in part. However, if the contract is only partially performed, the disbursement shall only cover that portion of the contract performed. In the event of any contract default by the contract purchaser, or in the event that the funeral merchandise or service or burial merchandise or service contracted for is not provided or is not desired by the heirs or personal representative of the contract beneficiary, the trustee shall return, within 30 days after its receipt of a written request therefor, funds paid on the contract to the *preneed licensee* ~~certificateholder~~ or to its assigns, subject to the provisions of s. *497.459* ~~497.419~~.

Section 110. Section 497.423, Florida Statutes, is renumbered as section 497.461, Florida Statutes, and amended to read:

497.461 ~~497.423~~ *Surety bonding* ~~Evidence of financial responsibility~~ as alternative to trust deposit.—

(1) In lieu of depositing funds into a trust as required by s. *497.548(1) or s. 497.464* ~~497.417(1) or s. 497.429~~, a *preneed licensee* ~~certificateholder~~ may elect annually, at its discretion, to comply with this section by filing annually a written request with, and receiving annual approval from, the *licensing authority* ~~board~~.

(2) No *preneed licensee* ~~certificateholder~~ shall utilize this section unless it has filed annually a written request with, and received approval by, the *licensing authority* ~~board~~.

(3) The *preneed licensee* ~~certificateholder~~ receiving approval from the *licensing authority* ~~board~~ to comply with this section shall maintain compliance with this section at all times during the period this election is in effect.

(4) The *preneed licensee's* ~~certificateholder's~~ request to be governed by this section shall be in the form prescribed *by rule* by the *licensing authority* ~~board~~ and shall be accompanied by, in addition to other information that the *licensing authority* ~~board~~ may require by rule, the surety bond, the audited financial statements, and proof of the other requirements specified in this section, all as described in this section.

(5) For each 12-month period, or any part thereof, in which this section is applicable, the electing *preneed licensee* ~~certificateholder~~ shall maintain a bond, issued by a surety company admitted to do business in this state, in an amount at least equal to the sum of:

(a) All amounts not currently in trust.~~,~~

(b) An amount equal to the total purchase price for all installed preneed contracts where the total purchase price has not been collected, excluding those amounts already in trust.~~;~~

(c) All amounts the *preneed licensee* ~~certificateholder~~ intends to remove from trust if the *licensing authority* ~~board~~ approves the *preneed licensee's* ~~certificateholder's~~ request to comply with this section.~~, and~~

(d) An amount equal to 70 percent of the total purchase price for each preneed contract the *preneed licensee* ~~certificateholder~~ expects to sell in the year for which the *preneed licensee* ~~certificateholder~~ is electing to comply with this section.

(6) The surety bond shall be conditioned in such a manner to secure the faithful performance of all conditions of any preneed contracts for which the *preneed licensee* ~~certificateholder~~ was required to have covered by the amount of the bond, including refunds requested pursuant to ss. *497.459 and 497.460* ~~497.419 and 497.421~~. The surety bond shall also guarantee the financial responsibility of such *preneed licensee* ~~certificateholder~~ against its default arising out of any of its preneed contracts. The terms of the surety bond shall cover liabilities arising from all moneys received by the electing *preneed licensee* ~~certificateholder~~ from preneed contracts for which the *preneed licensee* ~~certificateholder~~ was required to have covered by the amount of the bond during the time the bond is in effect, and the liability of the surety shall continue until the contracts thereunder are fulfilled. The bond shall be in favor of the state for the benefit of any person damaged as a result of purchasing a preneed contract from the *preneed licensee* ~~certificateholder~~. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds shall in no event exceed the amount of the bond. The per preneed contract liability shall not exceed

the amount of the funds received by the *preneed licensee* ~~certificateholder~~ per preneed contract during the effective period in which the bond is issued. The bond shall be filed and maintained with the *licensing authority* ~~board~~.

(7)~~(6)~~ The amount of the surety bond shall, upon order of the *licensing authority* ~~board~~, be increased if, in the *licensing authority's* ~~board's~~ discretion, it finds such increase to be warranted by the volume of preneed contracts handled, or expected to be handled, by the *preneed licensee* ~~certificateholder~~.

(8) The surety bond shall be in a form to be approved by the *licensing authority* ~~board~~, and the *licensing authority* ~~board~~ shall have the right to disapprove any bond which does not provide assurance as provided in, and required by, this section.

(9)~~(7)~~ The bond shall be maintained unimpaired for as long as the *preneed licensee* ~~certificateholder~~ continues in business in this state and continues to utilize this section. Whenever the *preneed licensee* ~~certificateholder~~ notifies the *licensing authority* ~~board~~ that it no longer desires to be governed by this section and furnishes to the *licensing authority* ~~board~~ satisfactory proof that it has discharged or otherwise adequately provided for all of its obligations to its preneed contract purchasers covered by the bond, such as by evidence satisfactory to the *licensing authority* ~~board~~ demonstrating that s. *497.458 or s. 497.464* ~~497.417 or s. 497.429~~ has been complied with, the *licensing authority* ~~board~~ shall release the bond to the entitled parties, provided said parties acknowledge receipt of same.

(10)~~(8)~~ No surety bond used to comply with this section shall be canceled or subject to cancellation unless at least 60 days' advance notice thereof, in writing, is filed with the *licensing authority* ~~board~~, by the surety company. The cancellation of the bond shall not relieve the obligation of the surety company for claims arising out of contracts issued or otherwise covered before cancellation of the bond.

(11) In the event that notice of *cancellation* ~~termination~~ of the bond is filed with the *licensing authority* ~~board~~, the *preneed licensee* ~~certificateholder~~ insured thereunder shall, within 30 days of the filing of the notice of termination with the *licensing authority* ~~board~~, provide the *licensing authority* ~~board~~ with a replacement bond or with evidence which is satisfactory to the *licensing authority* ~~board~~ demonstrating that s. *497.458 or s. 497.464* ~~497.417 or s. 497.429~~ has been fully complied with. If within 30 days of filing of the notice of termination with the *licensing authority* ~~board~~ no replacement bond acceptable to the *licensing authority* ~~board~~ or no evidence satisfactory to the *licensing authority* ~~board~~ demonstrating that s. *497.458 or s. 497.464* ~~497.417 or s. 497.429~~ has been complied with is filed with the *licensing authority* ~~board~~, the *licensing authority* ~~board~~ shall suspend the license of the *preneed licensee* ~~certificateholder~~ until the *preneed licensee* ~~certificateholder~~ files a replacement bond acceptable to the board or demonstrates to the satisfaction of the *licensing authority* ~~board~~ that it has complied with s. *497.458 or s. 497.464* ~~497.417 or s. 497.429~~.

(12)~~(9)~~ In lieu of the surety bond, the *licensing authority* ~~board~~ may provide by rule for other forms of security or insurance.

(13)~~(10)~~ Every *preneed licensee* ~~certificateholder~~ electing to be governed by this section shall have its financial statements, submitted to the department pursuant to s. *497.453* ~~497.407~~, audited by an independent public accountant certified pursuant to chapter 473. The financial statements shall contain, in accordance with generally accepted accounting principles, for two or more consecutive annual periods, the following:

(a) The certified public accountant's unqualified opinion or, in the case of a qualified opinion, a qualified opinion acceptable to the *licensing authority* ~~board~~, and:

1. A balance sheet;

2. A statement of income and expenses; and

3. A statement of changes in financial position.

(b) Notes to the financial statements considered customary or necessary for full disclosure and adequate understanding of the financial statements, financial condition, and operation of the *preneed licensee* ~~certificateholder~~. The notes shall include a schedule, based upon statutory accounting principles, indicating that the *preneed licensee* ~~certificateholder~~ which has held a *license* ~~certificate~~ pursuant to this chapter for less than 10 years has a current ratio of no less than 3 to 1 of current assets to current liabilities and net assets of at least $600,000 or that the *preneed licensee* ~~certificateholder~~ which has held a *license* ~~certificate~~ pursuant to this chapter for 10 years or more has a current ratio of no less than 2 to 1 of current assets to current liabilities and net assets of at least $400,000.

(c) An indication that the *preneed licensee* ~~certificateholder~~ has sufficient funds available to perform the obligations under all its preneed contracts.

(14)~~(11)~~ The *licensing authority* ~~board~~ may require that the audited financial statements be prepared on a calendar-year basis.

(15)~~(12)~~ The electing *preneed licensee* ~~certificateholder~~ shall provide the *licensing authority* ~~board~~ interim unaudited financial statements on a quarterly basis demonstrating financial compliance with this section.

(16)~~(13)~~ In lieu of subsections *(4)-(14)* ~~(4)-(11)~~, a *preneed licensee* ~~certificateholder~~ with net assets of at least $25,000 may request to comply with this section by providing a written guarantee from a qualified guaranteeing organization. If the *preneed licensee* ~~certificateholder~~ so elects, the *preneed licensee's* ~~certificateholder's~~ requests to be governed by this section shall be in the form prescribed by *rule* ~~the board~~ and shall be accompanied by, in addition to other information the *licensing authority* ~~board~~ may require by rule, a written guarantee approved by the *licensing authority* ~~board~~ as meeting the requirements of this section from a qualified guaranteeing organization, acceptable to the *licensing authority* ~~board~~, which:

(a) Is either a *preneed licensee* ~~certificateholder~~ or servicing agent.

(b) Is a corporation formed under the laws of this state or of another state, district, territory, or possession of the United States.

(c) Has been in operation for 10 or more years.

(d) Submits to the *licensing authority* ~~board~~ its annual financial statements audited by an independent public accountant certified pursuant to chapter 473. The financial statements shall contain, in accordance with generally accepted accounting principles, for two or more consecutive annual periods, the following:

1. The certified public accountant's unqualified opinion or, in the case of a qualified opinion, a qualified opinion acceptable to the *licensing authority* ~~board~~, and:

a. A balance sheet;

b. A statement of income and expenses; and

c. A statement of changes in financial position.

2. Notes to the financial statements considered customary or necessary for full disclosure and adequate understanding of the financial statements, financial condition, and operation of the *preneed licensee* ~~certificateholder~~. The notes shall include a schedule, based upon statutory accounting principles, indicating that the guaranteeing organization has a current ratio of no less than 2 to 1 of current assets to current liabilities and net assets of at least $250,000.

(e) Has sufficient funds available to perform the obligations under its guarantees.

(f) Has complied with subsections *(5)-(11)* ~~(5), (6), (7), and (8)~~, except that the bond shall be maintained by the guaranteeing organization in the minimum aggregate principal amount of $1 million.

(g) Has principals, including directors, officers, stockholders, employees, and agents that are of good moral character and have reputations for fair dealing in business matters, both as determined by the *licensing authority* ~~board~~.

Section 111. Section 497.425, Florida Statutes, is renumbered as section 497.462, Florida Statutes, and amended to read:

497.462 ~~497.425~~ *Other* alternatives to deposits under s. *497.458* ~~497.417~~.—

(1)(a) As an alternative to the requirements of s. *497.458* ~~497.417~~ that relate to trust funds for contracts written prior to July 1, 2001, or that relate to trust funds for contracts written prior to December 31, 2004, by any *preneed licensee* ~~certificateholder~~ authorized to do business in this state that has total bonded liability exceeding $100 million as of July 1, 2001, *and subject to the other restrictions of this section,* a *preneed licensee* ~~certificateholder~~ may purchase a surety bond for funds not held in trust as of July 1, 2001, in an amount not less than the aggregate value of outstanding liabilities on undelivered preneed contracts for merchandise and services. For the purpose of this section, the term "outstanding liabilities" means the gross replacement or wholesale value of the preneed merchandise and services. The bond shall be made payable to the State of Florida for the benefit of the *licensing authority* ~~board~~ and all purchasers of preneed cemetery merchandise or services. The bond must be approved by the *licensing authority* ~~board~~.

(b) The amount of the bond shall be based on a report documenting the outstanding liabilities of the *preneed licensee* ~~certificateholder~~ and shall be prepared by the *preneed licensee* ~~certificateholder~~ using generally accepted accounting principles and signed by the *preneed licensee's* ~~certificateholder's~~ chief financial officer.

(c) The report shall be compiled as of the end of the *preneed licensee's* ~~certificateholder's~~ fiscal year and updated annually. The amount of the bond shall be increased or decreased as necessary to correlate with changes in the outstanding liabilities.

(d) If a *preneed licensee* ~~certificateholder~~ fails to maintain a bond pursuant to this section, the *preneed licensee* ~~certificateholder~~ shall cease the sale of preneed merchandise and services.

(2) Upon prior approval by the *licensing authority* ~~board~~, the *preneed licensee* ~~certificateholder~~ may file a letter of credit with the *licensing authority* ~~board~~ in lieu of a surety bond. Such letter of credit must be in a form, and is subject to terms and conditions, prescribed by the board. It may be revoked only with the express approval of the *licensing authority* ~~board~~.

(3)(a) A buyer of preneed merchandise or services who does not receive such services or merchandise due to the economic failure, closing, or bankruptcy of the *preneed licensee* ~~certificateholder~~ must file a claim with the surety as a prerequisite to payment of the claim and, if the claim is not paid, may bring an action based on the bond and recover against the surety. In the case of a letter of credit or cash deposit that has been filed with the *licensing authority* ~~board~~, the buyer may file a claim with the *licensing authority* ~~board~~.

(b) In order to qualify for recovery on any claim under paragraph (a), the buyer must file the claim no later than 1 year after the date on which the *preneed licensee* ~~certificateholder~~ closed or bankruptcy was filed.

(c) The *licensing authority* ~~board~~ may file a claim with the surety on behalf of any buyer under paragraph (a). The surety shall pay the amount of the claims to the *licensing authority* ~~board~~ for distribution to claimants entitled to restitution and shall be relieved of liability to that extent.

(d) The liability of the surety under any bond may not exceed the aggregate amount of the bond, regardless of the number or amount of claims filed.

(e) If the total value of the claims filed exceeds the amount of the bond, the surety shall pay the amount of the bond to the *licensing authority* ~~board~~ for distribution to claimants entitled to restitution and shall be relieved of all liability under the bond.

(4) The *preneed licensee* ~~certificateholder~~ shall maintain accurate records of the bond and premium payments on it, which records shall be open to inspection by the *licensing authority* ~~board~~.

~~(5) For purposes of this section, a preneed contract is a contract calling for the delivery of merchandise and services in the future and entered into before the death of the prospective recipient.~~

(5)~~(6)~~ This act does not relieve the *preneed licensee* ~~certificateholder~~ or other entity from liability for nonperformance of contractual terms unless the *preneed licensee* ~~certificateholder~~ cannot deliver the merchandise or services because of a national emergency, strike, or act of God.

(6)~~(7)~~ The *licensing authority* ~~board~~ may require the holder of any assets of the *preneed licensee* ~~certificateholder~~ to furnish written verification of the financial report required to be submitted by the *preneed licensee* ~~certificateholder~~ or other entity.

(7)~~(8)~~ Any preneed contract which promises future delivery of merchandise at no cost constitutes a paid-up contract. Merchandise which has been delivered is not covered by the required performance bond or letter of credit even though the contract is not completely paid. The *preneed licensee* ~~certificateholder~~ may not cancel a contract unless the purchaser is in default according to the terms of the contract *and subject to the requirements of s. 497.459*. A contract sold, discounted, and transferred to a third party constitutes a paid-up contract for the purposes of the performance bond or letter of credit.

(8)~~(9)~~ Each contract must state the type, size, and design of merchandise and the description of service to be delivered or performed.

(9)~~(10)~~ A purchaser and a *preneed licensee* ~~certificateholder~~ who are parties to a preneed contract executed prior to July 2, 1988, may enter into an amended preneed contract which is made subject to this section. *On and after January 1, 2006, this subsection may no longer be used to make any additional contracts subject to a bond under this section, provided that contracts already amended and made subject to a bond as of December 31, 2005, may remain under such bond.*

(10)~~(11)~~ The *licensing authority* ~~board~~ may adopt forms and rules necessary to implement this section, including, but not limited to, rules which ensure that the surety bond and line of credit provide liability coverage for preneed merchandise and services.

(11)~~(12)~~ *Preneed licensees* ~~Certificateholders~~ may utilize the bonding alternatives to s. *497.458* ~~497.417~~ provided in this section only for contracts written prior to July 1, 2001, for funds not held in trust as of July 1, 2001, or for contracts written prior to December 31, 2004, by any *preneed licensee* ~~certificateholder~~ authorized to do business in this state that has total bonded liability exceeding $100 million as of July 1, 2001, for funds not held in trust as of July 1, 2001.

Section 112. Section 497.427, Florida Statutes, is renumbered as section 497.463, Florida Statutes, and amended to read:

497.463 ~~497.427~~ Existing merchandise trust funds; proof of compliance with law.—The *preneed licensee* ~~certificateholder~~ shall present to the *licensing authority* ~~board~~ prior to the implementation of the alternatives provided in s. *497.462* ~~497.425~~ documentation which demonstrates that the existing merchandise trust fund complies with the law and that the elected alternative plan conforms to the requirements of this chapter.

Section 113. Section 497.429, Florida Statutes, is renumbered as section 497.464, Florida Statutes, and amended to read:

497.464 ~~497.429~~ Alternative preneed contracts.—

(1) Nothing in this chapter shall prevent the purchaser and the *preneed licensee* ~~certificateholder~~ from executing a preneed contract upon the terms stated in this section. Such contracts shall be subject to all provisions of this chapter except:

(a) Section *497.454(2)* ~~497.409(2)~~.

(b) Section *497.457* ~~497.415~~.

(c) Section *497.458(1), (3), and (6)* ~~497.417(1), (3), and (5)~~.

(d) Section *497.459(1), (2), and (4)* ~~497.419(1), (2), and (5)~~.

(e) Section *497.460* ~~497.421~~.

(f) Section *497.461* ~~497.423~~.

(g) Section *497.462* ~~497.425~~.

(2) The contract must require that a trust be established by the *preneed licensee* ~~certificateholder~~ on behalf of, and for the use, benefit, and protection of, the purchaser and that the trustee must be a trust company operating pursuant to chapter 660, a national or state bank holding trust powers, or a federal or state savings and loan association holding trust powers.

(3) The contract must require that the purchaser make all payments required by the contract directly to the trustee or its qualified servicing agent and that the funds shall be deposited in this state, subject to the terms of a trust instrument approved by the *licensing authority* ~~board~~. *The licensing authority may adopt rules establishing procedures and forms for the submission of trust instruments for approval by the licensing authority, establishing criteria for the approval of such trust instruments, and specifying information required to be provided by the applicant in connection with submission of a trust instrument for approval.* A copy of the trust instrument shall be made available to the purchaser, at any reasonable time, upon request.

(4) The contract or trust instrument shall expressly state that the *preneed licensee* ~~certificateholder~~ does not have any dominion or control over the trust or its assets, except to the extent that subsection (6) applies, until such time as the preneed contract is entirely completed or performed.

(5) The trust instrument shall prohibit the trustee from distributing any appreciation on the trust to any person and shall require that the trustee accumulate the entire net income of the trust, or its pro rata share thereof. The accumulated net income shall be distributed to the *preneed licensee* ~~certificateholder~~ upon cancellation or performance of the contract.

(6) The contract and trust instrument may provide that the *preneed licensee* ~~certificateholder~~ may receive a current distribution of not more than 10 percent of all funds paid or collected by the trustee and may further provide for liquidated damages during the first 3 years after the execution of the contract of not more than 10 percent of all the funds paid on the preneed contract, except that no liquidated damages shall apply for cancellation within 30 days of the date of execution of the contract.

(7) Disbursement of funds discharging any preneed contract shall be made by the trustee to the person issuing or writing such contract upon receipt of a certified copy of the death certificate of the contract beneficiary and evidence satisfactory to the trustee that the preneed contract has been fully performed. In the event of any contract default by the contract purchaser, or in the event that the funeral merchandise or service contracted for is not provided or is not desired by the purchaser or the heirs or personal representative of the contract beneficiary, the trustee shall return, within 30 days after its receipt of a written request therefor, funds paid on the contract to the contract purchaser or to her or his assigns, heirs, or personal representative, subject to the lawful liquidation damage provision in the contract.

(8) The contract shall provide, in conspicuous type, that the purchaser may receive a federal income tax informational statement, pursuant to the grantor trust rules of ss. 671 et seq. of the Internal Revenue Code of 1986, as amended, from the trustee reflecting all of the income earned by the trust; and, accordingly, the purchaser should seek the advice of an independent tax professional for the tax impact upon the purchaser as a result of executing the preneed contract.

(9) The contract may provide that the *preneed licensee* ~~certificateholder~~ may cancel the contract, but only in the event that the purchaser is more than 90 days in default of the terms of the contract; and, unless subject to the provisions of s. *497.459(5)* ~~497.419(6)~~, must provide that the purchaser, or her or his representative, has the right, at any time prior to the performance of the contract, to cancel the preneed contract and revest title to all the funds paid on the preneed contract, except for applicable liquidated damages, and the *preneed licensee's* ~~certificateholder's~~ rights in the net income of the trust.

(10) The contract or trust agreement may require the trustee to invest in solely tax-free investments.

(11) In the event the parties execute a contract pursuant to this section, the purchaser shall be deemed, and treated for all purposes, as the settlor of the trust established thereunder.

Section 114. Section 497.436, Florida Statutes, is renumbered as section 497.465, Florida Statutes, and amended to read:

497.465 ~~497.436~~ Inactive*, surrendered,* and revoked *preneed licensees* ~~certificateholders~~.—

(1) A *preneed licensee* ~~certificateholder~~ shall be considered inactive upon the acceptance of the surrender of its license by the *licensing authority* ~~board~~ or upon the nonreceipt by the *licensing authority* ~~board~~ of the *preneed license* ~~certificate of authority~~ renewal application and fees required by s. *497.265* ~~497.213(2)~~.

(2) A *preneed licensee* ~~certificateholder~~ shall cease all preneed sales to the public upon becoming inactive. The *preneed licensee* ~~certificateholder~~ shall collect and deposit into trust all of the funds paid toward preneed contracts sold prior to becoming inactive.

(3) Any *preneed licensee* ~~certificateholder~~ desiring to surrender its license to the *licensing authority* ~~board~~ shall first:

(a) File notice with the *licensing authority* ~~board~~.

(b) Submit copies of its existing trust agreements.

(c) Submit a sample copy of each type of preneed contract sold.

(d) Resolve to the *licensing authority's* ~~board's~~ satisfaction all *unresolved* findings and violations resulting from *prior examinations* ~~the last examination~~ conducted.

(e) Pay all outstanding fines and invoices due the *licensing authority* ~~board~~.

(f) Submit its current *preneed license* ~~certificate of authority~~.

(4) Upon receipt of the notice, the *licensing authority* ~~board~~ shall review the *preneed licensee's* ~~certificateholder's~~:

(a) Trust funds.

(b) Trust agreements.

(c) Evidence of all outstanding preneed contracts.

(5) After a review to the *licensing authority's* ~~board's~~ satisfaction, the *licensing authority* ~~board~~ shall terminate the *preneed license* ~~certificate of authority~~ by an order which shall set forth the conditions of termination established by the *licensing authority* ~~board~~ to ensure that the preneed funds will be available for their intended purpose.

(6) The trust fund of the *preneed licensee* ~~certificateholder~~ shall be held intact and in trust after the *preneed licensee* ~~certificateholder~~ has become inactive, and the funds in that trust shall be disbursed in accordance with the requirements of the written contracts *and this chapter* until the funds have been exhausted.

(7) The *licensing authority* ~~board~~ shall continue to have jurisdiction over the inactive *preneed licensee and the trust funds* ~~certificateholder~~ as if the *preneed license* ~~certificate~~ were active and to require such reports and inspect such records as the *licensing authority* ~~board~~ deems appropriate so long as there are funds in trust or preneed contracts that are not fulfilled.

(8) In addition to any other terms of revocation or suspension ordered pursuant to *this chapter,* ~~s. 497.233,~~ the provisions of this section shall also apply *in the event of revocation or suspension of a preneed license*, unless the provisions of the suspension or revocation order specifically provide otherwise.

(9) The licensing authority may adopt rules for the implementation of this section, for the purpose of ensuring a thorough review and investigation of the status and condition of the preneed licensee's business affairs for the protection of the licensee's preneed customers. Such rules may include:

(a) The form of notice required by paragraph (3)(a), and the information or materials to be contained in or accompany the notice or otherwise to be provided, which may include any information or materials the licensing authority deems needed for the discharge of its responsibilities under this section.

(b) Requirements for the submission of sworn affidavits by or the taking of sworn testimony from the licensee and its principals and employees and sales agents.

(c) Requirements for submission of unaudited or audited financial statements, as the licensing authority deems advisable.

Section 115. Section 497.439, Florida Statutes, is renumbered as section 497.466, Florida Statutes, and amended to read:

497.466 ~~497.439~~ Preneed sales agents*, license required; application procedures and criteria; responsiblility of preneed licensee.—*

(1) *GENERAL PROVISIONS APPLICABLE TO PRENEED SALES AGENTS.—*

(a) All individuals who offer preneed contracts to the public, or who execute preneed contracts on behalf of a *preneed licensee* ~~certificateholder~~, including all individuals who offer, sell, or sign contracts for the preneed sale of burial rights, shall be *licensed* ~~registered with the board~~ as preneed sales agents, pursuant to this section, unless such individuals are licensed as funeral directors pursuant to this chapter.

(b)~~(2)~~ All preneed sales agents and funeral directors acting as preneed sales agents must be *employed by or under written contract* with ~~affiliated~~ with the *preneed licensee*~~certificateholder~~ that they are representing.

(c)~~(3)~~ A *preneed licensee* ~~certificateholder~~ shall be responsible for the activities of all preneed sales agents and all funeral directors acting as preneed sales agents, who are affiliated with the *preneed licensee* ~~certificateholder~~ and who perform any type of preneed-related activity on behalf of the *preneed licensee* ~~certificateholder~~. In addition to the preneed sales agents and funeral directors acting as preneed sales agents, each *preneed licensee* ~~certificateholder~~ shall also be subject to discipline if its preneed sales agents or funeral directors acting as preneed sales agents violate any provision of this chapter.

(d)~~(4)~~ A preneed sales agent and a funeral director acting as a preneed sales agent shall be authorized to sell, offer, and execute preneed contracts on behalf of all entities owned or operated by its sponsoring *preneed licensee* ~~certificateholder~~.

(e) An individual may be licensed as a preneed sales agent on behalf of more than one preneed licensee, provided that the individual has received the written consent of all such preneed licensees and makes separate application under this section for each such agency.

(f) A sponsoring preneed licensee shall notify the department in writing within 30 days after the sponsored preneed sales agent's authority to represent that preneed licensee has terminated.

(2) APPLICATION PROCEDURES.—

(a) A person seeking licensure as a preneed sales agent shall apply for such licensure using forms prescribed by rule of the licensing authority.

(b) The application shall require the name, residence address, residence phone number if any, and date and place of birth, of the preneed sales agent applicant. Applicants shall be at least 18 years of age. The application shall require identification of the name, address, and license number of the sponsoring preneed licensee. The application shall require the preneed sales agent applicant's social security number and the federal tax identification number of the sponsoring preneed licensee.

(c) The application shall require information as to the educational and employment history of the preneed sales agent applicant.

(d) The application shall require the preneed sales agent applicant to disclose whether the preneed sales agent applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(e) The application shall require the preneed sales agent applicant to disclose whether the preneed sales agent applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(f) The application shall require a representation by the sponsoring preneed licensee, that:

1. The sponsoring preneed licensee's license is in good standing.

2. Upon licensure as a preneed sales agent the sponsored preneed sales agent applicant will be authorized to offer, sell, and sign preneed contracts on behalf of the preneed licensee.

3. The preneed licensee has trained the applicant in the provisions of this chapter relating to preneed sales, the provisions of the preneed licensee's preneed contracts, and the nature of the merchandise, services, or burial rights sold by the preneed licensee.

(g) The application shall require the preneed sales agent applicant to indicate whether the applicant has any type of working relationship with any other preneed licensee or insurance company, and if yes, to identify such other preneed licensee or insurance company, as the case may be.

(h) The applicant shall be required to submit her or his fingerprints in accordance with part I of this chapter.

(i) The application shall be signed by the applicant and by an officer or manager of the sponsoring preneed licensee.

(j) The application shall be accompanied by a nonrefundable fee of $100. The licensing authority may from time to time increase such fee but not to exceed $200.

(3) ACTION CONCERNING APPLICATIONS; TEMPORARY AND REGULAR LICENSURE.—

(a) An applicant shall be deemed to have been issued a temporary preneed sales agent license and may begin functioning as a preneed sales agent, immediately upon receipt by the department of a duly completed application for licensure under this section, if the application shows an applicant of at least 18 years of age who has answered in the negative regarding paragraphs (2)(d) and (e) relating to prior criminal and disciplinary actions, and which application is accompanied by the required application fee. The temporary preneed sales agent license shall be valid for 90 days unless earlier suspended by the licensing authority for cause. If the application is approved by the board within the 90-day period, the temporary license shall be deemed converted to a regular biennial license which shall expire in accordance with the schedule established by the licensing authority by rule.

(b)1. A person who cannot truthfully answer in the negative regarding paragraphs (2)(d) and (e) relating to prior criminal and disciplinary actions, may apply to the licensing authority for issuance of a preneed sales agent license notwithstanding such criminal or disciplinary record. The licensing authority may by rule specify forms and procedures for use by such persons in applying for preneed sales agent licensure, to be used by such persons in lieu of the forms and procedures specified under paragraph (a). Licensure shall be granted unless the licensing authority reasonably determines that the prior criminal or disciplinary record indicates that the granting of licensure would pose unreasonable risk to the public.

2. To facilitate issuance of licenses concerning applicants with criminal or disciplinary records which the licensing authority judges to make the applicant borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 24 months of licensure, to ensure the preneed sales agent licensee's integrity, trustworthiness, and compliance with this chapter. Provided, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure. The licensing authority may adopt rules prescribing criteria and procedures for issuance of such probationary licenses.

(4) RENEWAL OF LICENSES.—Nontemporary preneed sales agent licenses under this section shall be renewed biennially in accordance with a schedule, forms, and procedures established by rule. The nonrefundable biennial renewal fee shall be as determined by licensing authority rule but not to exceed $200.

(5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF SPONSORING LICENSEE.—The board may by rule establish simplified requirements and procedures under which any preneed sales

agent who, within the 12 months preceding application under this subsection held in good standing a preneed sales agent license under this section, may obtain a preneed sales agent's license under this section to represent a different sponsoring preneed licensee. The simplified requirements shall dispense with the requirement for submission of fingerprints. The licensing authority may by rule prescribe forms to be used by applicants under this subsection, which forms may dispense with the requirement for any information not deemed by the licensing authority to be necessary to tracking the identify of the preneed licensee responsible for the activities of the preneed sales agent. No preneed sales agent licensee whose sales agent license issued by the board was revoked or suspended or otherwise terminated while in other than good standing, shall be eligible to use the simplified requirements and procedures. The issuance of a preneed sales agent license under this subsection shall not operate as a bar to any subsequent disciplinary action relating to grounds arising prior to obtaining the license under this subsection. There shall be a fee payable to the department under such simplified procedures, which fee shall be the same as the fee paid upon initial application for preneed sales agent license, except that no fingerprint fee shall be required if such fingerprint fee is required for initial applications.

~~(5) An individual may begin functioning as a preneed sales agent as soon as a completed application for registration, as set forth in subsection (7), is sent to the department.~~

~~(6) The qualifications for a preneed sales agent are as follows:~~

~~(a) The applicant must be at least 18 years of age.~~

~~(b) The applicant must be in good standing with the board.~~

~~(c) The applicant must not have any felony or misdemeanor convictions that relate to any activity regulated by this chapter.~~

~~(7) An application for registration as a preneed sales agent shall be submitted to the department with an application fee of $100 by the certificateholder in a form that has been prescribed by department rule and approved by the board. Such application shall contain, at a minimum, the following:~~

~~(a) The name, address, social security number, and date of birth of the applicant and such other information as the board may reasonably require of the applicant.~~

~~(b) The name, address, and license number of the sponsoring certificateholder.~~

~~(c) A representation, signed by the applicant, that the applicant meets the requirements set forth in subsection (6).~~

~~(d) A representation, signed by the certificateholder, that the applicant is authorized to offer, sell, and sign preneed contracts on behalf of the certificateholder, and that the certificateholder has trained the applicant in the provisions of this chapter relating to preneed sales as determined by the board, the provisions of the certificateholder's preneed contract, and the nature of the merchandise, services, or burial rights sold by the certificateholder.~~

~~(e) A statement indicating whether the applicant has any type of working relationship with any other certificateholder or insurance company.~~

~~(8) An individual may be registered as a preneed sales agent on behalf of more than one certificateholder, provided that the individual has received the written consent of all such certificateholders.~~

~~(9) A certificateholder who has registered a preneed sales agent shall notify the department within 30 days after such individual's status as a preneed sales agent has been terminated.~~

~~(10) Upon receipt of an application that complies with all of the requirements of subsection (7), the department shall register the applicant. The department shall by rule provide for biennial renewal of registration and a renewal fee of $150.~~

Section 116. Section 497.441, Florida Statutes, is renumbered as section 497.467, Florida Statutes, and amended to read:

497.467 ~~497.441~~ Acceptability of funeral and burial merchandise.—Each person who engages in preneed sales of funeral or burial merchandise shall determine, and notify the purchaser in writing prior to the completion of the contract, that the merchandise being considered for purchase will be accepted in the cemetery of the purchaser's choice. The failure to comply with this chapter shall nullify the agreement, and all moneys paid in shall be returned, notwithstanding the existence of any liquidated damages provision *otherwise applicable by contract or statute* ~~pursuant to s. 497.419(2)~~.

Section 117. Part V of chapter 497, Florida Statutes, consisting of sections 497.550, 497.551, 497.552, 497.553, 497.554, 497.555, and 497.556, is created to read:

PART V
MONUMENT ESTABLISHMENTS

Section 118. Section 497.361, Florida Statutes, is renumbered as section 497.550, Florida Statutes, and

amended to read:

(Substantial rewording of section. See s. 497.361, F.S., for present text.)

497.550 Licensure of monument establishments required; procedures and criteria.—

(1) LICENSE REQUIRED.—No person shall conduct, maintain, manage, or operate a monument establishment in this state unless the monument establishment is licensed pursuant to this part.

(2) APPLICATION PROCEDURES.—A person seeking licensure as a monument establishment shall apply for such licensure using forms prescribed by rule.

(a) The application shall require the applicant's name and address, and the name and address of all principals of the applicant. The application shall require the applicant's social security number, or if the applicant is an entity, its federal tax identification number.

(b) The application may require information as to the applicant's financial resources, and may require information as to the experience of the applicant and its principals in the monument establishment business or death care industry.

(c) The application shall require the applicant to disclose whether the applicant or any of its principals has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(d) The application shall require the applicant to disclose whether the applicant or any of its principals has ever had a license or the authority to practice a profession or occupation revoked, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction.

(e) The application shall require the applicant's principals to provide fingerprints in accordance with part I of this chapter.

(f) The applicant shall be a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company formed prior to January 1, 2005 which limited liability company already holds a license under this chapter.

(g) The applications shall require the applicant to demonstrate that the applicant has, or will have before commencing operations, the facilities required under this part.

(h) The application shall be signed by the applicant if a natural person, or by the president of an applicant that is a corporation.

(i) The application shall be accompanied by an application fee as determined by licensing authority rule but not to exceed $500.

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure as a monument establishment, accompanied by the required application fee, shall be approved unless there is shown by clear and convincing evidence that the applicant will not, before commencing operations, have the facilities required by this part or that issuance of the license would pose an unreasonable risk to the public because one or more of the following factors:

(a) The applicant's lack of experience.

(b) The applicant's lack of financial resources.

(c) The criminal or disciplinary record of applicant or its principals.

(d) A demonstrated history of violations of the laws of this state by applicant or its principals regarding the funeral or cemetery business or other business activities.

(e) A demonstrated history of lack of trustworthiness or integrity on the part of the applicant or its principals.

(4) PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the monument establishment business by, among other means, the entry of new licensees into the monument establishment business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue new monument establishment licenses on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 24 months of licensure, to ensure the licensee's responsibleness, competency, and financial stability. However, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure and institute proceedings for revocation of licensure.

(5) LICENSE NOT TRANSFERABLE OR ASSIGNABLE.—A monument establishment license shall not be transferable or assignable.

Section 119. Section 497.551, Florida Statutes, is created to read:

497.551 Renewal of monument establishment licensure.—

(1) A monument establishment license must be renewed biennially by the licensee.

(2) A monument establishment licensee that does not hold a preneed sales license as of 90 days prior to the date its monument establishment license renewal is due, shall renew its monument establishment license by payment of a renewal fee established by rule not to exceed $250.

(3) A monument establishment licensee which as of 90 days prior to its monument establishment license renewal date also holds a preneed sales license issued under this chapter, shall renew its monument establishment license by payment of a renewal fee determined by its total gross aggregate at-need and preneed retail sales for the 12-month period ending 2 full calendar months prior to the month in which the renewal is required, as follow:

(a) Total sales of $1 to $50,000, renewal fee $1,000.

(b) Total sales $50,001 to $250,000, renewal fee $1,500.

(c) Total sales of $250,001 to $500,000, renewal fee $2,000.

(d) Total sales over $500,000, renewal fee $2,500.

(4) Rules may be adopted providing procedures, forms, and uniform timeframes for monument establishment license renewals.

Section 120. Section 497.552, Florida Statutes, is created to read:

497.552 Required facilities.—Effective January 1, 2006, a monument establishment shall at all times have and maintain a full-service place of business at a specific street address or location in Florida complying with the following requirements:

(1) It shall include an office for the conduct of its business including the reception of customers.

(2) It shall include a display area in which is displayed a selection of monuments, markers, and related products for inspection by customers prior to sale.

(3) Its office and display area shall normally be open to the public weekdays during normal business hours.

(4) It shall have facilities for inscribing monuments, and equipment to deliver and install markers and monuments.

(5) It shall comply with any local government zoning regulations and may not be located on tax-exempt property.

Section 121. Section 497.553, Florida Statutes, is created to read:

497.553 Regulation of monument establishments.—

(1) The Department of Financial Services shall establish and implement an inspection program for all monument establishments in accordance with the requirements of this act.

(2) Commencing January 1, 2006, all retail sales by monument establishments shall be on a sales agreement form filed by the monument establishment with and approved by the licensing authority. Sales agreement forms must provide a complete description of any monument, marker, or related product to be delivered, and shall prominently and clearly specify the agreed date for delivery and installation. Procedures for submission and approval of such forms shall be established by rule.

(3) Commencing January 1, 2006, all monument establishments shall have written procedures for the receipt, investigation, and disposition of customer complaints, and shall ensure that their staff who receive or process such complaints are familiar with and follow such procedures.

(4) Commencing January 1, 2006, all monument establishments shall maintain for inspection by the department records of written complaints received by the monument establishment. Such complaint records shall include a chronological log of written complaints received, in which the name and address of each complainant and date of complaint is entered consecutively within 10 business days of receipt of each complaint. The licensing authority may by rule establish requirements regarding the format of complaint logs, including whether they may be maintained electronically, or shall be maintained by pen and ink on paper; the licensing authority may by order direct a licensee to maintain complaint logs by pen and ink in writing. The original or complete copy of each written complaint received by a monument establishment, and all subsequent correspondence related to such complaint, shall be maintained by the monument establishment, for inspection by the department, for the longer of 24 months or 12 months after the most recent department inspection during which the complaint was in the monument establishment's complaint records and available for the department's review.

(5) Commencing January 1, 2006, the failure of a monument establishment to deliver and install a purchased monument or marker by the date agreed in the sales agreement shall entitle the customer to a full refund of all amounts paid by the customer for the monument and its delivery and installation, unless the monument establishment has obtained a written agreement from the customer extending the delivery date. Such refund shall be made within 30 days after receipt by the monument establishment of the customer's written request for a refund. This subsection does not preclude the purchase and installation of a new monument from any other registered monument establishment or preneed sales licensee.

Section 122. Section 497.554, Florida Statutes, is created to read:

497.554 Monument establishment sales representatives.—

(1) LICENSE REQUIRED.—Each person selling monuments, markers, or related products for a monument establishment must be licensed as a monument establishment sales agent. This requirement shall apply notwithstanding that such person is already registered or licensed in another capacity pursuant to this chapter.

(2) APPLICATION PROCEDURES.—Licensure as an monument establishment sale agent shall be by submission of an application for licensure to the department on a form prescribed by rule.

(a) The application shall require the applicant to state her or his name, residence and business address, business phone number, social security number, and the name and address of the monument establishment for which the applicant will be selling.

(b) The application shall require the applicant to disclose whether the applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(c) The application shall require the applicant to disclose whether the applicant has ever had a license or the authority to practice a profession or occupation revoked, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction.

(d) The application shall be signed by the applicant and the owner or an officer of the sponsoring monument establishment.

(e) The monument establishment sales agent application shall be accompanied by a fee of $50. The licensing authority may from time to time increase the application fee by rule but not to exceed $200.

(3) APPROVAL OR DENIAL OF APPLICATION.—

(a) If a properly completed application accompanied by the required application fee indicates the applicant has no criminal or disciplinary record, the requested licensure shall be deemed granted upon receipt of the duly completed application by the department.

(b) If the application indicates the applicant has any criminal or disciplinary history, licensure shall be granted unless the licensing authority determines that the licensure of the applicant would pose a substantial threat to the welfare of the public with which the applicant might be dealing as a monument establishment sales agent. Rules may be adopted providing criteria for evaluating criminal and disciplinary records as they may affect applications for licensure under this section.

(4) TERMINATION OF AUTHORITY.—

(a) Once issued, a monument establishment sales agent license of an agent not licensed to make preneed sales shall remain in effect without renewal until surrendered, or the sponsoring monument establishment terminates the agent's authority to sell on behalf of that monument establishment, or the license is revoked or suspended by the licensing authority for cause.

(b) The monument establishment whose officer signed the sales agent application shall terminate that agent's authority to sell on behalf of that monument establishment, and the monument establishment in writing shall advise the licensing authority of such termination within 30 days after the termination.

(5) RESPONSIBILITY FOR AGENTS.—The sponsoring monument establishment shall be responsible for the activities of its sales agents concerning their sales activities and shall reasonably supervise such activities.

(6) AGENT LICENSE REQUIRED.—A person selling monuments, markers, and related products on a preneed basis for a monument establishment that has been issued a preneed sales license must also obtain authorization as a preneed sales agent under part IV of this chapter.

Section 123. Section 497.555, Florida Statutes, is created to read:

497.555 Required rules.—Rules shall be adopted establishing minimum standards for access to all cemeteries by licensed monument establishments, for the purpose of delivering and installing markers and monuments. In all cases, cemeteries must comply with these minimum standards.

Section 124. Section 497.556, Florida Statutes, is created to read:

497.556 Requirements relating to monument establishments.—

(1) INITIAL LICENSURE.—No monument establishment shall be issued a license to engage in preneed sales under this chapter unless the monument establishment shall, in addition to the other requirements of this part for issuance of a preneed license, meet the following requirements:

(a) The monument establishment or its principals shall demonstrate at least 3 years of experience in the operation of a monument establishment.

(b) The monument establishment shall demonstrate that it has a net worth of at least $10,000 pursuant to generally accepted accounting principles. If the monument establishment applying for preneed licensure cannot demonstrate a net worth of at least $10,000, the licensing authority may in accordance with subsection (3) accept alternative factors or arrangements as substituting for the $10,000 net worth requirement, and issue the license on that basis. A monument establishment which is issued a preneed sales license based upon subsection (3) shall be subject to subsection (2) regarding subsequent renewals of its preneed sales license.

(2) RENEWAL LICENSURE.—Each monument establishment seeking to renew its preneed sales license shall demonstrate, in addition to the other requirements of part IV of this chapter relating to renewal of preneed licenses, a net worth of $10,000 as of the year end for its fiscal year most recently concluded prior to the renewal date. Such net worth shall be demonstrated in financial statements prepared in accordance with generally accepted accounting principles and filed with the licensing authority. If the monument establishment seeking renewal of its preneed licensure cannot demonstrate the required net worth the licensing authority may in accordance with subsection (3) accept alternative factors or arrangements as substituting for the $10,000 net worth requirement and renew the license for that renewal cycle on that basis.

(3) ALTERNATIVES TO $10,000 NET WORTH REQUIREMENT.—

(a) A monument establishment that cannot demonstrate the required $10,000 net worth may voluntarily submit to the licensing authority and request acceptance of alternative evidence of financial stability and resources or agree to additional oversight in lieu of the required net worth. Such additional evidence or oversight may include, as appropriate, one or more of the following:

1. An agreement to submit monthly financial statements of the entity.

2. An agreement to submit quarterly financial statements of the entity.

3. An appraisal of the entity's property or broker's opinion of the entity's assets.

4. A credit report of the entity or its principals.

5. A subordination-of-debt agreement from the entity's principals.

6. An indemnification or subrogation agreement binding the entity and its principals.

7. A guarantee agreement for the entity from its principals.

8. A written explanation of past financial activity.

9. Submission of a 12-month projected business plan that includes:

a. A statement of cash flows.

b. Pro forma income statements, with sources of revenues identified.

c. Marketing initiatives.

10. Submission of previous department examination reports.

11. An agreement of 100 percent voluntary trust by the entity.

(b) The licensing authority may accept such alternative evidence or arrangements in lieu of the required net worth only if the licensing authority determines such alternative evidence or arrangements are an adequate substitute for $10,000 of net worth and that acceptance would not substantially increase the risk to existing or future customers of nonperformance by the monument establishment on its retail sales agreements.

(4) BRANCH OPERATIONS.—A licensed monument establishment under common control with another monument establishment, funeral establishment, or licensed cemetery, which other monument establishment, funeral establishment, or licensed cemetery holds a preneed sales license in good standing, may engage in preneed sales under and as a branch of that other entity's preneed sales license, if there is compliance with the usual requirements of this part for branch operation, and the entity holding the preneed sales license executes and files with the licensing authority a written agreement in a form acceptable to the licensing authority, guaranteeing performance of the preneed sales of the branch.

Section 125. Part VI of chapter 497, Florida Statutes, consisting of sections 497.601, 497.602, 497.603, 497.604, 497.605, 497.606, 497.607, and 497.608, is created to read:

PART VI
CREMATION, CREMATORIES, AND DIRECT DISPOSITION

Section 126. Section 470.0165, Florida Statutes, is renumbered as section 497.601, Florida Statutes, and amended to read:

497.601 ~~470.0165~~ Direct disposition; duties.—

(1) Those individuals *licensed* ~~registered~~ as direct disposers may perform only those functions set forth below:

(a) Remove human remains from the place of death and store human remains in registered direct disposal establishments.

(b) Secure pertinent information from the decedent's next of kin in order to complete the death certificate and to file for the necessary permits for direct disposition.

(c) Obtain the necessary permits for direct disposition and arrange for obituaries and death notices to be placed in newspapers; provided, however, that the name of the direct disposal establishment may not appear in any death notice or obituary if any funeral service, memorial service, or graveside service is to take place and such service is mentioned in the death notice or obituary.

(d) Refrigerate human remains prior to direct disposition and transport human remains to a direct disposal establishment for direct disposition.

(e) Contract with a removal service or refrigeration facility to provide such services or facilities to a direct disposal establishment.

(2) Direct disposers or funeral directors functioning as direct disposers may not, in their capacity as direct disposers, sell, conduct, or arrange for burials, funeral services, memorial services, visitations, or viewings; hold themselves out to the public as funeral directors; or use any name, title, or advertisement that may tend to connote that they are funeral directors. These prohibitions shall apply regardless of the fact that such individuals may be licensed as funeral directors.

(3) Provided that direct disposers limit their activities to those functions set forth in subsection (1), those activities shall not be deemed to constitute funeral directing or embalming or the functions performed by a funeral director or embalmer as otherwise set forth in this chapter.

Section 127. Section 470.017, Florida Statutes, is renumbered as section 497.602, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 470.017, F.S., for present text.)

497.602 Direct disposers, license required; licensing procedures and criteria; regulation.—

(1) LICENSE REQUIRED.—Any person who is not a licensed funeral director and who engages in the practice of direct disposition must be licensed pursuant to this section as a direct disposer.

(2) APPLICATION PROCEDURES.—

(a) A person seeking licensure as a direct disposer shall apply for such licensure using forms prescribed by rule.

(b) The application shall require the name, residence address, date and place of birth, and social security number, of the applicant.

(c) The application may require information as to the educational and employment history of the applicant.

(d) The application shall require the applicant to disclose whether the applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(e) The application shall require the applicant to disclose whether the applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(f) The application shall require the applicant to provide fingerprints in accordance with part I of this chapter.

(g) The application shall require the applicant to demonstrate that the applicant does, or will before commencing operations under the license, comply with all requirements of this chapter relating to the licensure applied for.

(h) The application shall be signed by the applicant.

(i) The application shall be accompanied by a nonrefundable fee of $300. The licensing authority may from time to time increase the fee by rule but not to exceed more than $500.

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fees, shall be approved if the licensing authority determines that the following conditions are met:

(a) The applicant is a natural person at least 18 years of age and a high school graduate or equivalent.

(b) Applicant has taken and received a passing grade in a college credit course in Florida mortuary law.

(c) Applicant has completed a course on communicable diseases approved by the licensing authority.

(d) Applicant has passed an examination prepared by the department on the local, state, and federal laws and rules relating to the disposition of dead human bodies.

(e) The applicant does or will prior to commencing operations under the license comply with all requirements of this chapter relating to the license applied for.

(f) Applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

(4) ISSUANCE OF LICENSE.—Upon approval of the application by the licensing authority, the license shall be issued.

(5) DISPLAY OF LICENSE.—There shall be adopted rules which require each license issued under this section to be displayed in such a manner as to make it visible to the public and to facilitate inspection by the department. Each licensee shall permanently affix a recent photograph of the licensee to each displayed license issued to that licensee as a direct disposer.

Section 128. Section 470.018, Florida Statutes, is renumbered as section 497.603, Florida Statutes, and amended to read:

497.603 ~~470.018~~ *Direct disposers, renewal of license* ~~Renewal of registration of direct disposer~~.—

(1) *A direct disposer's renewal of license* ~~The department shall renew a registration~~ upon receipt of the renewal application and fee set by *rule of the licensing authority* but ~~the department~~ not to exceed $250.

(2) *There shall be adopted* ~~The department shall adopt~~ rules establishing a *schedule and forms* and procedure for the biennial renewal of *licenses as direct disposers* ~~registrations~~ . *There shall be adopted* ~~The board shall prescribe~~ by rule continuing education requirements of up to *6* ~~3~~ classroom hours and *there* may by rule *be established* ~~establish~~ criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to *an approved* ~~a board-approved~~ course on communicable diseases that includes the course on human immunodeficiency virus and acquired immune deficiency syndrome required by s. *497.367* ~~455.2226~~, for the renewal of a *license as a direct disposer* ~~registration~~.

Section 129. Section 470.021, Florida Statutes, is renumbered as section 497.604, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 470.021, F.S., for present text.)

497.604 Direct disposal establishments, license required; licensing procedures and criteria; license renewal; regulation.—

(1) LICENSE REQUIRED.—A direct disposer shall practice at a direct disposal establishment which has been licensed under this section and which may be a cinerator facility licensed under s. 497.606. No person may open or maintain an establishment at which to engage in or hold herself or himself out as engaging in the practice of direct disposition unless such establishment is licensed pursuant to this section.

(2) APPLICATION PROCEDURES.—

(a) A person seeking licensure as a direct disposal establishment shall apply for such licensure using forms prescribed by rule.

(b) The application shall require the name, business address, residence address, date and place of birth or incorporation, and business phone number, of applicant and all principals of applicant. The application shall require the applicant's social security number, or if the applicant is an entity, its federal tax identification number.

(c) The application shall name the licensed direct disposer or licensed funeral director who will acting as a direct disposer in charge of the direct disposal establishment.

(d) The application may require information as to the applicant's financial resources.

(e) The application may require information as to the educational and employment history of an individual applicant; and as to applicants that are not natural persons, the business and employment history of the applicant and principals of applicant.

(f) The application shall require the applicant to disclose whether the applicant or any of applicant's principals including its proposed supervising licensee has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(g) The application shall require the applicant to disclose whether the applicant or any of applicant's principals including its proposed supervising licensee has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(h) The application shall require the applicant and its principals to provide fingerprints in accordance with part I of this chapter.

(i) The application shall require the applicant to demonstrate that the applicant does, or will before commencing operations under the license, comply with all requirements of this chapter relating to the licensure applied for.

(j) The application shall be signed by the applicant if a natural person, or by the president of an applicant that is not a natural person.

(k) The application shall be accompanied by a nonrefundable fee of $300. The licensing authority may from time to time by rule increase the fee but not to exceed $500.

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fee, shall be approved if the licensing authority determines that the following conditions are met:

(a) The applicant is a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company formed prior to January 1, 2006, which limited liability company already holds a license under this chapter.

(b) The applicant does or will prior to commencing operations under the license comply with all requirements of this chapter relating to the license applied for.

(c) Applicant and applicant's principals are of good character and have no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

(4) ISSUANCE OF LICENSE.—Upon approval of the application by the licensing authority, the license shall be issued.

(5) PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the direct disposal establishment business by, among other means, the entry of new licensees into that business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 24 months of licensure, to ensure the licensee's responsibleness, competency, financial stability, and compliance with this chapter. However, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure.

(6) RENEWAL OF LICENSE.—A direct disposal establishment license shall be renewed biennially pursuant to schedule, forms, procedures and upon payment of a fee of $200. The licensing authority may from time to time increase the fee by rule but not to exceed $400.

(7) CHANGES SUBSEQUENT TO LICENSURE.—Each licensee under this section must provide notice as required by rule prior to any change in location or control of the licensee or licensed person in charge of the licensee's operations. Any such change is subject to disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter.

(8) SUPERVISION OF FACILITIES.—Each direct disposal establishment shall have one full-time licensed direct disposer or licensed funeral director acting as a direct disposer in charge and reasonably available to the public during normal business hours for that establishment. Such person may be in charge of only one facility. Such licensed funeral director or licensed direct disposer shall be responsible for making sure the facility, its operations, and all persons employed in the facility comply with all applicable state and federal laws and rules.

(9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.—

(a) There shall be established by rule standards for direct disposal establishments, including, but not limited to, requirements for refrigeration and storage of dead human bodies.

(b) The practice of direct disposition must be engaged in at a fixed location of at least 625 interior contiguous square feet and must maintain or make arrangements for suitable capacity for the refrigeration and storage of dead human bodies handled and stored by the establishment.

(c) Each direct disposal establishment shall at all times be subject to the inspection of all its buildings, grounds, and vehicles used in the conduct of its business, by the department, the Department of Health, and local government inspectors and by their agents. There shall be adopted rules which establish such inspection requirements. There shall be adopted by rule of the licensing authority an annual inspection fee not to exceed $300, payable upon issuance of license and upon each renewal of such license.

(d) Each direct disposal establishment must display at the public entrance the name of the establishment and the name of the direct disposer or licensed funeral director acting as a direct disposer responsible for that establishment. A direct disposal establishment must transact its business under the name by which it is licensed.

(e) A direct disposal establishment may not be operated at the same location as any other direct disposal establishment or funeral establishment unless such establishments were licensed as colocated establishments on July 1, 2000.

Section 130. Section 470.022, Florida Statutes, is renumbered as section 497.605, Florida Statutes, and amended to read:

497.605 ~~470.022~~ Direct disposition not funeral directing.—The duties, functions, and services performed by a direct disposer *licensee* ~~registrant~~, as provided by this chapter, shall not be deemed to constitute funeral directing or embalming or the duties, functions, or services performed by a funeral director or embalmer as otherwise defined and provided by this chapter.

Section 131. Section 470.025, Florida Statutes, is renumbered as section 497.606, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 470.025, F.S., for present text.)

497.606 Cinerator facility, licensure required; licensing procedures and criteria; license renewal; regulation.—

(1) LICENSE REQUIRED.—No person may conduct, maintain, manage, or operate a cinerator facility unless a license for such facility has been issued and is in good standing under this section.

(2) APPLICATION PROCEDURES.—

(a) A person seeking licensure as a cinerator facility shall apply for such licensure using forms prescribed by rule.

(b) The application shall require the name, business address, residence address, date and place of birth or incorporation, and business phone number, of applicant and all principals of applicant. The application shall require the applicant's social security number, or if the applicant is an entity, its federal tax identification number.

(c) The application shall name the licensed funeral director or licensed direct disposer who will be in charge of the cinerator facility.

(d) The application may require information as to the applicant's financial resources.

(e) The application may require information as to the educational and employment history of an individual applicant, and as to applicants that are not natural persons, the business and employment history of the applicant and principals of applicant.

(f) The application shall require the applicant to disclose whether the applicant or any of applicant's principals including its proposed supervising licensee has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(g) The application shall require the applicant to disclose whether the applicant or any of applicant's principals including its proposed supervising licensee has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined, by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(h) The application shall require the applicant and its principals to provide fingerprints in accordance with part I of this chapter.

(i) The application shall require the applicant to demonstrate that the applicant does, or will before commencing operations under the license, comply with all requirements of this chapter relating to the licensure applied for.

(j) The application shall be signed by the applicant if a natural person, or by the president of an applicant that is not a natural person.

(k) The application shall be accompanied by a nonrefundable fee of $300. The licensing authority may from time to time increase the fee by rule but not to exceed $500.

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fee, shall be approved if the licensing authority determines that the following conditions are met:

(a) No license may be issued unless the cinerator facility has been inspected and approved as meeting all requirements as set forth by the department, the Department of Health, the Department of Environmental Protection, or any local ordinance regulating the facility.

(b) The applicant is a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company formed prior to January 1, 2006, which limited liability company already holds a license under this chapter.

(c) The applicant does or will prior to commencing operations under the license comply with all requirements of this chapter relating to the license applied for.

(d) Applicant and applicant's principals are of good character and have no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

(4) PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the cinerator facility business by, among other means, the entry of new licensees into that business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 24 months of licensure, to ensure the licensee's responsibleness, competency, financial stability, and compliance with this chapter. Provided, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure.

(5) ISSUANCE OF LICENSE.—Upon approval of the application by the licensing authority, the license shall be issued.

(6) RENEWAL OF LICENSE.—Licenses under this section shall be renewed biennially in accordance with a schedule, forms, and procedures established by rule. The nonrefundable and nonproratable biennial renewal fee shall be as determined by licensing authority rule but not to exceed $500.

(7) CHANGES SUBSEQUENT TO LICENSURE.—Each licensee under this section must provide notice as required by rule prior to any change in location, control, or licensed person in charge. Any such change is subject to disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter.

(8) SUPERVISION OF FACILITIES.—Each cinerator facility shall have one full-time licensed direct disposer or licensed funeral director in charge for that facility. Such person may be in charge of only one facility. Such licensed funeral director or licensed direct disposer shall be responsible for making sure the facility, its operations, and all persons employed in the facility comply with all applicable state and federal laws and rules.

(9) REGULATION OF CINERATOR FACILITIES.—

(a) There shall be established by rule standards for cinerator facilities, including, but not limited to, requirements for refrigeration and storage of dead human bodies, use of forms and contracts, and record retention.

(b) No more than one dead human body may be placed in a retort at one time, unless written permission has been received from a legally authorized person for each body. The operator of a cinerator facility shall be entitled to rely on the permission of a legally authorized person to cremate more than one human body at a time.

(c) Each cinerator facility shall at all times be subject to the inspection of all its buildings, grounds, records, equipment, and vehicles used in the conduct of its business, by the department, the Department of Environmental Protection, the Department of Health, and local government inspectors and by their agents. Rules shall be adopted which establish such inspection requirements. There shall by rule of the licensing authority be adopted an annual inspection fee not to exceed $300, payable prior to issuance of license and upon each renewal of such license.

(d) A cinerator facility licensed under this section shall only receive dead human bodies for cremation. A cinerator facility may not receive other materials, or medical, hazardous, and biohazardous waste, for the purpose of disposal in a retort.

(e) Each cinerator facility must display at its public entrance the name of the facility and the name of the funeral director or direct disposer responsible for that facility. A cinerator facility must transact its business under the name by which it is licensed.

(f) A cinerator facility located at the same address as a funeral establishment may not have a direct disposer as its individual in charge.

(g) A cinerator facility shall not place human remains or body parts in a retort or cremation chamber unless the human remains are in an alternative container, cremation container, or casket. Human remains may be transported in a cremation container or stored if they are completely covered, and at all times treated with dignity and respect. Cremation may include the processing and pulverization of bone fragments. Cremated remains may be placed in a temporary container following cremation. None of the provisions contained in this subsection require the purchase of a casket for cremation. This subsection applies to at-need contracts and preneed contracts entered into pursuant to this chapter after June 1, 1996.

(h) Each cinerator facility shall ensure that all alternative containers, cremation containers, or caskets used for cremation contain no amount of chlorinated plastics not authorized by the Department of Environmental Protection, that they also are composed of readily combustible materials suitable for cremation, able to be closed to provide a complete covering for the human remains, resistant to leakage or spillage, rigid enough for handling with ease, and able to provide for the health, safety, and personal integrity of the public and crematory personnel.

(i) There shall be adopted by rule criteria for acceptable cremation and alternative containers.

(j) There shall be rules adopted requiring each facility to submit periodic reports to the department which include the names of persons cremated, the date and county of death, the name of each person supervising each cremation, the name and license number of the establishment requesting cremation, and the types of containers used to hold the body during cremation.

(k) Each cinerator facility must be inspected prior to the issuance and renewal of its license and shall:

1. Maintain one or more retorts for the reduction of dead human bodies.

2. Maintain refrigeration that satisfies the standards set by the Department of Health and contains a sufficient number of shelves for the average daily number of bodies stored, if unembalmed bodies are kept at the site.

3. Maintain sufficient pollution control equipment to comply with requirements of the Department of Environmental Protection in order to secure annual approved certification.

4. Either have on site or immediately available sufficient sealed containers of a type required for the transportation of bodies as specified in applicable state rules.

5. Maintain the premises in a clean and sanitary condition.

6. Have appropriate Department of Environmental Protection permits.

7. Retain all signed contracts for a period of at least 2 years.

Section 132. Section 470.0255, Florida Statutes, is renumbered as section 497.607, Florida Statutes, and amended to read:

497.607 ~~470.0255~~ Cremation; procedure required.—

(1) At the time of the arrangement for a cremation performed by any person licensed pursuant to this chapter, the person contracting for cremation services shall be required to designate ~~his or~~ her *or his* intentions with respect to the disposition of the cremated remains of the deceased in a signed declaration of intent which shall be provided by and retained by the funeral or direct disposal establishment. A cremation may not be performed until a legally authorized person gives written authorization for such cremation. The cremation must be performed within 48 hours after a specified time which has been agreed to in writing by the person authorizing the cremation.

(2) With respect to any person who intends to provide for the cremation of the deceased, if, after a period of 120 days from the time of cremation the cremated remains have not been claimed, the funeral or direct disposal establishment may dispose of the cremated remains. Such disposal shall include scattering them at sea or placing them in a licensed cemetery scatter garden or pond or in a church columbarium or otherwise disposing of the remains as provided by rule ~~of the department or board~~.

(3) Pursuant to the request of a legally authorized person and incidental to final disposition, cremation may be performed on parts of human remains. This subsection does not authorize the cremation of body parts as defined in s. 497.005.

Section 133. Section 497.608, Florida Statutes, is created to read:

497.608 Liability for unintentional commingling of the residue of the cremation process.—

(1) The Legislature recognizes that the unintentional or incidental commingling of the residue of the cremation of human remains is an inevitable byproduct of the cremation process in a cinerator retort or cremation chamber.

(2) The operator of a cinerator facility shall establish written procedures for the removal of cremated remains, to the extent possible, resulting from the cremation of a human body and the postcremation processing, shipping, packing or identifying of those remains. The operator of a cinerator facility shall file its written procedures, and any revisions to those written procedures, with the licensing authority for its approval, and effective January 1, 2006, the cremation facility shall not be operated unless it has and follows such written procedures approved by the licensing authority; provided, the licensing authority may adopt by rule standard uniform procedures for the removal of such cremated remains, which may be adopted by any cinerator facility in lieu of promulgating, filing, and obtaining approval of procedures. A cinerator facility choosing to the utilize standard uniform procedures specified by rule shall file notice of its choice with the licensing authority pursuant to procedures and forms specified by rule.

(3) If an operator follows the procedures set forth in written procedures filed and approved by the licensing authority, or adopts and follows the standard uniform procedures adopted by the licensing authority, the operator shall not liable for the unintentional or the incidental commingling of cremated remains resulting from more than one cremation cycle or from postcremation processing, shipping, packing, or identifying those remains.

(4) A copy of the procedures being utilized by a cinerator facility shall be provided by the cinerator facility upon request, to customers and their representatives, the department, and other legally authorized persons.

Section 134. Section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(1) DEPARTMENT HEAD.—The head of the Department of Financial Services is the Chief Financial Officer.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

(a) The Division of Accounting and Auditing, which shall include the following bureau and office:

1. The Bureau of Unclaimed Property.

2. The Office of Fiscal Integrity which shall function as a criminal justice agency for purposes of ss. 943.045-943.08 and shall have a separate budget. The office may conduct investigations within or outside this state as the bureau deems necessary to aid in the enforcement of this section. If during an investigation the office has reason to believe that any criminal law of this state has or may have been violated, the office shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

(b) The Division of State Fire Marshal.

(c) The Division of Risk Management.

(d) The Division of Treasury, which shall include a Bureau of Deferred Compensation responsible for administering the Government Employees Deferred Compensation Plan established under s. 112.215 for state employees.

(e) The Division of Insurance Fraud.

(f) The Division of Rehabilitation and Liquidation.

(g) The Division of Insurance Agents and Agency Services.

(h) The Division of Consumer Services~~, which shall include a Bureau of Funeral and Cemetery Services~~.

1. The Division of Consumer Services shall perform the following functions concerning products or services regulated by the Department of Financial Services or by either office of the Financial Services Commission:

a. Receive inquiries and complaints from consumers.~~;~~

b. Prepare and disseminate such information as the department deems appropriate to inform or assist consumers.~~;~~

c. Provide direct assistance and advocacy for consumers who request such assistance or advocacy.~~;~~

d. With respect to apparent or potential violations of law or applicable rules by a person or entity licensed by the department or by either office of the commission, report such apparent or potential violation to the appropriate division of the department or office of the commission, which may take such further action as it deems appropriate.

2. Any person licensed or issued a certificate of authority by the department or by the Office of Insurance Regulation shall respond, in writing, to the Division of Consumer Services within 20 days after receipt of a written request for information from the division concerning a consumer complaint. The response must address the issues and allegations raised in this complaint. The division may, in its discretion, impose an administrative penalty for failure to comply with this subparagraph in an amount up to $2,500 per violation upon any entity licensed by the department or the Office of Insurance Regulation and $250 for the first violation, $500 for the second violation and up to $1,000 per violation thereafter upon any individual licensed by the department or the Office of Insurance Regulation.

3. The department may adopt rules to implement the provisions of this paragraph.

4. The powers, duties, and responsibilities expressed or granted in this paragraph shall not limit the powers, duties, and responsibilities of the Department of Financial Services, the Financial Services Commission, the Office of Insurance Regulation, or the Office of Financial Regulation set forth elsewhere in the Florida Statutes.

(i) The Division of Workers' Compensation.

(j) The Division of Administration.

(k) The Division of Legal Services.

(l) The Division of Information Systems.

(m) The Office of Insurance Consumer Advocate.

(n) The Division of Funeral, Cemetery, and Consumer Services.

(3) FINANCIAL SERVICES COMMISSION.—Effective January 7, 2003, there is created within the Department of Financial Services the Financial Services Commission, composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, which shall for purposes of this section be referred to as the commission. Commission members shall serve as agency head of the Financial Services Commission. The commission shall be a separate budget entity and shall be exempt from the provisions of s. 20.052. Commission action shall be by majority vote consisting of at least three affirmative votes. The commission shall not be subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(a) Structure.—The major structural unit of the commission is the office. Each office shall be headed by a director. The following offices are established:

1. The Office of Insurance Regulation, which shall be responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, adjusters, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the insurance code or chapter 636. The head of the Office of Insurance Regulation is the Director of the Office of Insurance Regulation.

2. The Office of Financial Regulation, which shall be responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry. The head of the office is the Director of the Office of Financial Regulation. The Office of Financial Regulation shall include a Bureau of Financial Investigations, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08 and shall have a separate budget. The bureau may conduct investigations within or outside this state as the bureau deems necessary to aid in the enforcement of this section. If, during an investigation, the office has reason to believe that any criminal law of this state has or may have been violated, the office shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required.

(b) Organization.—The commission shall establish by rule any additional organizational structure of the offices. It is the intent of the Legislature to provide the commission with the flexibility to organize the offices in any manner they determine appropriate to promote both efficiency and accountability.

(c) Powers.—Commission members shall serve as the agency head for purposes of rulemaking under ss. 120.536-120.565 by the commission and all subunits of the commission. Each director is agency head for purposes of final agency action under chapter 120 for all areas within the regulatory authority delegated to the director's office.

(d) Appointment and qualifications of directors.—The commission shall appoint or remove each director by a majority vote consisting of at least three affirmative votes, with both the Governor and the Chief Financial Officer on the prevailing side. The minimum qualifications of the directors are as follows:

1. Prior to appointment as director, the Director of the Office of Insurance Regulation must have had, within the previous 10 years, at least 5 years of responsible private sector experience working full time in areas within the scope of the subject matter jurisdiction of the Office of Insurance Regulation or at least 5 years of experience as a senior examiner or other senior employee of a state or federal agency having regulatory responsibility over insurers or insurance agencies.

2. Prior to appointment as director, the Director of the Office of Financial Regulation must have had, within the previous 10 years, at least 5 years of responsible private sector experience working full time in areas within the subject matter jurisdiction of the Office of Financial Regulation or at least 5 years of experience as a senior examiner or other senior employee of a state or federal agency having regulatory responsibility over financial institutions, finance companies, or securities companies.

(e) Administrative support.—The offices shall have a sufficient number of attorneys, examiners, investigators, other professional personnel to carry out their responsibilities and administrative personnel as determined annually in the appropriations process. The Department of Financial Services shall provide administrative and information systems support to the offices.

(f) Records retention schedules.—The commission and the offices may destroy general correspondence files and also any other records that they deem no longer necessary to preserve in accordance with retention schedules and destruction notices established under rules of the Division of Library and Information Services, records and information management program, of the Department of State. Such schedules and notices

relating to financial records of the commission and offices shall be subject to the approval of the Auditor General.

(g) Records storage.—The commission and offices may photograph, microphotograph, or reproduce on film such documents and records as they may select, in such manner that each page will be exposed in exact conformity with the original. After reproduction and filing, original documents and records may be destroyed in accordance with the provisions of paragraph (f).

(4) BOARD OF FUNERAL, CEMETERY, AND CONSUMER SERVICES.—The Board of Funeral, Cemetery, and Consumer Services is created within the Division of Funeral, Cemetery, and Consumer Services of the Department of Financial Services.

(5)~~(4)~~ *TRANSITIONAL RULES.*—Effective January 7, 2003, the rules of the Department of Banking and Finance and of the Department of Insurance that were in effect on January 6, 2003, shall become rules of the Department of Financial Services or the Financial Services Commission as is appropriate to the corresponding regulatory or constitutional function and shall remain in effect until specifically amended or repealed in the manner provided by law.

Section 135. Paragraph (a) of subsection (4) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(4)(a) The following boards are established within the Division of Professions:

1. Board of Architecture and Interior Design, created under part I of chapter 481.

2. Florida Board of Auctioneers, created under part VI of chapter 468.

3. Barbers' Board, created under chapter 476.

4. Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.

5. Construction Industry Licensing Board, created under part I of chapter 489.

6. Board of Cosmetology, created under chapter 477.

7. Electrical Contractors' Licensing Board, created under part II of chapter 489.

8. Board of Employee Leasing Companies, created under part XI of chapter 468.

~~9. Board of Funeral Directors and Embalmers, created under chapter 470.~~

9.~~10.~~ Board of Landscape Architecture, created under part II of chapter 481.

10.~~11.~~ Board of Pilot Commissioners, created under chapter 310.

11.~~12.~~ Board of Professional Engineers, created under chapter 471.

12.~~13.~~ Board of Professional Geologists, created under chapter 492.

13.~~14.~~ Board of Professional Surveyors and Mappers, created under chapter 472.

14.~~15.~~ Board of Veterinary Medicine, created under chapter 474.

Section 136. Paragraph (a) of subsection (1) of section 316.1974, Florida Statutes, is amended to read:

316.1974 Funeral procession right-of-way and liability.—

(1) DEFINITIONS.—

(a) "Funeral director" and "funeral establishment" shall have the same meaning as set forth in s. *497.005* ~~470.002~~.

Section 137. Paragraph (a) of subsection (2) of section 381.0098, Florida Statutes, is amended to read:

381.0098 Biomedical waste.—

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

(a) "Biomedical waste" means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contains human-disease-causing agents; discarded disposable sharps; human blood, blood products, and body fluids; and other materials which in the opinion of the department represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter *497* ~~470~~.

Section 138. Subsection (7) of section 382.002, Florida Statutes, is amended to read:

382.002 Definitions.—As used in this chapter, the term:

(7) "Funeral director" means a licensed funeral director or direct disposer licensed pursuant to chapter *497* ~~470~~ or other person who first assumes custody of or effects the final disposition of a dead body or a fetus as described in subsection (5).

Section 139. Subsections (21), (37), and (39) of section 403.703, Florida Statutes, are amended to read:

403.703 Definitions.—As used in this act, unless the context clearly indicates otherwise, the term:

(21) "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under chapter *497* ~~470~~.

(37) "Biomedical waste" means any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter *497* ~~470~~.

(39) "Biological waste" means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. The term does not include human remains that are disposed of by persons licensed under chapter *497* ~~470~~.

Section 140. Paragraph (a) of subsection (1) of section 406.02, Florida Statutes, is amended to read:

406.02 Medical Examiners Commission; membership; terms; duties; staff.—

(1) There is created the Medical Examiners Commission within the Department of Law Enforcement. The commission shall consist of nine persons appointed or selected as follows:

(a) The Governor shall appoint:

1. Two members who are physicians licensed pursuant to chapter 458 or chapter 459 and who are active district medical examiners;

2. One member who is a funeral director licensed pursuant to chapter *497* ~~470~~;

3. One member who is a state attorney;

4. One member who is a public defender;

5. One member who is a sheriff; and

6. One member who is a county commissioner.

Section 141. Section 406.50, Florida Statutes, is amended to read:

406.50 Unclaimed dead bodies or human remains; disposition, procedure.—All public officers, agents, or employees of every county, city, village, town, or municipality and every person in charge of any prison, morgue, hospital, funeral parlor, or mortuary and all other persons coming into possession, charge, or control of any dead human body or remains which are unclaimed or which are required to be buried or cremated at public expense are hereby required to notify, immediately, the anatomical board, whenever any such body, bodies, or remains come into its possession, charge, or control. Notification of the anatomical board is not required if the death was caused by crushing injury, the deceased had a contagious disease, an autopsy was required to determine cause of death, the body was in a state of severe decomposition, or a family member objects to use of the body for medical education and research.

(1) The person or entity in charge or control of the dead body or human remains shall make a reasonable effort to determine:

(a) The identity of the deceased person and shall further make a reasonable effort to contact any relatives of such deceased person.

(b) Whether or not the deceased person is entitled to burial in a national cemetery as a veteran of the armed forces and, if so, shall make arrangements for such burial services in accordance with the provisions of 38 C.F.R. For purposes of this subsection, "a reasonable effort" includes contacting the county veterans service office or regional office of the United States Department of Veterans Affairs.

(2) Such dead human bodies as described in this chapter shall be delivered to the anatomical board as soon as possible after death.

(3) Nothing herein shall affect the right of a medical examiner to hold such dead body or remains for the purpose of investigating the cause of death, nor shall this chapter affect the right of any court of competent jurisdiction to enter an order affecting the disposition of such body or remains.

(4) In the event more than one legally authorized person claims a body for interment, the requests shall be prioritized in accordance with s. 732.103.

For purposes of this chapter, the term "anatomical board" means the anatomical board of this state located at the University of Florida Health Science Center*, and the term "unclaimed" means a dead body or human remains that is not claimed by a legally authorized person, as defined in s. 497.005, for interment at that person's expense*.

Section 142. Section 406.52, Florida Statutes, is amended to read:

406.52 Retention of bodies before use; unfit or excess number of bodies, disposition procedure.—All bodies received by the anatomical board shall be retained in receiving vaults for a period of not less than 48 hours before allowing their use for medical science; if at any time more bodies are made available to the anatomical board than can be used for medical science under its jurisdiction, or if a body shall be deemed by the anatomical board to be unfit for anatomical purposes, the anatomical board may notify, in writing, the county commissioners or other legally authorized person, as defined in s. *497.005* ~~470.002~~, in the county where such person died, to cause it to be buried or cremated in accordance with the rules, laws and practices for disposing of such unclaimed bodies. However, prior to having any body buried or cremated, the county shall make a reasonable effort to determine the identity of the body and shall further make a reasonable effort to contact any relatives of the deceased person. If a relative of the deceased person is contacted and expresses a preference for either burial or cremation, the county shall make a reasonable effort to accommodate the request of the relative. For purposes of this section, the county commissioners of the county where such person died shall be considered a legally authorized person as defined in s. *497.005* ~~470.002~~. A person licensed under ~~chapter 470 or~~ chapter 497 shall not be liable for any damages resulting from cremating or burying such body at the direction of the county's legally authorized person.

Section 143. Section 406.53, Florida Statutes, is amended to read:

406.53 Death of indigents; notice; delivery to the anatomical board when unclaimed; exceptions; assessment of fees.—

(1) Notice of death to the anatomical board in cases of indigent persons is not required if:

(a) Death was caused by crushing injury.

(b) The deceased had a contagious disease.

(c) An autopsy was required to determine cause of death.

(d) The body was in a state of severe decomposition.

(e) Any relative, by blood or marriage, claims the body for burial at the expense of such relative, but the body shall be surrendered to the claimant for interment*, but if such relative is indigent, in a manner consistent with the policy of the agency in possession or control of the body*.

(f) Any friend or any representative of a fraternal society of which the deceased was a member, or a representative of any charitable or religious organization, or a governmental agency which was providing residential care to the indigent person at the time of his or her death claims the body for burial at his or her, its, or their expense.

(g) The deceased person was an honorably discharged member of the Armed Forces of the United States or the state who served during a period of wartime service as defined in s. 1.01(14); but such body shall be buried in accordance with the provisions of the existing laws.

(2) When the Department of Health claims the body of a client according to this section, the department shall assess fees for burial pursuant to s. 402.33.

(3) For purposes of this chapter, the term indigent shall be 100 percent of the federal poverty level recognized by the Federal Income Guidelines produced by the United States Department of Health and Human Services.

Section 144. Subsection (1) of section 455.2226, Florida Statutes, is amended to read:

455.2226 Funeral directors and embalmers; instruction on HIV and AIDS.—

(1) The Board of Funeral Directors and Embalmers shall require each person licensed or certified under chapter *497* ~~470~~ to complete a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients.

Section 145. Paragraph (b) of subsection (1) of section 501.022, Florida Statutes, is amended to read:

501.022 Home solicitation sale; permit required.—

(1)

(b) The following are excluded from the operation of this section:

1. Bona fide agents, business representatives, or salespersons making calls or soliciting orders at the usual place of business of a customer regarding products or services for use in connection with the customer's business.

2. Solicitors, salespersons, or agents making a call or business visit upon the express invitation, oral or written, of an inhabitant of the premises or her or his agent.

3. Telephone solicitors, salespersons, or agents making calls which involve transactions that are unsolicited by the consumer and consummated by telephone and without any other contact between the buyer

and the seller or its representative prior to delivery of the goods or performance of the services.

4. Solicitors, salespersons, or agents conducting a sale, lease, or rental of consumer goods or services by sample, catalog, or brochure for future delivery.

5. Minors, as defined in s. 1.01(13), conducting home solicitation sales under the supervision of an adult supervisor who holds a valid home solicitation sale permit. Minors excluded from operation of this section must, however, carry personal identification which includes their full name, date of birth, residence address, and employer and the name and permit number of their adult supervisor.

6. Those sellers or their representatives that are currently regulated as to the sale of goods and services by ~~chapter 470,~~ chapter 475~~,~~ or chapter 497.

7. Solicitors, salespersons, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or organization holding a sales tax exemption certificate under s. 212.08(7)(a).

Section 146. Subsection (15) of section 501.604, Florida Statutes, is amended to read:

501.604 Exemptions.—The provisions of this part, except ss. 501.608 and 501.616(6) and (7), do not apply to:

(15) A person who is licensed pursuant to ~~chapter 470 or~~ chapter 497 and who is soliciting within the scope of the license.

Section 147. Paragraph (d) of subsection (1) of section 626.785, Florida Statutes, is amended to read:

626.785 Qualifications for license.—

(1) The department shall not grant or issue a license as life agent to any individual found by it to be untrustworthy or incompetent, or who does not meet the following qualifications:

(d) Must not be a funeral director or direct disposer, or an employee or representative thereof, or have an office in, or in connection with, a funeral establishment, except that a funeral establishment may contract with a life insurance agent to sell a preneed contract as defined in *s. 497.005* ~~chapter 497~~. Notwithstanding other provisions of this chapter, such insurance agent may sell limited policies of insurance covering the expense of final disposition or burial of an insured in the amount of $12,500, plus an annual percentage increase based on the Annual Consumer Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for the year 2003.

Section 148. Section 765.519, Florida Statutes, is amended to read:

765.519 Enucleation of eyes by licensed funeral directors.—With respect to a gift of an eye as provided for in this part, a licensed funeral director as defined in chapter *497* ~~470~~ who has completed a course in eye enucleation and has received a certificate of competence from the Department of Ophthalmology of the University of Florida School of Medicine, the University of South Florida School of Medicine, or the University of Miami School of Medicine may enucleate eyes for gift after proper certification of death by a physician and in compliance with the intent of the gift as defined in this chapter. No properly certified funeral director acting in accordance with the terms of this part shall have any civil or criminal liability for eye enucleation.

Section 149. *(1) All of the statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of chapter 470, Florida Statutes, related to the Board of Funeral Directors and Embalmers, shall be transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Business and Professional Regulation to the Department of Financial Services.*

(2) All of the statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of chapter 497, Florida Statutes, related to the Board of Funeral and Cemetery Services, shall be transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Board of Funeral, Cemetery, and Consumer Services and the Department of Financial Services, as appropriate.

Section 150. *(1) The transfer of regulatory authority under chapter 470, Florida Statutes, provided by this act shall not affect the validity of any judicial or administrative action pending as of 11:59 p.m. on the day before the effective date of this act, to which action the Board of Funeral Directors and Embalmers, or the Department of Business and Professional Regulation in relation to the Board of Funeral Directors and Embalmers, are at that time parties, and the Board of Funeral, Cemetery, and Consumer Services or the Department of Financial Services, as appropriate, shall be substituted as a party in interest in any such action.*

(2) The transfer of regulatory authority under chapter 497, Florida Statutes, provided by this act shall not affect the validity of any judicial or administrative action pending as of 11:59 p.m. on the day prior to this act taking effect, to which action the Board of Funeral and Cemetery Services, or the Department of Financial Services in relation to the Board of Funeral and Cemetery Services, is at that time a party, and the Board of Funeral, Cemetery, and Consumer Services, or the Department of Financial Services, as appropriate, shall be substituted as a party in interest in any such action.

Section 151. *(1) All lawful orders issued by the Board of Funeral Directors and Embalmers, or by the Department of Business and Professional Regulation, implementing or enforcing or otherwise in regard to any provision of chapter 470, Florida Statutes, issued prior to the effective date of this act, shall remain in effect and be enforceable after the effective date of this act, unless thereafter modified in accordance with law.*

(2) All lawful orders issued by the Board of Funeral and Cemetery Services, or the Department of Financial Services in regard to the Board of Funeral and Cemetery Services, implementing or enforcing or otherwise in regard to any provision of chapter 497, Florida Statutes, issued prior to the effective date of this act, shall remain in effect and be enforceable after the effective date of this act.

Section 152. *(1) The rules of the Board of Funeral Directors and Embalmers and of the Department of Business and Professional Regulation relating to the Board of Funeral Directors and Embalmers or implementation of chapter 470, Florida Statutes, which were in effect at 11:59 p.m. on the day prior to this act taking effect shall become the rules of the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services and shall remain in effect until amended or repealed in the manner provided by law.*

(2) The rules of the Board of Funeral and Cemetery Services which were in effect at 11:59 p.m. on the day prior to this act taking effect shall become the rules of the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services and shall remain in effect until specifically amended or repealed in the manner provided by law.

(3) The rules of the Department of Financial Services relating to chapter 497, Florida Statutes, which were in effect at 11:59 P.M. on the day prior to this act taking effect shall continue in force until thereafter repealed or amended pursuant to chapter 120, Florida Statutes, and this act.

Section 153. *(1) Notwithstanding the transfer of regulatory authority over chapters 470 and 497, Florida Statutes, provided by this act, persons and entities holding in good standing any license under chapters 470 or 497, Florida Statutes, as of 11:59 p.m. on the day prior to the effective date of this act, shall be deemed to hold in good standing a license in the same capacity under chapter 497, Florida Statutes, as of the effective date of this act.*

(2) Notwithstanding the transfer of regulatory authority over chapters 470 and 497, Florida Statutes, provided by this act, persons and entities holding in good standing a preneed certificate of authority under chapter 497, Florida Statutes, as of 11:59 p.m. on the day prior to the effective date of this act, shall be deemed to hold in good standing a preneed license under part IV of chapter 497, Florida Statutes, as of the effective date of this act, and their certificate of authority shall be deemed a preneed license for purposes of chapter 497, Florida Statutes.

(3) Notwithstanding the transfer of regulatory authority over chapters 470 and 497, Florida Statutes, provided by this act, persons and

entities holding in good standing any registration under chapters 470 or 497, Florida Statutes, as of 11:59 p.m. on the day prior to the effective date of this act, shall as of the effective date of this act be deemed to be licensed in the same capacity in which they were formerly registered, and their registration shall thereafter be deemed a license for purposes of chapter 497, Florida Statutes.

Section 154. *The Legislature recognizes that there is a need to conform the Florida Statutes to the policy decisions reflected in the provisions of this act. The Division of Statutory Revision is directed to provide the relevant substantive committees of the Senate and the House of Representatives with assistance, upon request, to enable such committees to prepare draft legislation to conform the Florida Statutes to the provisions of this act.*

Section 155. *Effective at 11:59 p.m. on September 30, 2005, the Board of Funeral and Cemetery Services and the Board of Funeral Directors and Embalmers are abolished.*

Section 156. *Sections 470.001, 470.002, 470.003, 470.005, 470.019, 470.023, 470.027, 470.028, 470.031, 470.033, 470.034, 470.035, 470.036, 497.105, 497.109, 497.111, 497.113, 497.115, 497.117, 497.119, 497.123, 497.125, 497.127, 497.129, 497.131, 497.135, 497.137, 497.209, 497.217, 497.221, 497.225, 497.233, 497.301, 497.341, 497.431, 497.435, 497.443, 497.445, 497.447, 497.515, 497.517, 497.519, and 497.529, Florida Statutes, are repealed.*

Section 157. Except as otherwise provided herein, this act shall take effect October 1, 2005.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to regulation of the funeral and cemetery industry; providing a short title; creating in the Department of Financial Services the Division of Funeral, Cemetery, and Consumer Services; creating in the Department of Financial Services the Board of Funeral, Cemetery, and Consumer Services; abolishing the Board of Funeral and Cemetery Services; abolishing the Board of Funeral Directors and Embalmers; consolidating regulation under chs. 470 and 497, F.S., into ch. 497, F.S., under the Board of Funeral, Cemetery, and Consumer Services in the Department of Financial Services; removing responsibility regarding ch. 470, F.S., from the Department of Business and Professional Regulation; dividing ch. 497, F.S., into part I relating to general provisions, part II relating to cemetery regulation, part III relating to funeral directing, embalming, and related services, part IV relating to preneed sales, part V relating to monument establishments, and part VI relating to cremation, crematories, and direct disposition; providing for the continued validity of licenses, registrations, and certificates issued under chs. 470 and 497, F.S.; providing for continued validity of rules of the Board of Funeral and Cemetery Services, the Board of Funeral Directors and Embalmers, and the Department of Business and Professional Regulation, adopted under or in relation to ch. 470, F.S., or ch. 497, F.S.; providing for continued validity of orders entered by the Board of Funeral and Cemetery Services, the Board of Funeral Directors and Embalmers, and the Department of Business and Professional Regulation for or in relation to the enforcement of ch. 470, F.S., or ch. 497, F.S.; providing for the substitution of the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services as parties in pending litigation; providing for type two transfers; eliminating or consolidating duplicative provisions from chs. 470 and 497, F.S.; replacing references to registrations, registrants, certificates, and certificateholders with references to licenses and licensees; conforming internal statutory references; amending ss. 497.001, 497.002, 497.005, 497.101, 497.103, and 497.107, F.S., to conform; amending and renumbering ss. 470.006, 470.007, 470.008, 470.0085, 470.0087, 470.009, 470.011, 470.012, 470.013, 470.014, 470.015, 470.016, 470.0165, 470.017, 470.018, 470.0201, 470.021, 470.022, 470.024, 470.025, 470.0255, 470.026, 470.029, 470.0294, 470.0295, 470.0301, 470.0315, 470.032, 470.0355, 470.0375, 470.038, 470.039, 470.0395, 497.003, 497.004, 497.025, 497.0255, 497.121, 497.133, 497.201, 497.205, 497.213, 497.229, 497.237, 497.241, 497.245, 497.249, 497.253, 497.255, 497.257, 497.305, 497.309, 497.313, 497.317, 497.321, 497.325, 497.329, 497.333, 497.337, 497.345, 497.349, 497.353, 497.357, 497.361, 497.401, 497.403, 497.405, 497.407, 497.409, 497.411, 497.413, 497.415, 497.417, 497.419, 497.421, 497.423, 497.425, 497.427, 497.429, 497.436, 497.437, 497.439, 497.441, 497.525, 497.527, and 497.531, F.S., to conform; creating ss. 497.0021, 497.141, 497.142, 497.143, 497.144, 497.145, 497.146, 497.147, 497.148, 497.149, 497.150, 497.151, 497.152, 497.153, 497.156, 497.157, 497.159, 497.161, 497.163, 497.166, 497.167, 497.168, 497.274, 497.275, 497.365, 497.366, 497.367, 497.551, 497.552, 497.553, 497.554, 497.555, 497.556, and 497.608, F.S.; amending chapter name; clarifying purpose and intent of chapter; amending and providing additional definitions; creating the Board of Funeral, Cemetery, and Consumer Services, identifying criteria for membership, describing procedures for appointment of members, and providing administrative procedures regarding operation; allocating authority and responsibility between the board and the Department of Financial Services; providing procedures for establishing and processing fees; providing for creation of disciplinary guidelines; providing for the issuance of disciplinary citations; providing authority for judicial actions to terminate violations and abate nuisances; establishing health and safety education requirements; establishing authority and requirements for the regulation of solicitation of goods and services; establishing liability of owners and others for trust fund deficits; authorizing and clarifying provisions regarding private actions; prohibiting unauthorized arrangements for the sale of funeral or burial merchandiser services; clarifying authority and procedures regarding complaints against unlicensed cemeteries; establishing prohibitions against discrimination based on race or color; providing procedures for the transfer of cemetery licenses; requiring reference to authorizing statute in trust instrument's; clarifying requirements for minimum acreage in cemeteries; establishing requirements for sale, leasing, or encumbering cemetery lands; amending requirements regarding illegal tying arrangements; establishing requirements regarding burial rights brokers; establishing requirements regarding informational brochures to be provided by cemeteries to customers; authorizing payment of court costs and attorney fees in litigation to enforce reporting requirements by unlicensed cemeteries; authorizing fees to be specified by the board subject to caps; providing rulemaking authority to the board and the department; establishing and clarifying requirements regarding the processing of the human bodies; establishing requirements for the approval of preneed contract forms and related forms; authorizing rules regarding the reliance by preneed trustees on the advice of investment advisers, and restricting payments to investment advisers; establishing restrictions on the investing or loaning of preneed trust funds; providing additional authority in the board concerning orders to liquidate specified preneed trust fund investments; providing additional authority in the board regarding the requirements of preneed trust instrument's; providing requirements and additional authority in the board regarding surrender of preneed licenses; providing procedures and requirements regarding application and issuance of licenses to preneed sales agents; clarifying and establishing requirements regarding persons legally authorized to authorize burial and funeral services and procedures; clarifying applicability of parts; providing general procedures applicable to licensing; providing authority and procedures regarding submission and processing of fingerprints; providing authority and procedures for limited licensing of retired professionals; providing procedures and requirements regarding licensing examinations; allowing use of professional testing services; providing requirements for notification of licensee change of address; providing procedures and requirements for continuing education; providing requirements for monitoring of continuing education by licensees; providing procedures and authority for investigations, inspections, and hearings to be conducted by the department; providing procedures and authority for financial and compliance examinations of licensees by the department; establishing requirements and authority regarding retention of complaints and creation of complaint logs; establishing grounds for disciplinary action; establishing disciplinary procedures and authorizing penalties; providing authority and procedures for action against unlicensed practice; identifying conduct constituting criminal violations; authorizing and providing procedures for receivership proceedings; authorizing rules; providing restrictions in relation to citizenship; establishing responsibility of licensees regarding preneed sales by persons under their supervision; clarifying the relationship of part IV to other parts of the chapter; requiring toll-free telephone hotline; identifying and providing authority and procedures regarding executive director of the board; establishing requirements for submission for budget; establishing requirements for training program for the board members; authorizing newsletters and other informational communications with licensees; authorizing screen of licensed records in relation to child support requirements; clarifying status in regard to insurance coverage and immunity of agents retained by the department; authorizing use of disciplinary settlement funds for training of staff; establishing deadlines for completeness of applications for submission and board meetings; authorizing rules record applicants to appear before the board for oral interview by the board; establishing procedures for calculating deadlines for filings by licensees; clarifying status of elected officials licensed under the chapter; providing for presentation

of applications to the board by the department; providing standing to the department in judicial proceedings; providing for certain legal services to the board by the Department of Legal Affairs; establishing requirements and authority regarding member of the military reserves; establishing procedures and fees for application for licensure as a cemetery; establishing standards and mapping requirements for grave spaces; establishing requirements for placement of identification tags on grave vaults, mausoleum crypts, and other outer burial containers, in licensed cemeteries; establishing requirements and procedures regarding inactive and delinquent licenses under part III; establishing requirements for sending renewal and cancellation of licensed notices; establishing requirements for instruction on HIV and AIDS; authorizing fees to be determined by the board subject to specified caps; providing rulemaking authority to the board and department; establishing and clarifying requirements regarding the handling and processing of dead human bodies; establishing requirements regarding identification of human remains in licensed and unlicensed cemeteries, and by direct disposal establishments; establishing procedures and requirements regarding application for preneed license; authorizing issuance of licenses on probationary status; establishing procedures and requirements for change in control of the preneed license; establishing requirements regarding renewal of preneed licenses; establishing requirements and procedures for the licensure and operation of preneed branches; establishing requirements regarding reports by preneed trusts; establishing procedures and requirements for the licensure of monument establishment businesses; establishing requirements for the renewal of monument establishment licenses; establishing requirements for approval of sales agreement forms used by monument establishments; establishing requirements for procedures by monument establishments in relation to complaints from customers; establishing requirements for refund of moneys to customers in regard to failure to deliver monuments according to contract terms; establishing requirements and procedures for the licensing of sales persons employed by monument establishments; establishing procedures and requirements regarding licensure of monument establishments to engage in preneed sales; establishing requirements and procedures for licensure of direct disposers; establishing requirements and procedures for licensure of direct disposal establishments; establishing requirements applicable to the operation of direct disposal establishments; establishing procedures and requirements for the licensure of cinerator facilities; establishing requirements and procedures for the supervision and operation of cinerator facilities; establishing restrictions on liability for unintentional commingling of cremation residues; amending ss. 20.121, 20.165, 316.1974, 381.0098, 382.002, 403.703, 406.02, 406.50, 406.52, 406.53, 455.2226, 501.022, 501.604, 626.785, and 765.519, F.S.; conforming references; repealing ss. 470.001, 470.002, 470.003, 470.005, 470.019, 470.023, 470.027, 470.028, 470.031, 470.033, 470.034, 470.035, 470.036, 497.105, 497.109, 497.111, 497.113, 497.115, 497.117, 497.119, 497.123, 497.125, 497.127, 497.129, 497.131, 497.135, 497.137, 497.209, 497.217, 497.221, 497.225, 497.233, 497.301, 497.341, 497.431, 497.435, 497.443, 497.445, 497.447, 497.515, 497.517, 497.519, and 497.529, F.S., to conform; providing effective dates.

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

Amendment 1A (474224)—On page 30, lines 6-10, delete those lines and insert: *(2) All moneys collected under this chapter shall be paid into the Regulatory Trust Fund, except as otherwise expressly provided in this chapter, for the purpose of providing for the payment of all expenses in respect to the administration of this chapter.*

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

Amendment 1B (794618)—On page 47, line 18; on page 49, line 3; and on page 50, line 7, after "*attorneys,*" insert: *unless it violates the attorney-client privilege,*

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

Amendment 1C (195328)(with title amendment)—On page 285, between lines 10 and 11, insert:

Section 154. *(1) The Department of Financial Services shall, no later than November 1, 2004, notify the Department of Business and Professional Regulation of its intention to contract with the Department of Business and Professional Regulation, another governmental agency, or a private business for the implementation of a system for the administration of the overall licensing process, including the processing and tracking of applications for licensure, the issuance of licenses approved by the board, the tracking of licenses issued, the administration of the license renewal process, and the collection and processing of fees relating to those activities. If the Department of Financial Services elects to contract with the Department of Business and Professional Regulation for the services described in this subsection, they shall enter into a contract no later than February 1, 2005, to become effective upon the effective date of this act. If the Department of Financial Services elects not to contract with the Department of Business and Professional Regulation for those services, the Department of Financial Services shall begin working with the Department of Business and Professional Regulation no later than February 1, 2005, for the conversion of those services, which conversion is to be completed before September 1, 2005.*

(2) The Department of Financial Services shall, no later than November 1, 2004, notify the Department of Business and Professional Regulation of its intention to contract with the Department of Business and Professional Regulation for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations. If the Department of Financial Services elects to contract with the Department of Business and Professional Regulation for the services described in this subsection, they shall enter into a contract no later than February 1, 2005, to become effective upon the effective date of this act. If the Department of Financial Services elects not to contract with the Department of Business and Professional Regulation for those services, the Department of Financial Services shall begin working with the Department of Business and Professional Regulation no later than February 1, 2005, for the conversion of those services, which conversion is to be completed before September 1, 2005.

(3) The Department of Financial Services shall, no later than November 1, 2004, notify the Department of Business and Professional Regulation of its intention to contract with the Department of Business and Professional Regulation, another governmental agency, or a private business for the continuing education compliance monitoring systems and services. If the Department of Financial Services elects to contract with the Department of Business and Professional Regulation for the services described in this subsection, they shall enter into a contract no later than February 1, 2005, to become effective upon the effective date of this act. If the Department of Financial Services elects not to contract with the Department of Business and Professional Regulation for those services, the Department of Financial Services shall begin working with the Department of Business and Professional Regulation no later than February 1, 2005, for the conversion of those services, which conversion is to be completed before September 1, 2005.

(4) No later than July 1, 2005, the Department of Financial Services shall begin to consult at least biweekly with prosecuting attorneys and investigators of the Department of Business and Professional Regulation to ensure the transition of pending disciplinary matters.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 287, line 18, after the semicolon (;) insert: providing for a transitional timeline and procedures;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for SB 528** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Clary—

SB 300—A bill to be entitled An act relating to employees of public schools; amending s. 1012.61, F.S.; deleting a restriction on who may receive annual payments for accumulated sick leave; revising restrictions on the amount of payment which an employee may receive for accumulated sick leave when his or her employment terminates; providing an effective date.

—was read the second time by title.

Senator Clary moved the following amendment which was adopted:

Amendment 1 (932778)—On page 4, lines 18-22, delete those lines.

Pursuant to Rule 4.19, **SB 300** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Constantine—

CS for SB's 332, 1912 and 2678—A bill to be entitled An act relating to student assessments for public schools; amending s. 1008.22, F.S.; delaying the date by which the Commissioner of Education must approve the use of specified standardized tests as an alternative to the grade 10 Florida Comprehensive Assessment Test (FCAT); allowing passage of the alternative tests to satisfy the assessment requirement for students graduating from high school in the 2003-2004 school year, subject to certain conditions; amending s. 1003.433, F.S.; allowing passage of alternate assessments in lieu of the grade 10 FCAT for certain transfer students subject to certain conditions beginning in the 2004-2005 school year; repealing s. 1008.301, F.S., relating to concordance studies by the State Board of Education; providing an effective date.

—was read the second time by title.

Senator Wilson moved the following amendment which was adopted:

Amendment 1 (243856)—On page 3, delete line 6 and insert: *(c) Beginning in the 2003-2004 school year, attain*

MOTION

On motion by Senator Siplin, the rules were waived to allow the following amendment to be considered:

Senator Siplin moved the following amendment which failed:

Amendment 2 (482908)(with title amendment)—On page 3, lines 13 and 14, delete those lines and insert:

Section 4. Section 1008.23, Florida Statutes, is amended to read:

1008.23 Confidentiality of assessment instruments.—All examination and assessment instruments, including developmental materials and workpapers directly related thereto, which are prepared, prescribed, or administered pursuant to ss. 1003.43, 1008.22, and 1008.25 shall be confidential and exempt from the provisions of s. 119.07(1) and from s. 1001.52. Provisions governing access, maintenance, and destruction of such instruments and related materials shall be prescribed by rules of the State Board of Education. *However, a student's parent, accompanied by the student, may review, at the student's school at which the student was enrolled when the student was administered the Florida Comprehensive Assessment Test, the questions on each section of the criterion-referenced portion of the Florida Comprehensive Assessment Test as well as the student's answers to those questions, under the following conditions:*

(1) The student must have failed to earn a passing score on the grade 10 Florida Comprehensive Assessment Test or failed to score at Level 2 or higher on the Florida Comprehensive Assessment Test in reading for grade 3.

(2) No recording or copying of the assessment may be made.

(3) A school administrator, as defined in s. 1012.01(3)(c), or a representative of the Department of Education must be present at all times when the assessment is reviewed.

(4) The student or student's parent may not review the assessment more than one time.

(5) No other individual is authorized to attend the review.

(6) The assessment was not administered to the student more than 2 years before the review.

(7) The student or student's parent may not remove the assessment from the reviewing location.

(8) The student, the student's parent, or the school administrator may not take any notes during the review.

(9) The parent requests the review subsequent to the determination of the student's score and within 14 days following the determination of the student's score.

The Department of Education shall ensure that the assessment questions and the student's answers are provided for the requested review within 30 days following the complete scoring of the assessment upon proper request by the parent. The district school boards shall notify eligible parents of the review option and the procedures for the review. The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. If the review request is not met in accordance with this section, the parent is entitled to reasonable attorney's fees and costs incurred by the parent in obtaining compliance with this section.

Section 5. This act shall take effect upon becoming a law, except that section 4 of this act shall take effect July 1, 2004, and shall apply to each Florida Comprehensive Assessment Test administered after July 1, 2004.

And the title is amended as follows:

On page 1, delete line 19 and insert: Education; amending s. 1008.23, F.S.; authorizing a student's parent and the accompanying student to review the questions and the student's answers to those questions on the criterion-referenced portion of the Florida Comprehensive Assessment Test; providing restrictions on the review; requiring the Department of Education to honor the requests within a certain time period; requiring that district school boards notify eligible parents; requiring the State Board of Education to adopt rules; authorizing reasonable attorney's fees and costs under certain circumstances; providing effective dates.

The vote was:

Yeas—13

Alexander	Cowin	Lawson
Argenziano	Dawson	Lee
Aronberg	Hill	Miller
Bennett	Klein	Siplin
Carlton		

Nays—22

Campbell	Haridopolos	Sebesta
Clary	Jones	Villalobos
Constantine	Lynn	Wasserman Schultz
Crist	Margolis	Webster
Diaz de la Portilla	Peaden	Wilson
Fasano	Posey	Wise
Garcia	Pruitt	
Geller	Saunders	

Pursuant to Rule 4.19, **CS for SB's 332, 1912 and 2678** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Lawson—

CS for SB 714—A bill to be entitled An act relating to the designation of university buildings; designating the FAMU-FSU College of Engineering Building as the "Herbert F. Morgan Building"; designating the student life center at Florida State University as the "Reubin O'D. Askew Student Life Center"; designating the university residence hall at Florida State University as "Sherrill Williams Ragans Hall"; providing for the erection of markers; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 714** to **HB 327**.

Pending further consideration of **CS for SB 714** as amended, on motion by Senator Lawson, by two-thirds vote **HB 327** was withdrawn from the Committees on Education; and Governmental Oversight and Productivity.

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

HB 327—A bill to be entitled An act relating to the designation of university buildings; designating the FAMU-FSU College of Engineering Building as the "Herbert F. Morgan Building"; designating the Student Life Building at Florida State University as the "Reubin O'D. Askew Student Life Center"; designating the new residence hall complex at Florida State University as "Sherrill Williams Ragans Hall"; designating the Education and Administration Building at the Florida State University College of Medicine as the "John E. Thrasher Building"; requiring a building at the developmental research school at Florida State University to be named for Stan Marshall; naming the Infant and Child Development Center Building at the University of South Florida as the "Archie and Mary Louise Silver Child Development Center"; designating the School of Business and Industry building at Florida Agricultural and Mechanical University as the "Sybil C. Mobley Business Building"; designating the School of Journalism and Graphic Communication building at Florida Agricultural and Mechanical University as the "Thelma Gorham/Robert M. Ruggles Building"; designating the building known as Coquina Hall at the University of South Florida St. Petersburg as "H. William Heller Hall"; providing for the erection of suitable markers; providing effective dates.

—a companion measure, was substituted for **CS for SB 714** as amended and read the second time by title.

Senator Lawson moved the following amendment:

Amendment 1 (721020)(with title amendment)—Lines 42-66, delete those lines and insert:

(5) The Infant and Child Development Center Building at the University of South Florida as the "Archie and Mary Louise Silver Child Development Center."

(6) The School of Business and Industry building at Florida Agricultural and Mechanical University is designated as the "Sybil C. Mobley Business Building."

(7) Florida Agricultural and Mechanical University and Florida State University are authorized to erect suitable markers for the designations made by this section.

Section 2. *(1) The building known as Coquina Hall, located on the campus of the University of South Florida St. Petersburg in Pinellas County, is designated as "H. William Heller Hall."*

(2) The University of South Florida St. Petersburg is authorized to erect suitable markers for the designation made by this section.

(3) This section shall take effect upon the effective date of the retirement or resignation of H. William Heller from, or the termination of H. William Heller's employment with, the University of South Florida St. Petersburg.

Section 3. *(1) The student community educational facility for health at Florida Gulf Coast University is designated as "Kleist Health Education Center."*

(2) Florida Gulf Coast University is authorized to erect suitable markers for the designation made by this section.

Section 4. *(1) The facility at Florida Gulf Coast University which will house the resort and hospitality management program is designated as "Herbert J. and Margaret S. Sugden Hall."*

(2) Florida Gulf Coast University is authorized to erect suitable markers for the designation made by this section.

Section 5. *(1) The building that houses the University of Central Florida Downtown Center is designated as the James and Annie Ying Academic Center."*

(2) The University of Central Florida is authorized to erect suitable markers for the designation made by this section.

Section 6. *(1) The new Allied Health Building at Florida Agricultural and Mechanical University is designated as the "Margaret W. Lewis/Jacqueline B. Beck Allied Health Building."*

(2) Florida Agricultural and Mechanical University is authorized to erect suitable markers for the designation made by this section.

Section 7. (1) The Architecture Building at Florida Agricultural and Mechanical University is designated as the "Walter L. Smith Architecture Building."

(2) Florida Agriculture and Mechanical University is authorized to erect suitable markers for the designation made by this section.

Section 8. *(1) The Archives Building at Florida Agricultural and Mechanical University is designated as the "Carrie Meek/James N. Eaton, Sr. Southeastern Regional Black Archives Research Center and Museum."*

(2) Florida Agricultural and Mechanical University is authorized to erect suitable markers for the designation made by this section.

Section 9. *(1) The new Structures and Materials Research Laboratory for the College of Engineering at the University of Florida is designated as "The Powell Family Structures and Materials Laboratory."*

(2) The University of Florida is directed to erect suitable markers for the designation made by this section.

Section 10. *(1) The track/soccer stadium at the University of Florida is designated as the "James G. Pressly Track/Soccer Stadium."*

(2) The University of Florida is directed to erect suitable markers for the designation made by this section.

Section 11. *(1) The Academic Advising Center at the University of Florida is designated as "Farrior Hall."*

(2) The University of Florida is directed to erect suitable markers for the designation made by this section.

Section 12. *(1) The proposed band rehearsal facility at the University of Florida is designated as "Steinbrenner Band Hall."*

(2) The University of Florida is directed to erect suitable markers for the designation made by this section.

Section 13. *(1) The North-South Drive on the University of Florida campus is redesignated as "Gale Lemerand Drive."*

Section 14. *(1) The Student Union Building at the University of North Florida is designated as the "James E. "Jim" and Linda King, Jr., Student Union Building."*

(2) The University of North Florida is authorized to erect suitable markers for the designation made by this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

Lines 11-24, delete those lines and insert: Building"; naming the Infant and Child Development Center Building at the University of South Florida as the "Archie and Mary Louise Silver Child Development Center"; designating the School of Business and Industry building at Florida Agricultural and Mechanical University as the "Sybil C. Mobley Business Building"; designating the building known as Coquina Hall at the University of South Florida St. Petersburg as "H. William Heller Hall"; designating the student community educational facility for health at Florida Gulf Coast University as "Kleist Health Education Center"; designating the facility at Florida Gulf Coast University which will house the resort and hospitality management program as "Herbert J. and Margaret S. Sugden Hall"; designating the building that houses the University of Central Florida Downtown Center as the "James and Annie Ying Academic Center"; designating the new Allied Health Building at Florida Agricultural and Mechanical University as the "Margaret W. Lewis/Jacqueline B. Beck Allied Health Building"; designating the Architecture Building at Florida Agricultural and Mechanical University as the "Walter L. Smith Architecture Building"; designating the Archives Building at Florida Agricultural and Mechanical University as the "Carrie Meek/James N. Eaton, Sr., Southeastern Regional Black Archives Research Center and Museum"; designating the new Structures and Materials Research Laboratory for the College of Engineering at the University of Florida as "The Powell Family Structures and Mate-

rials Laboratory"; designating the track/soccer stadium at the University of Florida as the "James G. Pressly Track/Soccer Stadium"; designating the Academic Advising Center at the University of Florida as "Farrior Hall"; designating the proposed band rehearsal facility at the University of Florida as "Steinbrenner Band Hall"; designating the North-South Drive on the University of Florida campus as "Gale Lemerand Drive"; designating the Student Union Building at the University of North Florida as the "James E. "Jim" and Linda King, Jr., Student Union Building"; providing for the erection of suitable markers; providing

MOTION

On motion by Senator Lawson, the rules were waived to allow the following amendment to be considered:

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

Amendment 1A (691962)(with title amendment)—On page 4, lines 6-11, delete those lines.

And the title is amended as follows:

On page 6, lines 2-5, delete those lines and insert: campus as "Gale Lemerand Drive"; providing

Amendment 1 as amended was adopted.

Senator Carlton moved the following amendment which was adopted:

Amendment 2 (551648)(with title amendment)—Between lines 66 and 67, insert:

Section 3. *James E. "Jim" and Linda King, Jr., Student Union Building designated; University of North Florida to erect suitable markers.—*

(1) The Student Union Building at the University of North Florida is designated as the "James E. 'Jim' and Linda King, Jr., Student Union Building."

(2) The University of North Florida is authorized to erect suitable markers for the designation of the James E. "Jim" and Linda King, Jr., Student Union Building as described in subsection (1).

Section 4. *John M. McKay Visitors' Pavilion designated; Florida State University to erect suitable markers.—*

(1) The proposed entrance pavilion at the John and Mabel Ringling Museum of Art at the Florida State University Center for Cultural Arts in Sarasota is designated as the "John M. McKay Visitors' Pavilion."

(2) Florida State University is authorized to erect suitable markers for the designation of the John M. McKay Visitors' Pavilion as described in subsection (1).

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 23, following the semicolon (;) insert: designating the Student Union Building at the University of North Florida as the "James E. 'Jim' and Linda King, Jr., Student Union Building"; designating the proposed entrance pavilion at the John and Mabel Ringling Museum of Art at the Florida State University Center for Cultural Arts as the "John M. McKay Visitors' Pavilion";

Pursuant to Rule 4.19, **HB 327** as amended was placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

On motion by Senator Miller, by unanimous consent the Senate resumed consideration of—

SB 2922—A bill to be entitled An act relating to public records exemptions; amending s. 1004.43, F.S.; clarifying the public records exemption for proprietary confidential business information owned or controlled by the not-for-profit corporation operating the H. Lee Moffitt Cancer Center and Research Institute and its subsidiaries relating to trade secrets; expanding the public records exemption to include information received from a person in this or another state or nation or the Federal Government which is otherwise exempt or confidential pursuant to the laws of this or another state or nation or pursuant to federal law; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—which was taken up out of order. **SB 2922** was previously considered April 26 with pending **Amendment 1 (902042)** by Senator Miller.

On motion by Senator Miller, further consideration of **SB 2922** with pending **Amendment 1 (902042)** was deferred.

Consideration of **SB 1962** was deferred.

On motion by Senator Haridopolos, by unanimous consent—

CS for SB 2302—A bill to be entitled An act relating to communications services; providing a short title; specifying the period during which the actual cost of operating a substitute communications system is exempt from such taxes; creating the Communications Policy Task Force; providing for the membership of the task force; providing a purpose; providing for staffing and administrative support; requiring a report to the Governor and the Legislature; providing an effective date.

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

Senator Haridopolos moved the following amendment:

Amendment 1 (804654)(with title amendment)—On page 1, line 30 through page 4, line 4, delete those lines and insert:

Section 2. *(1) The Legislature finds that it is the policy of this state to ensure that local governments operate on a level playing field with private providers of communications services and that local governments should not enjoy any undue advantages simply due to their status as a local government.*

(2) The Legislature hereby provides notice to all local governments in this state that in the ensuing year, the Legislature shall conduct a study of the appropriate level of state regulation for local governments wishing to offer communications services in competition with private providers. This study by the Legislature shall be comprehensive and shall be considered for adoption during the 2005 Regular Session. Any local government that is providing such services currently or considering providing such services in the future is hereby given notice of these legislative deliberations and should be prepared to comply with said legislation upon adoption.

(3) As used in this act, the term:

(a) "Local government" means any political subdivision, as defined in section 101.01, Florida Statutes, and any utility authority, other authority, board, branch, department, or unit thereof.

(b) "Advanced service" means high-speed Internet access service capability in excess of 144 kilobites per second in the upstream or the downstream directions, including any service application provided over the high-speed access service or any information services as defined in 47 U.S.C. s. 153(20).

(c) "Communications services" include the offering of any advanced service, cable service, or telecommunications service, and shall be construed in the broadest sense.

(d) "Cable service" has the same meaning as in 47 U.S.C. s. 522(6).

(e) "Providing," with respect to a named service, means offering or supplying a service for a fee to a person, including any portion of the public or a local government or private provider.

(f) "Subscriber" means a person who receives a named service.

(g) "Telecommunications services" means the transmission of signs, signals, writing, images, sounds, messages, data, or other information of the user's choosing, by wire, radio, light waves, or other electromagnetic

means, without change in the form or content of the information as sent and received by the user and regardless of the facilities used.

(4)(a) The Government-Owned Communications Study Commission is created. The study commission shall be composed of nine voting members, appointed as follows:

1. Four members appointed by the President of the Senate, at least two of whom shall be members of the Senate.

2. Four members appointed by the Speaker of the House of Representatives, at least two of whom shall be members of the House of Representatives.

3. One member shall be appointed by the Attorney General.

The nonlegislative members shall be knowledgeable regarding one or more aspects of the provision of government-owned communications services and shall include representatives from both local government and industry.

(b) The Legislature shall provide staffing for the members of the study commission, whose meetings shall be noticed and open to the public.

(c) The study commission shall issue a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2005.

(d) The study commission shall review any and all regulatory, tax, competitive issues, and court decisions related to the provision of communications services by any local government in the State of Florida.

(5) Any local government that provides a cable service shall comply with section 166.046, Florida Statutes, and those provisions of chapters 202, 212, and 337, Florida Statutes, applicable to a provider of such services.

(6) A local government that provides a telecommunications service or advanced service shall comply, if applicable, with chapter 364, Florida Statutes, and rules adopted by the Florida Public Service Commission under section 166.047, Florida Statutes, and those provisions of chapters 202, 212, and 337, Florida Statutes, applicable to a provider of such services.

(7) The exercise of a local government's power or authority, including zoning or land use, to require the use by any person, including residents of a particular development, of any of the local government's communications services, is prohibited.

(8) A local government may not pledge any revenues in support of the issuance of any bonds to be used to finance a business venture outside the local government's geographical boundaries in competition with providers for the provision of communications services until July 1, 2005.

(9) A local government shall apply the local government's ordinances, rules, and policies, including those relating to the following subjects, without discrimination as to itself and any private provider of communications services:

(a) Access to public rights-of-way; and

(b) Permitting, access to, use of and payment for use of local government-owned poles, such that the local government shall be subject to the same terms, conditions, and fees, if any, for access to governmental poles that the local government applies to a private provider for such access.

Section 3. *(1) The Florida Telecommunications Policy Strategy Task Force is created and housed for administrative purposes within the Florida Public Service Commission. The task force shall operate independently of the commission.*

(2)(a) The task force shall consist of seven members, three appointed by the Governor, two appointed by the President of the Senate, and two appointed by the Speaker of the House of Representatives. Members shall serve at the pleasure of the appointing official. Any vacancy shall be filled in the same manner as the original appointment.

(b) Any nonlegislative member shall possess expertise in state or national telecommunications policy, legal developments, and technical matters.

(c) A person who works directly for or who performs contract work for a telecommunications company or any entity or agency that has appeared before the commission on a docketed telecommunications matter in the past 6 years may not be appointed to the task force.

(d) Members shall serve without compensation but are entitled to reimbursement of travel and per diem expenses pursuant to section 112.061, Florida Statutes, relating to completing their duties and responsibilities under this section.

(3) The task force shall:

(a) Survey existing national and state regulatory, rate, and tax policies relating to the telecommunications industry;

(b) Provide a concise presentation of the telecommunications policy landscape; and

(c) Identify and make recommendations relating to key tax and regulatory issues that the Legislature and the Public Service Commission should address, consistent with the principles enumerated in subsection (4).

(4) In conducting its investigations, deliberating, and making recommendations, the task force shall consider the following principles:

(a) The state should explore policies that seek to promote the widest deployment of telecommunications technologies and thereby maximize access by residents of this state to the greatest variety of telecommunications service offerings and pricing options.

(b) Recommendations, if any, should be revenue neutral or revenue reducing; that is, revenues generated from telecommunications taxes in the aggregate should in no case exceed projected aggregate revenues if no changes in policies are made.

(c) Taxes and regulations should be applied equitably; that is, government policies should not favor certain technologies over others.

(d) Government intervention should be avoided to the greatest extent possible, except as necessary to ensure a predictable, competitive telecommunications environment that minimizes the likelihood of litigation and provides basic consumer protections.

(e) Competition should be encouraged among telecommunications companies and among telecommunications technologies.

(5) The task force shall select a chair and vice chair and shall meet at the call of the chair or as often as necessary to accomplish the purposes of this section.

(6) The task force shall hold its organizational meeting by July 15, 2004, and thereafter shall meet as necessary at the call of the chair at the time and place designated by the chair. A quorum is necessary for the purpose of conducting official business of the task force. The task force shall use accepted rules of procedure to conduct its meetings and shall keep a complete record of each meeting.

(7) The Florida Public Service Commission shall provide administrative support and staff for the task force.

(8) The task force shall prepare a report containing a summary of its investigations and deliberations and any recommendations and submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2005.

Section 4. Effective December 31, 2004, subsection (2) of section 202.16, Florida Statutes, is amended to read:

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

(2)*(a)* A sale of communications services that are used as a component part of or integrated into a communications service or prepaid

calling arrangement for resale, including, but not limited to, carrier-access charges, interconnection charges paid by providers of mobile communication services or other communication services, charges paid by cable service providers for the transmission of video or other programming by another dealer of communications services, charges for the sale of unbundled network elements, and any other intercompany charges for the use of facilities for providing communications services for resale, must be made in compliance with the rules of the department. Any person who makes a sale for resale which is not in compliance with these rules is liable for any tax, penalty, and interest due for failing to comply, to be calculated pursuant to s. 202.28(2)(a).

(b) Any dealer who makes a sale for resale shall document the exempt nature of the transaction, as established by rules adopted by the department, by retaining a copy of the purchaser's initial or annual resale certificate issued pursuant to s. 202.17(6). In lieu of maintaining a copy of the certificate, a dealer may document, prior to the time of sale, an authorization number provided telephonically or electronically by the department, or by such other means established by rule of the department. The dealer may rely on an initial or annual resale certificate issued pursuant to s. 202.17(6), valid at the time of receipt from the purchaser, without seeking additional annual resale certificates from such purchaser, if the dealer makes recurring sales to the purchaser in the normal course of business on a continual basis. For purposes of this paragraph, the term "recurring sales to a purchaser in the normal course of business" means a sale in which the dealer extends credit to the purchaser and records the debt as an account receivable, or in which the dealer sells to a purchaser who has an established cash account, similar to an open credit account. For purposes of this paragraph, purchases are made from a selling dealer on a continual basis if the selling dealer makes, in the normal course of business, sales to the purchaser no less frequently than once in every 12-month period. A dealer may, through the informal protest provided for in s. 213.21 and the rules of the Department of Revenue, provide the department with evidence of the exempt status of a sale. Exemption certificates executed by entities that were exempt at the time of sale, resale certificates provided by purchasers who were active dealers at the time of sale, and verification by the department of a purchaser's active dealer status at the time of sale in lieu of a resale certificate shall be accepted by the department when submitted during the protest period, but may not be accepted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72.

Section 5. Paragraph (a) of subsection (3) of section 202.19, Florida Statutes, is amended to read:

202.19 Authorization to impose local communications services tax.—

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

Section 6. Subsection (2) of section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax conversion rates.—

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

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

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

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

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

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

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

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

c. The public service tax on prepaid calling arrangements.

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

e. Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county

elects the option to charge permit fees pursuant to s. 337.401(3)(c)1.a., such fees shall not be included as a replaced revenue source.

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

Section 7. *Effective July 1, 2007, paragraph (a) of subsection (2) of section 202.20, Florida Statutes, is repealed.*

Section 8. Effective July 1, 2007, section 202.21, Florida Statutes, is amended to read:

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

Section 9. *The amendments to section 202.19(3)(a), Florida Statutes, contained in this act are remedial in nature and intended to clarify the law in effect on October 1, 2001, but will not grant any right to a refund of any fees or charges paid prior to July 1, 2004, unless the payment was made under written protest as to the authority of any local government to impose such fees or costs on a dealer.*

Section 10. *Any rate changes authorized by the Florida Public Service Commission's decision of December 24, 2003, in Docket Nos. 030867-TL, 030868-TL, 030869-TL, and 030961-TI granting petitions filed pursuant to section 364.164(1), Florida Statutes, shall not take effect before May 10, 2005. Nothing contained in this act shall be construed to defer or otherwise interfere with the timely resolution of any pending commission or court proceeding addressing commission decisions issued pursuant to section 364.164(1), Florida Statutes.*

Section 11. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

Section 12. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 6-11, delete those lines and insert: the tax on communications services; providing legislative findings with respect to the provision of communications services by local governments; providing definitions; creating the Government-Owned Communications Study Commission to review the provision of communications services by local governments; providing for membership; requiring the study commission to be staffed by the Legislature; requiring a report be submitted to the Governor and the Legislature; requiring local governments that provide cable service to comply with specified provisions; requiring local governments that provide telecommunications service or advanced service to comply with certain provisions; prohibiting a local government from requiring the use of its communications services; prohibiting local governments from pledging bond revenues for specified purposes until a date certain; requiring local governments to apply certain ordinances, rules, and policies without discrimination; creating the Florida Telecommunications Policy Strategy Task Force; locating the task force within the Florida Public Service Commission for administrative purposes; providing for membership; authorizing reimbursement to members for travel and per diem expenses; specifying duties of the task force; providing for meetings; requiring the task force to provide a report to the Governor and the Legislature; amending s. 202.16, F.S.; providing requirements for dealers of taxable communications services when making a sale for resale which is exempt from taxation; providing procedures for a dealer that makes recurring sales in the normal course of business; amending s. 202.19, F.S.; providing for the local communications services tax to be in lieu of certain fees and costs; amending s. 202.20, F.S.; providing a limitation with respect to the adjustment of the local communications services tax; repealing s. 202.20(2)(a), F.S., relating to conversion rates for such tax; amending s. 202.21, F.S., relating to tax levies and rate changes; conforming provisions to changes made by the act; specifying that certain amendments made by the act are remedial in nature and do not grant any right to a refund of fees or charges paid before a specified date; prohibiting certain rate changes of the Florida Public Service Commission from taking effect before a specified date; providing for severability; providing effective dates.

MOTION

Senator Cowin moved that the rules be waived to allow consideration of the late filed amendment 641866. The motion failed, therefore the amendment was not considered.

POINT OF ORDER

Senator Cowin raised a point of order that **Amendment 1** raised constitutional issues.

The President referred the point of order and the amendment to Senator Lee, Chair of the Committee on Rules and Calendar.

Further consideration of **CS for SB 2302** with pending **Amendment 1 (804654)** and pending point of order was deferred.

On motion by Senator Miller, the Senate resumed consideration of—

SB 2922—A bill to be entitled An act relating to public records exemptions; amending s. 1004.43, F.S.; clarifying the public records exemption for proprietary confidential business information owned or controlled by the not-for-profit corporation operating the H. Lee Moffitt Cancer Center and Research Institute and its subsidiaries relating to trade secrets; expanding the public records exemption to include information received from a person in this or another state or nation or the Federal Government which is otherwise exempt or confidential pursuant to the laws of this or another state or nation or pursuant to federal law; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—which was previously considered this day. Pending **Amendment 1 (902042)** by Senator Miller was adopted.

Pursuant to Rule 4.19, **SB 2922** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Haridopolos, the Senate resumed consideration of—

CS for SB 2302—A bill to be entitled An act relating to communications services; providing a short title; specifying the period during which the actual cost of operating a substitute communications system is exempt from such taxes; creating the Communications Policy Task Force; providing for the membership of the task force; providing a purpose; providing for staffing and administrative support; requiring a report to the Governor and the Legislature; providing an effective date.

—which was previously considered this day with pending **Amendment 1 (804654)** and pending point of order by Senator Cowin.

RULING ON POINT OF ORDER

Senator Lee, Chair of the Committee on Rules and Calendar, recommended that the constitutional issues were outside the scope of Senate Rules and the President ruled the point not well taken.

Pending **Amendment 1 (804654)** by Senator Haridopolos was adopted.

Pursuant to Rule 4.19, **CS for SB 2302** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Smith, by unanimous consent—

CS for CS for SB 2962—A bill to be entitled An act relating to the judicial system and timeshare plans; amending s. 721.02, F.S.; revising language with respect to legislative purpose under the Florida Vacation Plan and Timesharing Act; amending s. 721.03, F.S.; revising language with respect to the scope of the act to include reference to personal property timeshare plans; amending s. 721.05, F.S.; providing definitions; amending s. 721.06, F.S.; revising language with respect to contracts for purchase of timeshare interests to include provisions with respect to personal property timeshare interests; amending s. 721.065, F.S.; revising language with respect to resale purchase agreements to include reference to certain real property and personal property timeshare plans; amending s. 721.07, F.S.; revising language with respect to public offering statements; amending s. 721.075, F.S.; revising language with respect to incidental benefits; requiring purchasers to execute a statement indicating the source of the benefit; amending s. 721.08, F.S.; revising language with respect to escrow accounts; amending s. 721.09, F.S.; revising language with respect to reservation agreements; amending s. 721.11, F.S.; revising language with respect to advertising materials; correcting cross-references; amending s. 721.12, F.S.; providing for required recordkeeping by the seller of a personal property timeshare plan; amending s. 721.13, F.S.; revising language with respect to management; correcting a cross-reference; amending s. 721.14, F.S.; providing that a section of law governing the discharge of the managing entity shall not apply with respect to personal property timeshare plans; amending s. 721.15, F.S.; revising language with respect to assessments for common expenses; amending s. 721.16, F.S.; providing that a section of law governing certain liens does not apply to personal property timeshare plans; amending s. 721.17, F.S.; revising language with respect to transfer of interest; amending s. 721.18, F.S.; revising language with respect to exchange programs; amending s. 721.19, F.S.; including reference to personal property timeshare interests; amending s. 721.20, F.S., relating to licensing requirements; providing for the application of certain provisions to personal property timeshare plans; amending s. 721.24, F.S.; exempting accommodations and facilities of personal property timeshare plans from a provision of law governing firesafety; amending s. 721.26, F.S.; revising language with respect to regulation by the division; amending s. 721.52, F.S.; redefining the term "multisite timeshare plan" and defining the terms "nonspecific multisite timeshare plan" and "specific multisite timeshare plan"; amending s. 721.53, F.S.; revising language with respect to subordination instruments; amending s. 721.54, F.S.; correcting a cross-reference; amending s. 721.55, F.S.; providing reference to filed rather than registered public offering statements; providing reference to multisite timeshare plans; amending s. 721.551, F.S.; providing for reference to filed rather than registered public offering statements; amending s. 721.552, F.S.; providing reference to multistate timeshare plans; amending s. 721.56, F.S.; providing reference to personal property timeshare plans; amending s. 721.57, F.S.; revising language with respect to timeshare estates in multisite timeshare plans; amending s. 721.84, F.S.; revising language with respect to appointment of a registered agent; amending ss. 721.96 and 721.97, F.S.; including reference to personal property timeshare interests; authorizing the Governor to also appoint a timeshare commissioner of deeds in certain lands outside the United States; amending ss. 475.011 and 718.103, F.S.; correcting cross-references; providing for applicability; amending s. 25.241, F.S.; establishing a fee to be paid by counsel appearing pro hac vice before the Supreme Court; increasing the filing fee for Supreme Court cases docketed and specifying disposition and uses of fees collected; amending s. 25.383, F.S.; providing duties of the circuit Article V indigent services committee with respect to court reporting; amending s. 25.384, F.S.; revising purposes for which Court Education Trust Fund moneys must be used; amending s. 27.02, F.S.; revising the authority of the state attorney to enter into contracts with local governments for prosecution of local ordinances; amending s. 27.34, F.S.; revising the authority of counties or municipalities to contract with state attorneys for prosecution of local ordinances; authorizing the state attorney to expend funds for computer systems; amending s. 27.40, F.S.; providing minimum qualifications for court-appointed counsel in certain cases; requiring each circuit Article V indigent services committee to develop procedures for periodic review of each conflict counsel's qualifications and competency; requiring a report; amending s. 27.42, F.S.; modifying the membership of the circuit Article V indigent services committee; clarifying when a circuit Article V indigent services committee must maintain a registry of counsel; amending s. 27.51, F.S.; clarifying public defender's duties of representation in certain cases; amending s. 27.52, F.S.; clarifying other services to be provided to indigents; requiring clerk to provide assistance to indigents under certain circumstances; providing for court notification; clarifying fees to be charged; amending s. 27.5303, F.S.; providing uniform standards for determining counsel's conflict of interest in certain cases; requiring the trial attorney for an indigent defendant in a death sentence case to ensure that an appellate attorney is appointed for that defendant; amending s. 27.5304, F.S.; providing compensation for certain court-appointed counsel in certain cases; providing for partial compensation before completion of a case; amending s. 27.54, F.S.; revising the authority of the public defender to contract with local government for defense in local ordinance violations and to purchase computer systems and associated personnel; amending s. 27.562, F.S.; providing for distribution of funds collected for payment of attorney's fees or costs pursuant to s. 938.29, F.S.; amending s. 28.24, F.S.; providing an additional fee to be paid on instruments recorded in the official records by the clerk of the circuit court, and providing for disposition and use of the fee; clarifying access to public records by court personnel, state attorneys, statewide prosecutors, guardians ad litem, and public defenders; amending s. 28.2401, F.S.; increasing the additional service charge in probate matters to fund court education and clerk education; authorizing a county to impose a surcharge on court fees and charges if it had previously imposed increased fees and charges to pay principal and interest on bonds issued to finance state court facilities; authorizing the use of surcharge revenue to refund existing bonds under specified conditions; amending s. 28.2402, F.S.; reducing the filing fee for a county or municipality to file a code or ordinance violation in court; providing a court cost to be assessed against the nonprevailing party; providing for deposit of the court cost; increasing a filing fee to fund court education and clerk education; amending s. 28.241, F.S.; authorizing a county to impose a surcharge on court fees and charges if it had previously imposed increased fees and charges to pay principal and interest on bonds issued to finance state court facilities; authorizing the use of surcharge revenue to refund existing bonds under specified conditions; revising payment and distribution of filing fees for trial and appellate proceedings; providing exemptions to fees under certain circumstances; establishing a fee to be paid by counsel appearing pro hac vice before the circuit court; amending s. 28.245, F.S.; providing for distribution of funds by clerks of the court to certain entities; providing for distribution based upon time of collection; amending s. 28.246, F.S.; modifying the reporting of discretionary fines and monetary penalties assessed and collected; providing a service charge for partial payments; limiting the amount that may be paid in fees and costs for collection services to collect unpaid court fees, fines, court costs, and other costs; amending s. 28.345, F.S.; adding to the list of those exempt from all fees and charges assessed by the clerk of the circuit court; amending s. 28.35, F.S.; deleting requirement that the Clerk of Court Operations Conference publish a schedule of fines, fees, and other costs; amending s. 28.36, F.S.; revising what may be included as revenue in budgets of clerks of court for court-related functions; providing for discretionary certification; clarifying that the budget is a revenue budget; specifying a time for transmission of revenue deficit certifications; providing for estimated expenditures in lieu of actual expenditures under certain circumstances; amending s. 28.37, F.S.; changing the date for remittance of revenue by the clerk of the court; revising payment procedure; deleting Department of Revenue authority to adopt rules providing for penalties for failure to comply with remittance; amending s. 29.005, F.S.; clarifying witnesses to be paid from state revenue when summoned by a state attorney; requiring counties to transfer ownership of motor vehicles provided to the state attorney to the state; creating s. 29.0051, F.S.; requiring that trial expenses of the statewide prosecutor be paid by the state; amending s. 29.006, F.S.; clarifying witnesses to be paid from state revenue when summoned by a public defender; requiring counties to transfer ownership of motor vehicles provided to the public defender

to the state; amending s. 29.007, F.S.; clarifying witnesses to be paid from state funds; requiring that certain expenses of court-appointed counsel must be in accordance with policies of the circuit Article V indigent services committee; amending s. 29.008, F.S.; requiring counties to provide sign-language interpreter services for certain persons; clarifying county funding requirements for certain equipment and support staff; requiring counties to continue to provide facilities for the Statewide Office of Guardian Ad Litem; requiring funding for legal aid programs to be maintained at the prior year's level; eliminating the exemption for counties with a population of fewer than 75,000 from s. 29.008, F.S.; providing that public law libraries are a local funding requirement; creating s. 29.0085, F.S.; creating the Judicial Information Integration Competency Center to develop and implement integrated computer systems for the state courts system; providing for the center to be administratively housed within the Justice Administrative Commission; providing for a steering committee, a data requirements workgroup, and a data network integration workgroup and the members thereof; specifying the duties of the steering committee and the workgroups; providing for reimbursement for certain expenses of the members; prohibiting a rule or order that directs or controls the development or operation of the integrated computer systems of the state courts system; providing an appropriation and authorizing additional positions; amending s. 29.016, F.S.; revising purposes for which judicial branch contingency funds may be used; amending s. 34.01, F.S.; revising a cross-reference to court rules; deleting redundant material; amending s. 34.041, F.S.; providing for disposition of certain filing fees; increasing a filing fee to fund court education and clerk education; authorizing a county to impose a surcharge on court fees and charges if it had previously imposed increased fees and charges to pay principal and interest on bonds issued to finance state court facilities; authorizing the use of surcharge revenue to refund existing bonds under specified conditions; providing a fee for reopening a case and providing certain exemptions; establishing a fee to be paid by counsel appearing pro hac vice in county court; amending s. 34.191, F.S.; providing for collection of fees, fines, court costs, and other costs in cases tried in county court; limiting the amount that may be paid in fees and costs in such collection; amending s. 35.22, F.S.; establishing a fee to be paid by counsel appearing pro hac vice before a district court of appeal; increasing the filing fee for district court of appeal cases docketed and specifying disposition and uses of fees collected; amending s. 40.29, F.S.; revising the way certain due process services are paid by the clerk of the court and the Justice Administrative Commission; amending s. 40.32, F.S.; clarifying the type of witness payments to be made by the clerk of the court; amending s. 44.108, F.S.; clarifying that the filing fee for funding of mediation and arbitration is an additional fee; providing authority to the Trial Court Budget Commission to set fees for mediation services pursuant to guidelines established by the Supreme Court; amending s. 45.031, F.S.; increasing the clerk's service charge for services relating to judicial sales; creating s. 50.0711, F.S.; providing for publication of the court docket; providing for funding; requiring publishers of newspapers receiving funding to accept free of charge certain legal advertisements for persons certified indigent under s. 57.081, F.S.; amending s. 55.10, F.S.; clarifying that money paid to clerk is service charge and not fee; amending s. 55.141, F.S.; revising a cross-reference; clarifying the activity for which a service charge is paid; clarifying that money paid to clerk is service charge and not fee; creating s. 55.312, F.S.; imposing a service charge on certain money judgments and settlement agreements in excess of a specified amount, except for dissolution of marriage; providing for disposition of the proceeds of the charge; providing for the service charge to be paid by any party or allocated to more than one party; requiring the Department of Revenue to adopt rules to provide for remitting such charge to the department for deposition; prohibiting an attorney from disbursing certain proceeds until service charge is paid; requiring the Department of Revenue to report to the Legislature each year on the amount received in the prior calendar year; amending s. 57.085, F.S.; revising terminology; amending s. 61.14, F.S.; increasing the fee for a delinquent payment; amending s. 61.181, F.S.; deleting a requirement for periodic reenactment of certain clerk fees on child support payments; amending s. 125.69, F.S.; providing for prosecutions for violations of county ordinances to be brought in the name of the state; deleting a provision authorizing certain persons to prosecute special laws and county ordinances; authorizing a county to contract with the public defender for representation in certain cases; amending s. 129.02, F.S.; deleting a cross-reference; amending s. 142.01, F.S.; clarifying deposits into the fine and forfeiture fund; amending s. 218.245, F.S.; providing for distribution of revenues to a municipality under certain circumstances; amending s. 318.14, F.S.; clarifying deposits into the fine and forfeiture fund; amending s. 318.15, F.S.; increasing service charges in certain traffic infraction cases; providing for remittance; providing for deposit into the clerk of court fine and forfeiture fund; providing an additional fee for deposit into the Highway Safety Operating Trust Fund; amending s. 318.18, F.S.; increasing civil penalties for failure to comply in traffic infraction cases; providing for distribution of court cost; authorizing a county to impose a surcharge on traffic fines and forfeitures if it had previously imposed increased fees or charges to pay principal and interest on bonds issued to finance state court facilities; authorizing the use of surcharge revenue to refund existing bonds under specified conditions; amending s. 318.21, F.S.; requiring that a specified amount of the civil penalties received by county courts be deposited into the Grants and Donations Trust Fund in the state courts system Justice Administrative Commission for specified purposes; deleting a distribution to the General Revenue Fund; deleting a distribution of funds to certain county programs; amending s. 321.05, F.S.; providing a cross-reference; amending s. 327.73, F.S.; increasing dismissal fees and maximum court costs that may be imposed in noncriminal infraction cases; amending s. 372.72, F.S.; providing a cross-reference; amending s. 382.023, F.S.; clarifying that the clerk retains a service charge relating to dissolution of marriage records; amending s. 384.288, F.S.; deleting specification of source of payment by county of certain court costs; amending s. 392.68, F.S.; deleting specification of source of payment by county of certain court costs; amending s. 394.473, F.S.; providing for state payment of certain attorney's and witness' fees; amending s. 395.3025, F.S.; deleting cross-references amending s. 397.334, F.S.; clarifying that counties may use service dollars provided to them by state agencies or other grants for drug courts; amending s. 588.20, F.S.; removing authority for the county to pay deficits incurred in the sale of certain livestock from fine and forfeiture fund; amending s. 713.24, F.S.; clarifying that money paid to clerk is service charge and not fee; amending s. 721.83, F.S.; clarifying filing fees and service charges to be paid by plaintiff in time-share property consolidated actions for foreclosure; amending s. 744.365, F.S.; providing for waiver of auditing fee; amending s. 744.3678, F.S.; providing for waiver of auditing fee; amending s. 766.104, F.S.; increasing filing fees in medical negligence cases; amending s. 849.19, F.S.; adding a cross-reference; amending s. 849.22, F.S.; removing authority for county to pay clerk and sheriff fees out of fine and forfeiture fund; amending s. 849.44, F.S.; adding a cross-reference; amending s. 903.26, F.S.; adding a cross-reference; amending s. 925.09, F.S.; revising the source of funds used to pay for physician autopsies; amending s. 938.17, F.S.; authorizing a board of county commissioners to adopt an ordinance that incorporates the provisions of the act; providing funding for a teen court and other programs through the assessment of an additional court cost against each person who pleads guilty or nolo contendere to, or is convicted of, a violation of a criminal law, an ordinance, or a traffic offense in the county; providing for administration by the clerk of the circuit court; authorizing the clerk of the court to retain a specified percentage of the assessments collected as income to the clerk of the court; requiring the teen court to account for all funds deposited into the teen court account; requiring a report to the board of county commissioners by a specified date; authorizing specified organizations to operate and administer a teen court program; amending s. 938.29, F.S.; requiring each circuit Article V indigent services committee to develop a schedule of recommended attorney's costs; reducing the permissible contingent fee for collecting fees and costs arising from use of public defender, or similar, services; amending s. 938.35, F.S.; providing for collection of court-ordered financial obligations; limiting the amount that may be paid in fees and costs in such collection; amending s. 939.18, F.S.; providing that additional court costs assessed may be used to fund legal aid programs and public law libraries; requiring that counties fund legal aid programs as during October 1, 2002, to September 30, 2003; declaring intent to fund due-process services in an efficient manner; authorizing the state court system, state attorneys, public defenders, and court-appointed counsel to contract to share costs; providing authorization to recover the costs of certain state-funded and county-funded trial court services from persons with an ability to pay; authorizing the chief judge of a circuit court to determine fees for such services; requesting the Division of Statutory Revision to redesignate the title of ch. 40, F.S.; providing for payment of certain financial obligations in implementing revised Section 14 of Article V of the State Constitution; providing that cash balances within county funds previously established to fund specific court-related programs shall continue to fund those programs; repealing s. 11.75, F.S., relating to the Joint Legislative Committee on Article V; repealing s. 40.30, F.S., relating to payments of jurors and witnesses; providing an effective date.

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

MOTION

On motion by Senator Smith, the rules were waived to allow the following amendment to be considered:

Senator Smith moved the following amendment:

Amendment 1 (134084)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsections (3) and (5) of section 25.241, Florida Statutes, are amended to read:

25.241 Clerk of Supreme Court; compensation; assistants; filing fees, etc.—

(3) The Clerk of the Supreme Court is hereby required to collect, upon the filing of a certified copy of a notice of appeal or petition, *$300* ~~$250~~ for each case docketed, and for copying, certifying, or furnishing opinions, records, papers, or other instruments, except as otherwise herein provided, the same fees that are allowed clerks of the circuit court; however, no fee shall be less than $1. The State of Florida or its agencies, when appearing as appellant or petitioner, is exempt from the filing fees required in this subsection. *From each attorney appearing pro hac vice, the Clerk of the Supreme Court shall collect an additional fee of $100 to be deposited into the General Revenue Fund.*

(5) The Clerk of the Supreme Court is hereby required to prepare a statement of all fees collected ~~in duplicate~~ each month and remit ~~one copy of~~ such statement, together with all fees collected by him or her, to the Chief Financial Officer~~, who shall place the same to the credit of the General Revenue Fund~~. *The Chief Financial Officer shall deposit $250 of each $300 filing fee and all other fees collected into the General Revenue Fund. The Chief Financial Officer shall deposit $50 of each filing fee collected into the state court's Grants and Donations Trust Fund to fund court improvement projects as authorized in the General Appropriations Act.*

Section 2. Section 25.383, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

25.383 Standards for court reporters; procedures; rules of professional conduct, discipline, and training.—The Supreme Court shall establish minimum standards and procedures for qualifications, certification, discipline, and training for court reporters. *The Supreme Court shall determine the amount of fees to charge applicants for certification and renewal of certification. Fees shall be set in an amount necessary to recover the full cost of administering the certification process. All proceeds from fees collected pursuant to this section shall be deposited into the Grants and Donations Trust Fund within the state courts.* The Supreme Court may appoint or employ such personnel as are necessary to assist the court in exercising its powers and performing its duties under this section.

Section 3. Paragraph (a) of subsection (2) of section 25.384, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

25.384 Court Education Trust Fund.—

(2)(a) The trust fund moneys shall be used to provide education and training for judges and other court personnel as defined and determined by the Florida Court Educational Council. ~~In addition, funds may be used for the development and implementation of an educational program for the clerks of court as set forth in s. 145.051(2).~~

Section 4. Section 27.02, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

27.02 Duties before court.—

(1) The state attorney shall appear in the circuit and county courts within his or her judicial circuit and prosecute or defend on behalf of the state all suits, applications, or motions, civil or criminal, in which the state is a party, except as provided in chapters 39, 984, and 985. The intake procedures of chapters 39, 984, and 985 shall apply as provided therein. The state attorney shall ~~not~~ appear in the circuit and county courts within his or her judicial circuit for the purpose of prosecuting violations of special laws *and*~~, unless expressly authorized, or violations of~~ county or municipal ordinances *punishable by incarceration if the prosecution is ancillary to a state prosecution or if the state attorney has contracted with the county or municipality for reimbursement for services rendered in accordance with s. 27.34(1)*~~, unless ancillary to a state prosecution and authorized by the prosecuting attorney of the county~~.

(2) The state attorney*, when complying with the discovery obligation* ~~shall provide to the defendant all discovery materials required~~ pursuant to the applicable rule of procedure*,* ~~and~~ may charge *the defendant* fees as provided for in s. 119.07(1)(a), not to exceed 15 cents per page for a copy of a noncertified copy of a public record. However, these fees may be deferred if the defendant has been determined to be indigent as provided in s. 27.52.

Section 5. Section 27.34, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

27.34 Limitations on payment of salaries and other related costs of state attorneys' offices other than by the state.—

(1) A county or municipality may ~~not~~ contract with, or appropriate or contribute funds to the operation of, the various state attorneys *as provided in this subsection* ~~for the prosecution of violations of special laws, unless expressly authorized, or ordinances of the county or municipality, unless ancillary to a state prosecution~~. *A state attorney prosecuting violations of special laws or county or municipal ordinances punishable by incarceration and not ancillary to a state charge shall contract with counties and municipalities to recover the full cost of services rendered on an hourly basis or reimburse the state for the full cost of assigning one or more full-time equivalent attorney positions to work on behalf of the county or municipality. Notwithstanding any other provision of law, in the case of a county with a population of less than 75,000, the state attorney shall contract for full reimbursement, or for reimbursement as the parties otherwise agree.*

(a) A contract for reimbursement on an hourly basis shall require counties and municipalities to reimburse the state attorney for services rendered at a rate of $50 per hour. If an hourly rate is specified in the General Appropriations Act, that rate shall control.

(b) A contract for assigning one or more full-time equivalent attorney positions to perform work on behalf of a county or municipality shall assign one or more full-time equivalent positions based on estimates by the state attorney of the number of hours required to handle the projected workload. The full cost of each full-time equivalent attorney position on an annual basis shall be $50, or the amount specified in the General Appropriations Act, multiplied by the legislative budget request standard for available work hours for one full-time equivalent attorney position, or, in the absence of that standard, 1,854 hours. The contract may provide for funding full-time equivalent positions in one-quarter increments.

(c) Persons employed by the county or municipality may be provided to the state attorney to serve as special investigators pursuant to the provisions of s. 27.251. *Any payments received pursuant to this subsection shall be deposited into the Grants and Donations Trust Fund within the Justice Administrative Commission for appropriation by the Legislature.*

(2) *A* ~~It is hereby prohibited for any~~ state attorney *or assistant state attorney may not* ~~to~~ receive from any county or municipality any supplemental salary*, except as provided in this section*.

(3) Notwithstanding s. 27.25, the Chief Financial Officer may contract with the state attorney of any judicial circuit of the state for the prosecution of criminal violations of the Workers' Compensation Law and related crimes if the Chief Financial Officer contributes funds for such purposes. Such contracts may provide for the training, salary, and expenses of one or more assistant state attorneys used in the prosecution of ~~such~~ crimes. *If the Chief Financial Officer contributes funds to the state attorney to prosecute these violations and the accused person is indigent and represented by the public defender, the Chief Financial Officer shall also contract with the public defender to provide representation to the person accused of these crimes. The contract may provide for the training, salary, and expenses of one or more assistant public defenders used in the defense of these crimes.*

(4) Unless expressly authorized by law or in the General Appropriations Act, state attorneys are prohibited from spending state-appropriated funds on county funding obligations under s. 14, Art. V of

the State Constitution beginning January 1, 2005. This includes expenditures on communications services and facilities as defined in s. 29.008. This does not prohibit a state attorney from spending funds for these purposes in exceptional circumstances when necessary to maintain operational continuity in the form of a short-term advance pending reimbursement by the county. If a state attorney provides short-term advance funding for a county responsibility as authorized by this subsection, the state attorney shall request full reimbursement from the board of county commissioners prior to making the expenditure or at the next meeting of the board of county commissioners after the expenditure is made. The total of all short-term advances authorized by this subsection shall not exceed 2 percent of the state attorney's approved operating budget in any given year. No short-term advances authorized by this subsection shall be permitted until all reimbursements arising from advance funding in the prior state fiscal year have been received by the state attorney. All reimbursement payments received by the state attorney pursuant to this subsection shall be deposited into the General Revenue Fund. Notwithstanding the provisions of this subsection, the state attorney may expend funds for the purchase of computer systems, including associated hardware and software, and for personnel related to this function.

Section 6. Subsection (2), paragraph (d) of subsection (3), subsection (5), paragraph (a) of subsection (7), and subsection (8) of section 27.40, Florida Statutes, as created by chapter 2003-402, Laws of Florida, are amended to read:

27.40 Court-appointed counsel; circuit registries; minimum requirements; appointment by court.—

(2) *No later than October 1, 2004,* private counsel appointed by the court to provide representation shall be selected from a registry established by the circuit Article V indigent services committee or procured through a competitive bidding process.

(3) In utilizing a registry:

(d) Quarterly, beginning *no later than October 1, 2004* ~~July 1, 2004~~, each circuit Article V indigent services committee shall provide the Chief Justice of the Supreme Court, the chief judge, the state attorney and public defender in each judicial circuit, and the clerk of court in each county with a current copy of each registry.

(5) The Justice Administrative Commission shall approve uniform contract forms for use in procuring the services of private court-appointed counsel ~~based on the recommendations of the Article V Indigent Services Advisory Board~~.

(7)(a) An attorney appointed to represent a defendant or other client is entitled to payment ~~of attorney's fees and expenses~~ pursuant to s. 27.5304, only upon full performance by the attorney of specified duties, approval of payment by the court, and attorney submission of a payment request to the Justice Administrative Commission. If an attorney is permitted to withdraw or is otherwise removed from representation prior to full performance of the duties specified in this section *for reasons other than breach of duty*, the trial court shall approve payment of attorney's fees and costs for work performed in an amount not to exceed the amounts specified in s. 27.5304.

(8) Subject to the attorney-client *privilege and the*~~,~~ work-product privilege, an attorney who withdraws or is removed from representation shall deliver all files, notes, documents, and research to the successor attorney within 15 days after receiving notice from the successor attorney. The successor attorney shall bear the cost of transmitting all files, notes, documents, and research.

Section 7. Paragraph (b) of subsection (1), paragraphs (b) and (c) of subsection (2), and subsections (3) and (4) of section 27.42, Florida Statutes, as created by chapter 2003-402, Laws of Florida, are amended to read:

27.42 Circuit Article V indigent services committees; composition; staff; responsibilities; funding.—

(1) In each judicial circuit a circuit Article V indigent services committee shall be established. The committee shall consist of the following:

(b) The public defender of the judicial circuit*, or designee from within the office of the public defender*.

(2)

(b) *No later than October 1, 2004, each* ~~The~~ circuit Article V indigent services committee shall maintain a registry pursuant to s. 27.40, *even when* ~~unless~~ procuring counsel through a competitive bidding process. *However, if counsel is procured through a competitive bidding process, the registry shall be used only when counsel obtained through that process is unable to provide representation due to a conflict of interest or reasons beyond their control.* The committee shall apply *any* ~~the~~ eligibility and performance standards set by the Legislature~~, if any, after receiving recommendations from the Article V Indigent Services Advisory Board, for the appropriate category of case~~.

(c) *Each* ~~The~~ circuit Article V indigent services committee shall develop a schedule of standard fees and expense allowances for the ~~various~~ categories of cases *specified in s. 27.5303*, consistent with the *overall compensation rates in that section and within the amount of appropriated funds allocated by the Justice Administrative Commission to the circuit for this purpose* ~~standards adopted by the Legislature, if any, after receiving recommendations from the Article V Indigent Services Advisory Board~~.

(3) The Justice Administrative Commission shall prepare and issue on a quarterly basis a statewide report comparing actual year-to-date expenditures to budgeted amounts for the circuit Article V indigent services committees in each of the judicial circuits. Copies of these quarterly reports shall be distributed to each circuit Article V indigent services committee and to the *Governor, the Chief Justice of the Supreme Court, the* President of the Senate*,* and the Speaker of the House of Representatives.

(4)(a) The funding and positions for the processing of committees' fees and expenses shall be as appropriated to the Justice Administrative Commission in the General Appropriations Act.

(b) Funds for criminal conflict *attorney's* ~~case~~ fees and expenses shall be appropriated by the Legislature in a separate appropriations category within the Justice Administrative Commission. These funds shall be allocated to each circuit as prescribed in the General Appropriations Act.

~~(c) Separate funds for attorneys' fees and expenses in conflict cases under chapter 394 shall be appropriated by the Legislature in a separate appropriations category within the Justice Administrative Commission.~~

(c)~~(d)~~ ~~The Legislature shall appropriate separate~~ Funds for *attorney's* ~~attorneys'~~ fees and expenses *for* ~~in~~ child dependency *and civil conflict* cases *shall be appropriated by the Legislature* ~~and other court-appointed counsel cases~~ in a separate appropriations category within the Justice Administrative Commission.

(d) Any funds the Legislature appropriates for other court-appointed counsel cases shall be as appropriated within the Justice Administrative Commission.

The Justice Administrative Commission shall separately track expenditures on private court-appointed counsel for the following categories of cases: criminal conflict, civil conflict, dependency and termination of parental rights, and guardianship.

Section 8. Subsections (1) and (4) of section 27.51, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

27.51 Duties of public defender.—

(1) The public defender shall represent, without additional compensation, any person ~~who is~~ determined to be indigent *under* ~~as provided in~~ s. 27.52 and ~~who is~~:

(a) Under arrest for, or ~~is~~ charged with, a felony;

(b) Under arrest for, or ~~is~~ charged with:~~,~~

1. A misdemeanor authorized for prosecution by the state attorney;~~,~~

2. A violation of chapter 316 ~~which is~~ punishable by imprisonment*;*~~, or~~

3. Criminal contempt*; or*~~,~~

4. A violation of a special law or county or municipal ordinance ancillary to a state charge, or if not ancillary to a state charge, only if the

public defender contracts with the county or municipality to provide representation pursuant to s. 27.54 and 125.69.

The public defender shall not provide representation pursuant to paragraph (b) if ~~unless~~ the court, prior to trial, files in the cause an order of no imprisonment *as provided in s. 27.512* ~~which states that the defendant will not be imprisoned if he or she is convicted~~;

(c) Alleged to be a delinquent child pursuant to a petition filed before a circuit court;

(d) Sought by petition filed in such court to be involuntarily placed as a mentally ill person *under part I of chapter 394, involuntarily committed as a* ~~or~~ sexually violent predator *under part V of chapter 394,* or involuntarily admitted to residential services as a person with developmental disabilities *under chapter 393*. ~~However,~~ A public defender *shall not* ~~does not have the authority to~~ represent any ~~person who is a~~ plaintiff in a civil action brought under the Florida Rules of Civil Procedure, the Federal Rules of Civil Procedure, or the federal statutes, or *represent* ~~who is~~ a petitioner in *a rule challenge* ~~an administrative proceeding challenging a rule~~ under chapter 120, unless specifically authorized by statute; ~~or~~

(e) Convicted and sentenced to death, for purposes of *handling* ~~prosecuting~~ an appeal to the Supreme Court*; or*~~.~~

(f) Is appealing a matter in a case arising under paragraphs (a)-(d).

(4) The public defender for *the* ~~a~~ judicial circuit *specified* ~~enumerated~~ in this subsection shall, after the record on appeal is transmitted to the appellate court by the office of the public defender which handled the trial and if requested by any public defender within the indicated appellate district, handle all *circuit court* ~~felony~~ appeals *within the state courts system and any authorized appeals* to the ~~state and~~ federal courts required of the official making such request:

(a) Public defender of the second judicial circuit, on behalf of any public defender within the district comprising the First District Court of Appeal.

(b) Public defender of the tenth judicial circuit, on behalf of any public defender within the district comprising the Second District Court of Appeal.

(c) Public defender of the eleventh judicial circuit, on behalf of any public defender within the district comprising the Third District Court of Appeal.

(d) Public defender of the fifteenth judicial circuit, on behalf of any public defender within the district comprising the Fourth District Court of Appeal.

(e) Public defender of the seventh judicial circuit, on behalf of any public defender within the district comprising the Fifth District Court of Appeal.

Section 9. Section 27.52, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

27.52 Determination of *indigent status* ~~indigence~~.—

(1) The clerk of the circuit court shall determine *if a* ~~the indigence of each~~ person applying for appointment of a public defender or private attorney or any other *due process* ~~court-related~~ services *is indigent using a form developed by the Supreme Court* ~~based on indigence~~. *If the defendant is incarcerated, the public defender shall obtain the information necessary for the clerk to make the determination of indigence. The clerk may contract with third parties to perform this function.* This determination may be made at any stage of the proceedings. Before appointing the public defender or a private attorney, or providing any other court-related service based on *indigent status* ~~indigence~~, the court shall receive the determination of *indigent status* ~~indigence~~ from the clerk. If the clerk has not made this determination at the time a person requests appointment of a public defender or private attorney or provision of any other *due process* ~~court-related~~ services, the court shall make a preliminary determination of *indigent status* ~~indigence~~, pending *further review* ~~verification~~ by the clerk*, and may appoint counsel or authorize the provision of any other due process services on an interim basis*. The applicant may seek review of the clerk's determination denying *indigent status* ~~indigence~~ in the court having jurisdiction over the matter at the next scheduled hearing. *If the applicant seeks review of the clerk's determination, the court shall make a final determination.*

(2)(a) Any person applying for appointment of a public defender or private attorney or any other *due process* ~~court-related~~ services based on *indigent status* ~~indigence~~ shall pay a $40 application fee to the clerk of court *for each affidavit filed, regardless of the number of required due process services requested in a case* ~~and submit a completed affidavit containing the financial information required under paragraph (f)~~. *The clerk of court must assist a person who appears before the clerk and requests assistance in completing the affidavit containing financial information and the clerk must notify the court if a person is unable to complete the affidavit after the clerk has provided assistance. The duty of the clerk in determining indigence shall be limited to receiving the affidavit of indigence executed by the individual seeking the determination and comparing the information provided in the affidavit to the standard of indigence established by law. The determination of indigence shall be a ministerial act of the clerk and not a decision based on further investigation or the exercise of independent judgment by the clerk. The application fee shall be paid at the time the financial affidavit is filed or within 7 days thereafter. If, in a criminal proceeding, the application fee is not paid prior to the disposition of the case, the clerk shall advise the sentencing judge of this fact and the court shall:*

1. Assess the application fee as part of the sentence or as a condition of probation; or

2. Assess the application fee pursuant to s. 938.29.

(b) The applicant shall submit, except in the case of incapacity communicated through the public defender, a completed affidavit containing the following financial information:

1. Net income, consisting of total salary and wages, minus deductions required by law, including court-ordered support payments.

2. Other income, including, but not limited to, social security benefits, union funds, veterans' benefits, workers' compensation, other regular support from absent family members, public or private employee pensions, unemployment compensation, dividends, interest, rent, trusts, and gifts.

3. Assets, including, but not limited to, cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in a boat or a motor vehicle or in other tangible property.

(3) After reviewing the affidavit and questioning the applicant, the clerk shall make one of the following determinations:

(a) The applicant is indigent; or

(b) The applicant is not indigent.

(4)(a) An applicant, including an applicant who is a minor or an adult tax-dependent person, is indigent if:

1. The income of the person is equal to or below 200 percent of the then-current federal poverty guidelines prescribed for the size of the household of the applicant by the United States Department of Health and Human Services or if the person is receiving Temporary Assistance for Needy Families-Cash Assistance, poverty-related veterans' benefits, or Supplemental Security Income (SSI); or

2. The person is unable to pay for the services of an attorney without substantial hardship to his or her family.

(b) In determining whether an applicant is indigent, the clerk shall determine whether any of the following facts exist, and the existence of any such fact creates a presumption that the applicant is not indigent:

1. The person has been released on bail in the amount of $5,000 or more;

2. The person owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property; or

3. The person retained private counsel immediately before or after filing the affidavit asserting indigent status pursuant to subsection (2).

If the clerk finds discrepancies between the financial affidavit and the investigation of assets, the clerk shall submit the information to the court and the court shall determine whether the public defender or private attorney shall continue representation, or whether the authorization for any other due process services previously authorized shall be revoked. The person may be heard regarding the information discovered by the clerk. If the court, based on the information provided, determines that the person is not indigent, the court shall order the public defender or private attorney to discontinue representation and revoke the provision of any other authorized due process services. Notwithstanding any provision of law, court rule, or administrative order to the contrary, the clerk of the court shall assign the first $40 of any fees or costs paid by an indigent person as payment of the application fee. A person found to be indigent shall not be refused counsel or other required due process services for failure to pay the fee.

~~(b) The person shall pay the application fee at the time the financial affidavit is filed or within 7 days thereafter. If not paid within 7 days, the applicant shall be enrolled by the clerk in a payment program to recover unpaid fees, in full, with periodic payment amounts corresponding to the applicant's ability to pay.~~

~~(c) A defendant found to be indigent may not be refused counsel or any other court-related services based on indigence for failure to pay the application fee. The defendant shall pay a separate application fee for each affidavit filed.~~

~~(d) If the court finds that the accused person applying for representation appears to be indigent based upon the financial affidavit required under paragraph (f), the court shall appoint the public defender or a private attorney to provide representation. If the application fee is not paid prior to the disposition of the case, the clerk shall advise the sentencing judge of this fact and the court shall:~~

~~1. Assess the application fee as part of the sentence or as a condition of probation; or~~

~~2. Assess the application fee pursuant to s. 938.29.~~

~~If the clerk finds discrepancies between the financial affidavit and his or her investigation of assets, the clerk shall submit the information to the court and the court shall determine whether the public defender or private attorney shall continue representation defendant may be heard regarding the information discovered by the clerk. If the court, based on the information provided, determines that the defendant is not indigent, the court shall order the public defender or private attorney to discontinue representation. Notwithstanding any provision of law or local order to the contrary, the clerk of the court shall assign the first $40 of any fees or costs paid by an indigent defendant as payment of the application fee. In no event should a person found to be indigent be refused counsel for failure to pay the fee.~~

(5)~~(e)~~ All application fees shall be transferred monthly by the clerk of the court to the Department of Revenue for deposit to the Indigent Criminal Defense Trust Fund~~,~~ administered by the Justice Administrative Commission, to be used to supplement the general revenue funds appropriated by the Legislature to the public defenders. The clerk of the court may retain 2 percent of application fees collected monthly for administrative costs prior to remitting the remainder to the Department of Revenue.

~~(f) The affidavit must contain the following financial information and calculations as to the applicant's income:~~

~~1. Net income.—Total salary and wages, minus deductions required by law, including court-ordered support payments.~~

~~2. Other income.—Including, but not limited to, social security benefits, union funds, veterans' benefits, workers' compensation, other regular support from absent family members, public or private employee pensions, unemployment compensation, dividends, interest, rent, trusts, and gifts.~~

~~3. Assets.—Including, but not limited to, cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in a boat or a motor vehicle or in other tangible property.~~

~~(g) The income of an applicant who is a minor or an adult tax-dependent person who is substantially supported by a parent or parents or by a guardian, or who continues to be claimed as a dependent for tax purposes, shall include the income of that dependent person's parent or parents or guardian, except a parent or guardian who has an adverse interest in the proceeding.~~

~~(h) In addition to the financial information, the affidavit must contain the following statement: "I, ... (name of applicant) ..., agree to report any change in my financial situation to the court."~~

~~(3)(a) After reviewing the affidavit and questioning the applicant, the clerk shall make one of the following determinations:~~

~~1. The applicant is indigent.~~

~~2. The applicant is not indigent.~~

~~(b) An applicant, including an applicant who is a minor or an adult tax-dependent person, is indigent if:~~

~~1. The income of the person is equal to or below 200 percent of the then-current federal poverty guidelines prescribed for the size of the household of the applicant by the United States Department of Health and Human Services or if the person is receiving Temporary Assistance for Needy Families-Cash Assistance, poverty-related veterans' benefits, or Supplemental Security Income (SSI); or~~

~~2. The person is unable to pay for the services of an attorney without substantial hardship to his or her family.~~

~~(c) In determining whether an applicant is indigent, the clerk shall determine whether any of the following facts exist, and the existence of any such fact creates a presumption that the applicant is not indigent:~~

~~1. The defendant has been released on bail in the amount of $5,000 or more.~~

~~2. The defendant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property.~~

~~3. The defendant retained private counsel immediately before or after filing the affidavit asserting indigence pursuant to subsection (2).~~

(6)~~(d)~~ A nonindigent parent or legal guardian of an applicant who is a minor or an adult tax-dependent person shall furnish the minor or adult tax-dependent person with the necessary legal services and costs incident to a delinquency proceeding or, upon transfer of such person for criminal prosecution as an adult pursuant to chapter 985, a criminal prosecution, in which the person has a right to legal counsel under the Constitution of the United States or the Constitution of the State of Florida. The failure of a parent or legal guardian to furnish legal services and costs under this section does not bar the appointment of legal counsel pursuant to s. 27.40 or s. 27.5303. When the public defender, a special assistant public defender appointed pursuant to s. 27.53(2), or a private attorney is appointed to represent a minor or an adult tax-dependent person in any proceeding in circuit court or in a criminal proceeding in any other court, the parents or the legal guardian shall be liable for payment of the fees, charges, and costs of the representation even if the person is a minor being tried as an adult. Liability for the fees, charges, and costs of the representation shall be imposed in the form of a lien against the property of the nonindigent parents or legal guardian of the minor or adult tax-dependent person. The lien shall be enforceable as provided in s. 27.561 or s. 938.29.

(7)~~(4)~~ If the trial court determines that any applicant*, through fraud or misrepresentation,* was ~~erroneously or~~ improperly determined to be indigent, the state attorney shall~~, in the name of the state,~~ proceed against the applicant for the reasonable value of the services rendered, including all fees, charges, and costs paid by the state in his or her behalf. *Twenty-five percent of any amount recovered by the state attorney shall be remitted to the Department of Revenue for deposit into the Grants and Donations Trust Fund within the Justice Administrative Commission for appropriation by the Legislature to the state attorney. Seventy-five percent of* any amount recovered shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

~~(5) An individual determined to be indigent and seeking to defer payment of fees, charges, or costs imposed by operation of law or order of the court under this section or any other provision of general law~~

~~imposing fees, charges, or costs, shall be enrolled by the clerk in a payment program to recover unpaid costs in full, with periodic payment amounts corresponding to the individual's ability to pay.~~

Section 10. Paragraph (d) of subsection (1) and subsection (3) of section 27.5303, Florida Statutes, as created by chapter 2003-402, Laws of Florida, are amended to read:

27.5303 Public defenders; conflict of interest.—

(1)

(d) In determining whether or not there is a conflict of interest, the public defender ~~and the court~~ shall apply the standards *contained in the Uniform Standards for Use in Conflict of Interest Cases found in appendix C to the Final Report of the Article V Indigent Services Advisory Board dated January 6, 2004* ~~adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board~~.

(3) Private court-appointed counsel shall be compensated as provided in s. 27.5304 ~~in accordance with compensation standards adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board~~.

Section 11. Subsections (1), (2), (4), (5), and (6) of section 27.5304, Florida Statutes, as created by chapter 2003-402, Laws of Florida, are amended to read:

27.5304 Private court-appointed counsel; compensation.—

(1) Private court-appointed counsel shall be compensated by the Justice Administrative Commission in *an amount* ~~accordance with standards adopted by the Legislature after receiving recommendations from the Article V Indigent Services Advisory Board. However, compensation shall~~ not *to* exceed the ~~maximum~~ fee limits established *in* ~~by~~ this section. The attorney also shall be reimbursed for reasonable and necessary expenses in accordance with s. 29.007. If the attorney is representing a defendant charged with more than one offense in the same case, the attorney shall be compensated at the rate provided for the most serious offense for which he or she represented the defendant. This section does not allow stacking of the fee limits established by this section.

(2) Prior to filing a motion for an order approving payment of attorney's fees, costs, or related expenses, the private court-appointed counsel shall deliver a copy of the intended billing, together with supporting affidavits and all other necessary documentation, to the Justice Administrative Commission. The Justice Administrative Commission shall review the billings, affidavit, and documentation for completeness and compliance with contractual and statutory requirements. If the Justice Administrative Commission objects to any portion of the proposed billing, the objection and reasons therefor shall be communicated to the private court-appointed counsel. The private court-appointed counsel may thereafter file his or her motion for order approving payment of attorney's fees, costs, or related expenses together with supporting affidavits and all other necessary documentation. The motion must specify whether the Justice Administrative Commission objects to any portion of the billing or the sufficiency of documentation and, if so, the reasons therefor. A copy of the motion and attachments shall be served on the Justice Administrative Commission. The Justice Administrative Commission shall have standing to appear before the court to contest any motion for order approving payment of attorney's fees, costs, or related expenses. The Justice Administrative Commission may contract with other public or private entities or individuals to appear before the court for the purpose of contesting any motion for order approving payment of attorney's fees, costs, or related expenses. The fact that the Justice Administrative Commission has not objected to any portion of the billing or to the sufficiency of the documentation is not binding on the court. The court retains primary authority and responsibility for determining the reasonableness of all billings for *attorney's* fees, costs, and related expenses, subject to statutory limitations. *Before final disposition of a case, a private court-appointed counsel may file a motion for fees, costs, and related expenses for services completed up to the date of the motion in any case or matter in which legal services have been provided by the attorney for more than 1 year. The amount approved by the court may not exceed 80 percent of the fees earned, or costs and related expenses incurred, to date, or an amount proportionate to the maximum fees permitted under this section based on legal services provided to date, whichever is less. The court may grant the motion if counsel shows that failure to grant the motion would work a particular hardship upon counsel.*

(4) By January 1 *of each year*, ~~2004,~~ the Article V Indigent Services Advisory Board shall recommend to the Legislature any adjustments to *the* ~~existing~~ compensation *provisions of this section* ~~schedules for criminal proceedings and any proposed compensation standards for private attorneys providing representation in civil proceedings in which private court-appointed counsel is required~~.

(5)*(a)* If counsel is entitled to receive compensation for representation pursuant to court appointment in a termination of parental rights proceeding under *chapter 39* ~~s. 39.0134~~, such compensation shall not exceed $1,000 at the trial level and $2,500 at the appellate level.

(b) Counsel entitled to receive compensation for representation pursuant to court appointment in a proceeding under chapter 384 or chapter 392 shall receive reasonable compensation as fixed by the court making the appointment.

(6) A private attorney appointed in lieu of the public defender to represent an indigent defendant may not reassign or subcontract the case to another attorney or allow another attorney to appear at a critical stage of a case who *is* ~~does~~ not *on the registry developed pursuant to s. 27.40* ~~meet standards adopted by the Legislature after any recommendations from the Article V Indigent Services Advisory Board~~.

Section 12. Subsection (2) of section 27.54, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended, and subsection (4) is added to said section, to read:

27.54 Limitation on payment of expenditures for public defender's office other than by the state.—

(2) A county or municipality may ~~not~~ contract with, or appropriate or contribute funds to, the operation of the offices of the various public defenders *as provided in this subsection* ~~for the purpose of defending indigents charged with violations of special laws, unless expressly authorized, or with violations of ordinances of the county or municipality, unless ancillary to a state prosecution~~. *A public defender defending violations of special laws or county or municipal ordinances punishable by incarceration and not ancillary to a state charge shall contract with counties and municipalities to recover the full cost of services rendered on an hourly basis or reimburse the state for the full cost of assigning one or more full-time equivalent attorney positions to work on behalf of the county or municipality. Notwithstanding any other provision of law, in the case of a county with a population of less than 75,000, the public defender shall contract for full reimbursement, or for reimbursement as the parties otherwise agree.*

(a) A contract for reimbursement on an hourly basis shall require a county or municipality to reimburse the public defender for services rendered at a rate of $50 per hour. If an hourly rate is specified in the General Appropriations Act, that rate shall control.

(b) A contract for assigning one or more full-time equivalent attorney positions to perform work on behalf of the county or municipality shall assign one or more full-time equivalent positions based on estimates by the public defender of the number of hours required to handle the projected workload. The full cost of each full-time equivalent attorney position on an annual basis shall be $50, or the amount specified in the General Appropriations Act, multiplied by the legislative budget request standard for available work hours for one full-time equivalent attorney position, or, in the absence of that standard, 1,854 hours. The contract may provide for funding full-time equivalent positions in one-quarter increments.

(c) Any payments received pursuant to this subsection shall be deposited into the Grants and Donations Trust Fund within the Justice Administrative Commission for appropriation by the Legislature.

(4) Unless expressly authorized by law or in the General Appropriations Act, public defenders are prohibited from spending state-appropriated funds on county funding obligations under s. 14, Art. V of the State Constitution beginning January 1, 2005. This includes expenditures on communications services and facilities as defined in s. 29.008. This does not prohibit a public defender from spending funds for these purposes in exceptional circumstances when necessary to maintain operational continuity in the form of a short-term advance pending reimbursement from the county. If a public defender provides short-term advance funding for a county responsibility as authorized by this subsection, the public defender shall request full reimbursement from the board of

county commissioners prior to making the expenditure or at the next meeting of the board of county commissioners after the expenditure is made. The total of all short-term advances authorized by this subsection shall not exceed 2 percent of the public defender's approved operating budget in any given year. No short-term advances authorized by this subsection shall be permitted until all reimbursements arising from advance funding in the prior state fiscal year have been received by the public defender. All reimbursement payments received by the public defender shall be deposited into the General Revenue Fund. Notwithstanding the provisions of this subsection, the public defender may expend funds for the purchase of computer systems, including associated hardware and software, and for personnel related to this function.

Section 13. Section 27.562, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

27.562 Disposition of funds.—*The first $40 of all funds collected pursuant to s. 938.29 shall be deposited into the Indigent Criminal Defense Trust Fund pursuant to s. 27.525. The remaining funds collected pursuant to s. 938.29 shall be distributed as follows:*

(1) Twenty-five percent shall be remitted to the Department of Revenue for deposit into the Justice Administrative Commission's Indigent Criminal Defense Trust Fund.

(2) Seventy-five percent shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

The Justice Administrative Commission shall account for funds deposited into the Indigent Criminal Defense Trust Fund by circuit. Appropriations from the fund shall be proportional to each circuit's collections. ~~All funds collected pursuant to s. 938.29, except the application fee imposed under s. 27.52, shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.~~ All judgments entered pursuant to this part shall be in the name of the state.

Section 14. Paragraph (c) of subsection (1) of section 28.101, Florida Statutes, is amended to read:

28.101 Petitions and records of dissolution of marriage; additional charges.—

(1) When a party petitions for a dissolution of marriage, in addition to the filing charges in s. 28.241, the clerk shall collect and receive:

(c) A charge of *$55* ~~$18~~. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the Department of Revenue for deposit in the Domestic Violence Trust Fund. Such funds which are generated shall be directed to the Department of Children and Family Services for the specific purpose of funding domestic violence centers.

Section 15. *Effective June 1, 2004, an additional service charge of $4 per page shall be paid to the clerk of the circuit court for each instrument listed in section 28.222, Florida Statutes, except for a judgment received from the court or a notice of lis pendens, recorded in the official records. The funds collected shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund for appropriation by law for the purpose of addressing cash-flow problems that may arise in clerk of the court offices during July and August of 2004, and shall be distributed pursuant to the provisions of section 28.36, Florida Statutes. This section expires July 1, 2004.*

Section 16. The introductory paragraph and subsections (12) and (26) of section 28.24, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court may charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to *the state attorney, public defender, and guardian ad litem, and to the authorized staff acting on behalf of each,* ~~any justice or judge, to any court staff acting on behalf of any justice or judge, and to any state attorney or public defender~~ access to and *a copy* ~~copies~~ of any public *record, if the requesting party is entitled by law to view the exempt or confidential record* ~~records, notwithstanding the exempt or confidential nature of such public records~~, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. *The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.*

Charges

(12) For recording, indexing, and filing any instrument not more than 14 inches by 8½ inches, including required notice to property appraiser where applicable:

(a) First page or fraction thereof 5.00

(b) Each additional page or fraction thereof 4.00

(c) For indexing instruments recorded in the official records which contain more than four names, per additional name 1.00

(d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records:

1. First page 1.00

2. Each additional page 0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public records system of the office. In a county where the duty of maintaining official records exists in an office other than the office of the clerk of the circuit court, the clerk of the circuit court is entitled to 25 percent of the moneys deposited into the trust fund for equipment, maintenance of equipment, training, and technical assistance in modernizing the system for storing records in the office of the clerk of the circuit court. The fund may not be used for the payment of travel expenses, membership dues, bank charges, staff-recruitment costs, salaries or benefits of employees, construction costs, general operating expenses, or other costs not directly related to obtaining and maintaining equipment for public records systems or for the purchase of furniture or office supplies and equipment not related to the storage of records. On or before December 1, 1995, and on or before December 1 of each year immediately preceding each year during which the trust fund is scheduled for legislative review under s. 19(f)(2), Art. III of the State Constitution, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the trust fund since the last report was filed; each obligation payable from the trust fund on that date; and the percentage of funds expended for each of the following: equipment, maintenance of equipment, personnel training, and technical assistance. The report must indicate the nature of the system each clerk uses to store, maintain, and retrieve public records and the degree to which the system has been upgraded since the creation of the trust fund.

(e) An additional service charge of $4 per page shall be paid to the clerk of the circuit court for each instrument listed in s. 28.222, except judgments received from the courts and notices of lis pendens, recorded in the official records. From the additional $4 service charge collected:

1. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in ss. 29.008(1)(f)2. and 29.008(1)(h), 10 cents shall be distributed to the Florida Association of Court Clerks and Comptroller, Inc., for the cost of development, implementation, operation, and maintenance of the clerks' Comprehensive Case Information System; $1.90 shall be retained by the clerk to be deposited in the Public Records Modernization Trust Fund and used exclusively for funding court-related technology needs of the clerk as defined in ss. 29.008(1)(f)2. and 29.008(1)(h); and $2 shall be distributed to the board of county commissioners to be used exclusively to fund court-related technology, and court technology needs as defined in ss. 29.008(1)(f)2. and 29.008(1)(h) for the state trial courts, state attorney and public defender in that county. If the counties maintain legal responsibility for the costs of the court-related technology needs as defined in ss. 29.008(1)(f)2. and 29.008(1)(h), notwithstanding any other provision of law, the county is not required to provide additional funding beyond that provided herein for the court-related technology needs of the clerk as defined in ss. 29.008(1)(f)2. and 29.008(1)(h). All court records and official records are the property of the State of Florida, including any records

generated as part of the Comprehensive Case Information System funded pursuant to this paragraph and the clerk of court is designated as the custodian of such records. The clerk of court or any entity acting on behalf of the clerk of court, including an association, shall not charge a fee to any agency as defined in s. 119.011, the Legislature, or the State Court System for copies of records generated by the Comprehensive Case Information System or held by the clerk of court or any entity acting on behalf of the clerk of court, including an association.

2. If the state becomes legally responsible for the costs of court-related technology needs as defined in ss. 29.008(1)(f)2. and 29.008(1)(h), whether by operation of general law or by court order, $4 shall be remitted to the Department of Revenue for deposit into the General Revenue Fund.

(26)*(a)* For receiving and disbursing all restitution payments, per payment.....3.00

(b) For receiving and disbursing all partial payments, other than restitution payments, for which an administrative processing service charge is not imposed pursuant to s. 28.246, per month 5.00

(c) For setting up a payment plan, a one-time administrative processing charge in lieu of a per month charge under paragraph (b).....25.00

Section 17. Subsection (3) of section 28.2401, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

28.2401 Service charges in probate matters.—

(3) An additional service charge of *$4* ~~$2.50~~ on petitions seeking summary administration, formal administration, ancillary administration, guardianship, curatorship, and conservatorship shall be paid to the clerk. The clerk shall transfer *$3.50* ~~the $2.50~~ to the Department of Revenue for deposit into the Court Education Trust Fund *and shall transfer 50 cents to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund clerk education*. No additional fees, charges, or costs shall be added to the service charges imposed under this section, except as authorized by general law.

Section 18. Section 28.2402, Florida Statutes, as created by chapter 2003-402, Laws of Florida, is amended to read:

28.2402 *Cost recovery; use of the circuit court for ordinance or special law violations* ~~Additional costs for performance of clerk court-related functions.—~~

(1)(a) In lieu of payment of a filing fee under s. 28.241, a filing fee of $10 ~~The sum of $200~~ shall be *paid by* ~~assessed to~~ a county or municipality when filing a county or municipal ~~code or~~ ordinance violation *or violation of a special law* in *circuit* court. *This* ~~The $200~~ fee shall be paid to the clerk of the ~~circuit and county~~ court for performing court-related functions.

(b) No other filing fee may be assessed for filing the violation in circuit court. If a person contests the violation in court, the court shall assess $40 in costs against the nonprevailing party. The county or municipality shall be considered the prevailing party when there is a finding of violation to any count or lesser included offense of the charge. Costs recovered pursuant to this paragraph shall be deposited into the clerk's fine and forfeiture fund established pursuant to s. 142.01.

(2) To offset costs incurred by the clerks of the court in performing court-related functions associated with the processing of violations of special laws and municipal ordinances, 10 percent of the total amount of fines paid to each municipality for special law or ordinance violations filed in circuit court shall be retained by the clerk of the court for deposit into the clerk's fine and forfeiture fund established pursuant to s. 142.01, except for fines a portion of which the clerk of the court retains pursuant to any other provision of state law.

Section 19. Subsections (1) and (2) of section 28.241, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended, and subsections (5) and (6) are added to said section, to read:

28.241 Filing fees for trial and appellate proceedings.—

(1)(a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to $250 in all cases in which there are not more than five defendants and an additional filing fee of up to $2 for each defendant in excess of five. Of the first *$55* ~~$57.50~~ in filing fees, $50 must be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund,~~;~~ *and* $5 must be remitted to the *Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund the contract with the Florida Clerks* ~~Clerk~~ of Court *Operations Corporation created in s. 28.35* ~~Operations Conference; and $2.50 shall be paid to the clerk for each civil action brought in circuit or county court, to be remitted by the clerk to the Department of Revenue for deposit into the Court Education Trust Fund~~. One-third of any filing fees collected by the clerk of the circuit court in excess of *$55* ~~$57.50~~ shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. *An additional filing fee of $4 shall be paid to the clerk. The clerk shall remit $3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall remit 50 cents to the Department of Revenue for deposit into the Department of Financial Services Administrative Trust Fund to fund clerk education.* An additional filing fee of up to $15 shall be paid by the party seeking each severance that is granted. The clerk may impose an additional filing fee of up to $75 for all proceedings of garnishment, attachment, replevin, and distress. Postal charges incurred by the clerk of the circuit court in making service by certified or registered mail on defendants or other parties shall be paid by the party at whose instance service is made. No additional fees, charges, or costs shall be added to the filing fees imposed under this section, except as authorized *herein or* by general law.

(b) A party reopening any civil action, suit, or proceeding in the circuit court shall pay to the clerk of court a filing fee set by the clerk in an amount not to exceed $50. For purposes of this section, a case is reopened when a case previously reported as disposed of is resubmitted to a court and includes petitions for modification of a final judgment of dissolution. *A party is exempt from paying the fee for any of the following:*

1. A writ of garnishment;

2. A writ of replevin;

3. A distress writ;

4. A writ of attachment;

5. A motion for rehearing filed within 10 days;

6. A motion for attorney's fees filed within 30 days after entry of a judgment or final order;

7. A motion for dismissal filed after a mediation agreement has been filed;

8. A disposition of personal property without administration;

9. Any probate case prior to the discharge of a personal representative;

10. Any guardianship pleading prior to discharge;

11. Any mental health pleading;

12. Motions to withdraw by attorneys;

13. Motions exclusively for the enforcement of child support orders;

14. A petition for credit of child support;

15. Stipulations;

16. Responsive pleadings; or

17. Cases in which there is no initial filing fee.

(2) Upon the institution of any appellate proceeding from any *lower* ~~inferior~~ court to the circuit court of any such county*, including appeals filed by a county or municipality as provided in s. 34.041(5),* or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the party or parties instituting such appellate proceedings a *filing fee not to exceed* ~~service charge of up to~~ $250 for filing a notice

of appeal from *the county court to the circuit* ~~an inferior~~ court *and, in addition to the filing fee required under s. 25.241 or s. 35.22, $50* ~~or~~ for filing a notice of appeal *from the circuit court to the district court of appeal or to the Supreme Court* ~~to a higher court~~. *If the party is determined to be indigent, the clerk shall defer payment of the fee. The clerk shall remit the first $50 to the Department of Revenue for deposit into the General Revenue Fund. One-third of the fee collected by the clerk in excess of $50 also shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund.*

(5) Filing fees for the institution or reopening of any civil action, suit, or proceeding in county court shall be charged and collected as provided in s. 34.041.

(6) From each attorney appearing pro hac vice, the clerk of the circuit court shall collect a fee of $100 for deposit into the General Revenue Fund.

Section 20. Section 28.245, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

28.245 Transmittal of funds to Department of Revenue; uniform remittance form required.—Notwithstanding any other provision of law, all moneys collected by the clerks of the court for subsequent distribution *to any state entity* must be transmitted electronically to the Department of Revenue for appropriate distribution. A uniform remittance form provided by the Department of Revenue detailing the specific amounts due each fund must accompany such submittal. *All moneys collected by the clerks of court for remittance to any entity must be distributed pursuant to the law in effect at the time of collection.*

Section 21. Section 28.246, Florida Statutes, as created by chapter 2003-402, Laws of Florida, is amended to read:

28.246 Payment of court-related fees, charges, and costs; partial payments; distribution of funds.—

(1) Beginning July 1, 2003, the clerk of the circuit court shall report the following information to the Legislature and the Clerk of Court Operations Conference on a form developed by the Department of Financial Services:

(a) The total amount of mandatory fees, services charges, and costs; the total amount actually assessed; the total amount discharged*,* ~~or~~ waived*, or otherwise not assessed*; and the total amount collected.

(b) The ~~maximum~~ amount of discretionary fees, service charges, and costs ~~authorized; the total amount actually~~ assessed; the total amount discharged ~~or waived~~; and the total amount collected.

(c) The total amount of mandatory fines and other monetary penalties; the total amount assessed; the total amount discharged*,* ~~or~~ waived*, or otherwise not assessed*; and the total amount collected.

(d) The ~~maximum~~ amount of discretionary fines and other monetary penalties~~; the total amount~~ assessed; the ~~total~~ amount discharged ~~or waived~~; and the total amount collected.

If provided to the clerk of court by the judge, the clerk, in reporting the amount assessed, shall separately identify the amount assessed pursuant to s. 938.30 as community service; assessed by reducing the amount to a judgment or lien; satisfied by time served; or other. The form developed by the Chief Financial Officer shall include separate entries for recording these amounts. The clerk shall submit the report on a quarterly basis 30 days after the end of the quarter for the period from July 1, 2003, through June 30, 2004, and on an annual basis thereafter, 60 days after the end of the county fiscal year.

(2) The clerk of the circuit court shall establish and maintain a system of accounts receivable for court-related fees, charges, and costs.

(3) Court costs, fines, and other dispositional assessments shall be enforced by *order of* the courts, collected by the clerks of the circuit and county courts, and disbursed in accordance with authorizations and procedures as established by general law. ~~Each clerk of the circuit court shall enter into a payment plan with defendants determined to be indigent and demonstrating an inability to pay court-related fees, charges, and costs in full.~~

(4) The clerk of the circuit court shall accept partial payments for ~~unpaid~~ court-related fees, *service* charges, ~~and~~ costs*, and fines* in accordance with the terms of an established payment plan. *An individual seeking to defer payment of fees, service charges, costs, or fines imposed by operation of law or order of the court under any provision of general law, and determined by the court to be unable to make payment in full, shall be enrolled by the clerk in a payment program, with periodic payment amounts corresponding to the individual's ability to pay.*

(5) When receiving partial payment of fees, service charges, court costs, and fines, clerks shall distribute funds according to the following order of priority:

(a) That portion of fees, services charges, court costs, and fines ~~payable to the clerk for the operations of the clerk and~~ to be remitted to the state for deposit into the General Revenue Fund.

(b) That portion of fees, services charges, court costs, and fines which are required to be retained by the clerk of the court or deposited into the Clerks of the Court Trust Fund.

(c)~~(b)~~ That portion of fees, service charges, court costs, and fines payable to state trust funds, allocated on a pro rata basis among the various authorized funds if the total collection amount is insufficient to fully fund all such funds as provided by law.

(d)~~(c)~~ That portion of fees, service charges, court costs, and fines payable to counties, municipalities, or other local entities, allocated on a pro rata basis among the various authorized recipients if the total collection amount is insufficient to fully fund all such recipients as provided by law.

To offset processing costs, clerks may *impose either a per-month service charge pursuant to s. 28.24(26)(b) or a one-time administrative processing service charge at the inception of the payment plan pursuant to s. 28.24(26)(c)* ~~retain up to 1 percent of all collections of fees, service charges, court costs, and fines payable to other entities, except where otherwise provided in general law~~.

(6) A clerk of court may pursue the collection of any fees, *service charges,* fines, court costs, *and liens for the payment of attorney's fees and costs pursuant to s. 938.29* ~~or other costs imposed by the court~~ which remain unpaid for 90 days or more, or refer *the account* ~~such collection~~ to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the clerk of the court must *have attempted to collect the unpaid amount through a collection court, collections docket, or other collections process, if any, established by the court, find* ~~determine~~ this *to be* ~~is~~ cost-effective and follow *any* applicable procurement practices. *The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the clerk may be added to the balance owed in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection.*

Section 22. Section 28.345, Florida Statutes, as created by chapter 2003-402, Laws of Florida, is amended to read:

28.345 Exemption from *court-related* fees and charges.—Notwithstanding any other provision of this chapter or law to the contrary, *judges,* state attorneys*, guardians ad litem,* and public defenders*, acting in their official capacity, and state agencies,* are exempt from all *court-related* fees and charges assessed by the clerks of the circuit courts.

Section 23. Section 28.35, Florida Statutes, as created by chapter 2003-402, Laws of Florida, is amended to read:

28.35 *Florida Clerks* ~~Clerk~~ of Court Operations *Corporation* ~~Conference~~.—

(1)*(a) The Florida Clerks of Court Operations Corporation is hereby created as a public corporation organized to perform the functions specified in this section. All clerks of the circuit court shall be members of the corporation and hold their position and authority in an ex officio capacity. The functions assigned to the corporation shall be performed by an executive council pursuant to the plan of operation approved by the members.*

(b) The executive council shall be composed of ~~The Clerk of Court Operations conference is created and shall be composed of:~~

~~(a)~~ eight clerks *of the court* elected by the clerks of the courts for a term of 2 years, with two clerks from counties *with a population* of fewer than 100,000 ~~residents~~, two clerks from counties *with a population* of at least 100,000 ~~residents~~ but fewer than 500,000 ~~residents~~, two clerks from counties *with a population* of at least 500,000 ~~residents~~ but fewer than 1 million ~~residents~~, and two clerks from counties *with a population* of more than 1 million ~~residents~~.

(c) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The corporation is not subject to the procurement provisions of chapter 287 and policies and decisions of the corporation relating to incurring debt, levying assessments, and the sale, issuance, continuation, terms, and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120.

(d) The functions assigned to the corporation under this section and ss. 28.36 and 28.37 are considered to be for a valid public purpose. ~~(b) The Chief Justice of the Supreme Court or his or her designee~~.

(2) The duties of the *corporation* ~~conference~~ shall include *the following*:

(a) Adopting a plan of operation.

(b) Conducting the election of directors as required in paragraph (1)(a).

(c)~~(a)~~ ~~Periodically~~ Recommending to the Legislature changes in the various court-related fines, fees, service charges, and *court costs* ~~cost schedules~~ established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

(d)~~(b)~~ *Pursuant to contract with the Chief Financial Officer,* establishing a process for the review and *certification* ~~approval~~ of *proposed* court-related ~~proposed~~ budgets submitted by clerks of the court *for completeness and compliance with this section and ss. 28.36 and 28.37. This process shall be designed and be of sufficient detail to permit independent verification and validation of the budget certification. The contract shall specify the process to be used in determining compliance by the corporation with this section and ss. 28.36 and 28.37* ~~pursuant to s. 28.36~~.

~~(c) Certifying to the Legislature, the Governor, the Chief Financial Officer, and the Department of Revenue which clerks of court will have court-related revenues insufficient to fund the anticipated court-related functions of their offices and the actions taken to resolve any deficits pursuant to s. 28.36.~~

(e)~~(d)~~ Developing and *certifying* ~~approving~~ a *uniform* system of performance *measures* ~~accountability measurements~~ and *applicable* performance standards for *the functions specified in paragraph (4)(a) and* ~~each~~ clerk *performance in meeting the performance standards* ~~of the court~~. These measures *and standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for* ~~must assess the~~ fiscal management, *operational efficiency* ~~efficient operations~~, and effective collection of fines, fees, service charges, and *court* costs ~~using data reported in s. 28.246 as well as other data~~. *When the corporation finds a clerk has not met the performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court.*

(f) Reviewing and certifying proposed budgets submitted by clerks of the court utilizing the process approved by the Chief Financial Officer pursuant to paragraph (d) for the purpose of making the certification in subsection (3)(a). As part of this process, the corporation shall:

1. Calculate the maximum authorized annual budget pursuant to the requirements of s. 28.36.

2. Identify those proposed budgets exceeding the maximum annual budget pursuant to s. 28.36(5) for the standard list of court-related functions.

3. Identify those proposed budgets containing funding for items not included on the standard list of court-related functions developed pursuant to paragraph (3)(a).

4. Identify those clerks projected to have court-related revenues insufficient to fund their anticipated court-related expenditures.

(g) Developing and conducting clerk education programs.

(3)(a) The Clerk of Court Operations Corporation shall certify to the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Department of Revenue by October 15 of each year, the amount of the proposed budget certified for each clerk; the revenue projection supporting each clerk's budget; each clerk eligible to retain some or all of the state's share of fines, fees, service charges, and costs; the amount to be paid to each clerk from the Clerks of the Court Trust Fund within the Department of Revenue; the performance measures and standards approved by the conference for each clerk; and the performance of each clerk in meeting the performance standards.

(b) Prior to December 1 of each year, the Chief Financial Officer shall review the certifications made by the corporation for the purpose of determining compliance with the approved process and report its findings to the President of the Senate, the Speaker of the House of Representatives and to the Department of Revenue. To determine compliance with this process, the Chief Financial Officer may examine the budgets submitted to the corporation by the clerks.

(4)(a) The list of court-related functions clerks may fund from filing fees, service charges, court costs, and fines shall be limited to those functions expressly authorized by law or court rule. Those functions must include the following: case maintenance; records management; court preparation and attendance; processing the assignment, reopening, and reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; processing of bond forfeiture payments; payment of jurors and witnesses; data collection and reporting; processing of jurors; determinations of indigent status; and reasonable administrative support costs to enable the clerk of the court to carry out these court-related functions.

(b) The list of functions clerks may not fund from filing fees, service charges, court costs, and fines shall include:

1. Those functions not specified within paragraph (a).

2. Functions assigned by administrative orders which are not required for the clerk to perform the functions in paragraph (a).

3. Enhanced levels of service which are not required for the clerk to perform the functions in paragraph (a).

4. Functions identified as local requirements in law or local optional programs.

(c)~~(e)~~ Publishing a *uniform* schedule of *actual* ~~maximum fines,~~ fees, service charges, and costs ~~that may be~~ charged by a clerk of the court for court-related functions pursuant to general law ~~that reflects any adjustments based on changes in the Consumer Price Index. Effective July 1, 2004, the schedule shall reflect the maximum fines, fees, service charges, and costs established by general law. The schedule may be adjusted on or after October 1, 2005, and no more frequently than annually thereafter, by the average percentage change in the Consumer Price Index issued by the United States Department of Labor since the last adjustment by the conference. Any adjustment to the schedule authorized in this paragraph must be affirmatively approved by a majority of the clerks of the circuit courts before such adjustments may take effect~~.

(5)~~(3)~~ The *corporation* ~~Clerk of Court Operations conference~~ shall *be funded pursuant to contract with the Chief Financial Officer. Funds shall be provided to the Chief Financial Officer for this purpose as appropriated by general law* ~~maintain a public depository to receive funds for its operations. The Clerk of Court Operations Conference shall receive a portion of the fees collected by the clerk for filing a civil action in circuit court as specified in s. 28.241~~. These funds shall be available to the *corporation* ~~conference~~ for the performance of the duties and responsibilities as set forth in this section. The *corporation* ~~conference~~ may hire staff and pay ~~for~~ other expenses from *these funds* ~~this fund only~~ as necessary to perform the official duties and responsibilities of the *corporation* ~~conference~~ as described in this section.

(6)(a)~~(4)~~ The *corporation* ~~Clerk of Court Operations conference~~ shall submit an annual audited financial statement to the Auditor General in a form and manner prescribed by the Auditor General. The Auditor

General shall conduct an annual audit of the operations of the *corporation* ~~conference~~, including the use of funds and compliance with the provisions of this section and ss. 28.36 and 28.37.

(b) Certified public accountants conducting audits of counties pursuant to s. 218.39 shall report, as part of the audit, whether or not the clerks of the courts have complied with the budgets certified by the Florida Clerk of Courts Operations Corporation pursuant to the budget review process pursuant to contract with the Chief Financial Officer and with the performance standards developed and certified pursuant to this section. The Auditor General shall develop a compliance supplement for the audit of compliance with the budgets and applicable performance standards certified by the corporation.

Section 24. Section 28.36, Florida Statutes, as created by chapter 2003-402, Laws of Florida, is amended to read:

28.36 Budget ~~review and approval~~ procedure.—There is *hereby* established a budget procedure for the court-related functions of the clerks of the court.

(1) Only those functions on the standard list developed pursuant to s. 28.35(4)(a) may be funded from fees, service charges, court costs, and fines retained by the clerks of the court. No clerk may use fees, service charges, court costs, and fines in excess of the maximum budget amounts as established in subsection (5).

(2)~~(1)~~ For the period July 1, 2004, through September 30, 2004, and for each county fiscal year ending September 30 thereafter, each clerk of the court shall prepare a budget relating solely to the performance of the *standard list of* court-related functions *pursuant to s. 28.35(4)(a).*

(3)~~(2)~~ Each proposed budget shall *further* conform to the following requirements:

(a) ~~On May 1, 2004, for the fiscal period of July 1, 2004, through September 30, 2004, and~~ On or before August 1 for each fiscal year thereafter, the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Clerk of Court Operations *Corporation* ~~Conference~~ in the manner and form prescribed by the conference. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the *standard list of* court-related functions of the clerk's office *developed pursuant to s. 28.35(4)(a)* for the county fiscal year beginning the following October 1.

(b) The proposed budget must be balanced, such that the total of the estimated revenues available must equal or exceed the total of the anticipated expenditures. These revenues include the following: cash balances brought forward from the prior fiscal period; *revenue projected to be received from fees, service charges, court costs, and fines for court-related functions during the fiscal period covered by the budget; and* supplemental revenue that may be requested pursuant to subsection *(4)*~~(3); and the contingency reserve authorized in paragraph (c)~~. The anticipated expenditures must be itemized as required by the *corporation, pursuant to contract with the Chief Financial Officer* ~~Clerk of Court Operations conference~~.

(c) The proposed budget may include a contingency reserve not to exceed 10 percent of the total budget*, provided that, overall, the proposed budget does not exceed the limits prescribed in subsection (5).*

(4)~~(3)~~ If a clerk of the court estimates that available *funds plus projected* revenues *from fines, fees, service charges, and costs for court-related services* are insufficient to meet the anticipated expenditures for the *standard list of* court-related functions *in s. 28.35(4)(a)* performed by his or her office, the clerk must report the *revenue* ~~budget~~ deficit to the Clerk of Court Operations *Corporation* ~~conference~~ in the manner and form prescribed by the *corporation pursuant to contract with the Chief Financial Officer* ~~conference~~. The *corporation* ~~conference~~ shall *verify that the proposed budget is limited to the standard list of court-related functions in s. 28.35(4)(a)* ~~determine whether the clerk is meeting his or her performance standards for the current year relating to fiscal management, efficient operations, and the effective collection of fines, fees, service charges, and costs~~.

(a) If the *corporation verifies that the proposed budget is limited to the standard list of court-related functions in s. 28.35(4)(a)* ~~conference determines that a clerk is meeting his or her performance standards for fiscal management, operational efficiency; efficient operations; and effective collection of fines, fees, service charges, and costs;~~ and a *revenue* deficit is projected, *a* ~~that~~ clerk *seeking to retain revenues pursuant to this subsection* shall increase all ~~fines,~~ fees, service charges, and *any other court-related clerk fees and charges* ~~costs~~ to the maximum amounts specified by law or the amount necessary to resolve the deficit, whichever is less. If, after increasing ~~such fines,~~ fees, service charges, and *any other court-related clerk fees and charges to the maximum amounts specified by law* ~~costs~~, a *revenue* ~~budget~~ deficit is still projected, the *corporation* ~~conference~~ shall*, pursuant to the terms of the contract with the Chief Financial Officer,* certify a *revenue* deficit and notify the Department of Revenue that *the* ~~that~~ clerk is authorized to retain revenues, in an amount necessary to fully fund the projected *revenue* deficit, which he or she would otherwise be required to remit to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund pursuant to s. 28.37. If a *revenue* ~~budget~~ deficit is projected *for that clerk* after retaining all of the *projected* collections from *the* court-related fines, fees, service charges, and costs, the *Department of Revenue* ~~conference~~ shall certify *the amount of* the *revenue* deficit amount to the *Executive Office of the Governor and request release authority for funds appropriated for this purpose from the Department of Revenue s Clerks of the Court Trust Fund. Notwithstanding provisions of s. 216.192 related to the release of funds, the Executive Office of the Governor may approve the release of funds appropriated to resolve projected revenue deficits in accordance with the notice, review, and objection procedures set forth in s. 216.177 and shall provide notice to the* Chief Financial Officer. ~~An amount equal to the deficit is hereby appropriated each year from~~ The Department *of Revenue is directed to request monthly distributions from the Chief Financial Officer in equal amounts to each clerk certified to have a revenue deficit, in accordance with the releases approved by the Governor* ~~of Revenue Clerks of the Court Trust Fund, without further legislative action, period after period, until altered or revoked by the Legislature. The Department of Revenue is directed to make a monthly distribution of equal amounts to each clerk certified to have a deficit until the Clerk of Court Operations Conference certifies a different amount to be distributed~~.

(b) *If the Department of Revenue finds the court-related budget proposed by a clerk includes functions not included in the standard list of court-related functions in s. 28.35(3)(a), the department shall notify the clerk of the amount of the proposed budget not eligible to be funded from fees, service charges, costs, and fines for court-related functions. The clerk shall then immediately discontinue the expenditures of funds for this purpose and reimburse the Clerks of the Court Trust Fund for any expenditures incurred to date for these functions* ~~The Clerk of Court Operations Conference shall notify the Governor, the President of the Senate, and the Speaker of the House of Representatives prior to taking actions specified in this subsection. The notification shall include a certification by the conference that all of the conditions in this subsection have been met~~.

~~(4) The Clerk of Court Operations Conference must approve the court-related budget for each clerk in the state, and shall certify to the Legislature by October 15 of each year, the proposed budget amount approved for each clerk's budget; the revenue projection supporting each clerk's budget; each clerk who must retain some or all of the state's share of fines, fees, service charges, and costs; the amount to be paid from the Department of Revenue Clerks of the Court Trust Fund to each clerk; and the performance measures and standards approved by the conference for each clerk.~~

(5)(a) For the county fiscal year October 1, 2004, through September 30, 2005, the maximum annual budget amount *for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a)* that may be *funded from fees, service charges, court costs, and fines retained by the clerks of the court shall* ~~authorized by the Clerk of Court Operations Conference for each clerk may~~ not exceed*:*

1. One hundred and three ~~103~~ percent of the clerk's *estimated* ~~actual~~ expenditures for the prior county fiscal year*; or*

2. One hundred and five percent of the clerk's estimated expenditures for the prior county fiscal year for those clerks in counties that for calendar years 1998-2002 experienced an average annual increase of at least 5 percent in both population and case filings for all case types as reported through the Summary Reporting System used by the state courts system ~~for court-related functions that are required by law effective July 1, 2004. The conference shall use the clerk's actual expenditures for the~~

~~prior county fiscal year for court-related functions as reported by the Chief Financial Officer based on the county financial reporting required under s. 218.32~~.

(b) For the county fiscal year 2005-2006, the maximum budget amount *for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a)* that may be *funded from fees, service charges, court costs, and fines retained by the clerks of the court* ~~authorized by the conference for each clerk budget~~ shall be the approved budget for county fiscal year 2004-2005 adjusted by the projected percentage change in revenue between the county fiscal years 2004-2005 and 2005-2006.

(c) For the county fiscal years 2006-2007 and thereafter, the maximum budget amount *for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a)* that may be *funded from fees, service charges, court costs, and fines retained by the clerks of the court* ~~authorized by the conference for each clerk~~ shall be established by first rebasing the prior fiscal year budget to reflect the actual percentage change in the prior fiscal year revenue and then adjusting the rebased prior fiscal year budget by the projected percentage change in revenue for the proposed budget year. The rebasing calculations and maximum annual budget calculations shall be as follows:

1. For county fiscal year 2006-2007, the approved budget for county fiscal year 2004-2005 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2005, and June 30, 2006. This result is the rebased budget for the county fiscal year 2005-2006. Then the rebased budget for the county fiscal year 2005-2006 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2005-2006 and 2006-2007. This result shall be the maximum annual budget amount *for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a)* that may be *funded from fees, service charges, court costs, and fines retained by the clerks of the court* ~~authorized by the conference~~ for each clerk for the county fiscal year 2006-2007.

2. For county fiscal year 2007-2008, the rebased budget for county fiscal year 2005-2006 shall be adjusted for the actual percentage change in revenue between the two 12-month periods ending June 30, 2006, and June 30, 2007. This result is the rebased budget for the county fiscal year 2006-2007. The rebased budget for county fiscal year 2006-2007 shall be adjusted by the projected percentage change in revenue between the county fiscal years 2006-2007 and 2007-2008. This result shall be the maximum annual budget amount *for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a)* that may be *funded from fees, service charges, court costs, and fines retained by the clerks of the court* ~~authorized by the conference for each clerk budget~~ for county fiscal year 2007-2008.

3. For county fiscal years 2008-2009 and thereafter, the maximum budget amount *for the standard list of court-related functions of the clerks of court in s. 28.35(4)(a)* that may be *funded from fees, service charges, court costs, and fines retained by the clerks of the court* ~~authorized by the conference for each clerk budget~~ shall be calculated as the rebased budget for the prior county fiscal year adjusted by the projected percentage change in revenues between the prior county fiscal year and the county fiscal year for which the maximum budget amount is being authorized. The rebased budget for the prior county fiscal year shall always be calculated by adjusting the rebased budget for the year preceding the prior county fiscal year by the actual percentage change in revenues between the 12-month period ending June 30 of the year preceding the prior county fiscal year and the 12-month period ending June 30 of the prior county fiscal year.

(6) The *corporation* ~~Clerk of Court Operations conference~~ may submit proposed legislation to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than November 1 in any year for approval of clerk budget request amounts exceeding the restrictions in this section for the following October 1. If proposed legislation is recommended, the *corporation* ~~conference~~ shall also submit supporting justification with sufficient detail to identify the specific proposed expenditures that would cause the limitations to be exceeded for each affected clerk and the estimated fiscal impact on state revenues.

Section 25. Subsection (2) of section 28.37, Florida Statutes, is amended, subsections (3) and (4) of said section are renumbered as subsections (4) and (5), respectively, and amended, and a new subsection (3) is added to said section, to read:

28.37 Fines, fees, service charges, and costs remitted to the state.—

(2) Beginning August 1, 2004, except as otherwise provided in ss. 28.241 and 34.041, one-third of all fines, fees, service charges, and costs collected by the clerks of the court during the prior month for the performance of court-related functions shall be remitted to the Department of Revenue for deposit in the Department of Revenue Clerks of the Court Trust Fund. These collections do not include funding received for the operation of the Title IV-D child support collections and disbursement program. The clerk of the court shall remit the revenues collected during the prior month due to the state on or before the *20th* ~~5th~~ day of each month. The Department of Revenue shall make a monthly transfer of the funds in the Department of Revenue Clerks of the Court Trust Fund that are not needed to resolve clerk of the court *revenue* ~~budget~~deficits, as specified in s. 28.36, to the General Revenue Fund.

(3) For the period of October 1, 2003, to June 30, 2004, those clerks operating as fee officers for court-related services shall determine the amount of fees collected and expenses generated for court-related services. Any excess fees generated during this period shall be remitted to the county on December 31, 2004. However, any billings for payment of due process services rendered before July 1, 2004, may be paid by the clerk from these funds. Due process services shall include, but not be limited to, court reporter services, court interpreter services, expert witness services, mental health evaluations, and court-appointed counsel services. In addition, any deficit experienced by the clerk for court-related services during the period from October 1, 2003, to June 30, 2004, shall be funded by the county.

(4)~~(3)~~ Beginning January 1, 2005, for the period July 1, 2004, through September 30, 2004, and each January 1 thereafter for the preceding county fiscal year of October 1 through September 30, the clerk of the court must remit to the Department of Revenue for deposit in the General Revenue Fund the cumulative excess of all *fees, service charges, court costs, and fines retained by the clerks of the court* ~~statutory fines, fees, service charges, and costs collected for the clerk's court-related functions~~ over the amount needed to meet the approved budget amounts established under s. 28.36.

(5)~~(4)~~ ~~The Department of Revenue shall adopt rules governing the remittance of the funds to be transferred to the General Revenue Fund under this section, the required forms and procedures, and penalties for failure to comply.~~ The Department *of Revenue* shall collect any funds that the *corporation* ~~Clerk of Court Operations conference~~ determines upon investigation were due on January 1 but not remitted to the department.

Section 26. Subsections (3) and (5) of section 29.005, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

29.005 State attorneys' offices and prosecution expenses.—For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the state attorneys' offices to be provided from state revenues appropriated by general law are as follows:

(3) Witnesses, including expert witnesses, summoned to appear for an investigation, preliminary hearing, or trial in a ~~criminal~~ case when the witnesses are summoned by a state attorney, and any other expert witnesses *required in a court hearing by law or whomever* the state attorney deems necessary for the performance of his or her duties.

(5) Reasonable transportation services in the performance of constitutional and statutory responsibilities. *Motor vehicles owned by the counties and provided exclusively to state attorneys as of July 1, 2003, and any additional vehicles owned by the counties and provided exclusively to state attorneys during fiscal year 2003-2004 shall be transferred by title to the state effective July 1, 2004.*

Section 27. Subsections (3) and (5) of section 29.006, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

29.006 Public defenders and indigent defense costs.—For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the public defenders' offices to be provided from state revenues appropriated by general law are as follows:

(3) Witnesses, including expert witnesses, summoned to appear for an investigation, preliminary hearing, or trial in a ~~criminal~~ case when the witnesses are summoned on behalf of an indigent defendant, and any other expert witnesses *required in a court hearing by law or whomever the public defender deems necessary for the performance of his or her duties* ~~approved by the court~~.

(5) Reasonable transportation services in the performance of constitutional and statutory responsibilities. *Motor vehicles owned by counties and provided exclusively to public defenders as of July 1, 2003, and any additional vehicles owned by the counties and provided exclusively to public defenders during fiscal year 2003-2004 shall be transferred by title to the state effective July 1, 2004.*

Section 28. Paragraphs (a), (b), (d), and (f) of subsection (1) and paragraph (a) of subsection (3) of section 29.008, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended, and subsection (4) is added to said section, to read:

29.008 County funding of court-related functions.—

(1) Counties are required by s. 14, Art. V of the State Constitution to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, *guardian ad litem offices,* and the offices of the clerks of the circuit and county courts performing court-related functions. For purposes of implementing these requirements, the term:

(a) "Facility" means reasonable and necessary buildings and *office* space *and appurtenant equipment and furnishings*, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing *legal materials for use by the general public and* personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. The office space provided by a county may not be less than the standards for space allotment adopted by the Department of Management Services. County funding must include physical modifications and improvements to all facilities as are required for compliance with the Americans with Disabilities Act. Upon mutual agreement of a county and the affected entity in this paragraph, the office space provided by the county may vary from the standards for space allotment adopted by the Department of Management Services. This section applies only to facilities that are leased, or on which construction commences, after June 30, 2003.

1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders.

2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communication services as defined in s. 29.008(1)(f).

(b)~~1.~~ "Construction or lease" includes, but is not limited to, all reasonable and necessary costs of the acquisition or lease of facilities~~, equipment, and furnishings~~ for all judicial officers, staff, jurors, volunteers of a tenant agency, and the public for the circuit and county courts, the public defenders' offices, state attorneys' offices, and for performing the court-related functions of the offices of the clerks of the circuit and county courts. This includes expenses related to financing such facilities and the existing and future cost and bonded indebtedness associated with placing the facilities in use.

~~2. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, jury facilities, and other public areas in courthouses.~~

~~3. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, for areas other than courtrooms, jury facilities, and other public areas in courthouses, shall be transferred to the state at no charge.~~

(d) "Utilities" means all electricity services for light, heat, *and* ~~or~~ power; natural or manufactured gas services for light, heat, *and* ~~or~~ power; water and wastewater services and systems, stormwater or runoff services and systems, sewer services and systems, all costs or fees associated with these services and systems, and any costs or fees associated with the mitigation of environmental impacts directly related to the facility.

(f) "Communications services" are defined as any reasonable and necessary transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by judges, clerks, public defenders, state attorneys, and all staff of the state courts system, state attorneys' offices, public defenders' offices, and clerks of the circuit and county courts performing court-related functions. Such system or services shall include, but not be limited to:

1. Telephone system infrastructure, including computer lines, telephone switching equipment, and maintenance*, and facsimile equipment, wireless communications, cellular telephones, pagers, and video teleconferencing equipment and line charges*. Each county shall continue to provide access to a local carrier for local and long distance service and shall pay *toll charges* for ~~the~~ local *and long distance* service. ~~Telephone equipment, including facsimile and video teleconferencing equipment, owned by the counties shall be transferred to the state at no charge, effective July 1, 2004.~~

2. All computer *networks,* systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, maintenance, support staff or services *including any county-funded support staff located in the offices of the circuit court, county courts, state attorneys, and public defenders*, training, supplies, and line charges necessary for an integrated computer system to support the operations and management of the state courts system, the offices of the public defenders, the offices of the state attorneys, and the offices of the clerks of the circuit and county courts and the capability to connect those entities and reporting data to the state as required for the transmission of revenue, performance accountability, case management, data collection, budgeting, and auditing purposes. The integrated computer system shall be operational by *July* ~~January~~ 1, 2006, and, at a minimum, *permit the exchange of financial, performance accountability, case management, case disposition, and other data across multiple state and county information systems involving multiple users at both the state level and within each judicial circuit and* ~~must~~ be able to electronically exchange judicial case background *data*, sentencing ~~guidelines and~~ scoresheets, and video evidence information stored in integrated case management systems over secure networks. *Once the integrated system becomes operational, counties may reject requests to purchase communication services included in this subparagraph not in compliance with standards, protocols, or processes adopted by the board established pursuant to s. 29.0086.*

3. Courier messenger and subpoena services.

4. Auxiliary aids and services for qualified individuals with a disability which are necessary to ensure access to the courts. Such auxiliary aids and services include, but are not limited to, *sign language interpretation services required under the federal Americans with Disabilities Act other than services required to satisfy due process requirements and identified as a state funding responsibility pursuant to ss. 29.004, 29.005, 29.006, and 29.007,* real-time transcription services for individuals who are hearing impaired, and assistive listening devices and the equipment necessary to implement such accommodations.

(3) The following shall be considered a local requirement pursuant to subparagraph (2)(a)1.:

(a) Legal aid programs*, which shall be funded at a level equal to or greater than the amount provided from filing fees and surcharges to legal aid programs from October 1, 2002, to September 30, 2003*. ~~Counties with a population of less than 75,000 are exempt from this requirement.~~

(4)(a) Except for revenues used for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness as allowed under ss. 218.25(1),(2) or (4), the Department of Revenue shall

withhold revenue sharing receipts distributed pursuant to part II of chapter 218 from any county not in compliance with the county funding obligations for items specified in paragraphs (1)(a), (c), (d), (e), (f), (g), and (h) and subsection (3). The department shall withhold an amount equal to the difference between the amount spent by the county for the particular item in county fiscal year 2002-2003, the base year, plus 3 percent, and the amount budgeted by the county for these obligations in county fiscal year 2004-2005, if the latter is less than the former. Every year thereafter, the department shall withhold such an amount if the amount budgeted in that year is less than the base year plus 1.5 percent growth per year. On or before December 31, 2004, counties shall send to the department a certified copy of their budget documents for the respective 2 years, separately identifying expenditure amounts for each county funding obligation specified in paragraphs (1) (a), (c), (d), (e), (f), (g), and (h) and subsection (3). Each year thereafter, on or before December 31 of that year, each county shall send a certified copy of its budget document to the department.

(b) Beginning in fiscal year 2005-2006, additional amounts shall be withheld pursuant to paragraph (a), if the amount spent in the previous fiscal year on the items specified in paragraphs (1)(a), (c), (d), (e), (f), (g), and (h), and subsection (3) is less than the amount budgeted for those items. Each county shall certify expenditures for these county obligations for the prior fiscal year to the department within 90 days after the end of the fiscal year.

(c) The department shall transfer the withheld payments to the General Revenue Fund by March 31 of each year. These payments are hereby appropriated to the Department of Revenue to pay for these responsibilities on behalf of the county.

Section 29. Section 29.0086, Florida Statutes, is created to read:

29.0086 Article V Technology Board.—

(1) The Article V Technology Board is created and administratively housed in the Office of Legislative Services within the Legislature.

(2) The Board shall be composed of ten members, as follows:

(a) The Chief Justice of the Supreme Court, or his or her designee, who shall serve as chair.

(b) A person appointed by the Speaker of the House of Representatives to represent executive branch agencies that participate on the Criminal and Juvenile Justice Information Systems Council established pursuant to s. 943.06.

(c) A private sector representative appointed by the Speaker of the House of Representatives with general knowledge of or experience in managing enterprise integration projects; however, representatives of information technology products and services vendors or any of their subsidiaries that sell products or services to the state shall not be appointed.

(d) A person appointed by the President of the Senate representing law enforcement agencies.

(e) A private sector representative appointed by the President of the Senate with general knowledge of or experience in managing enterprise integration projects; however, representatives of information technology products and services vendors or any of their subsidiaries that sell products or services to the state shall not be appointed.

(f) A state attorney, appointed by the Florida Prosecuting Attorneys Association, or his or her designee.

(g) A public defender, appointed by the Florida Public Defender Association, or his or her designee.

(h) A court clerk, appointed by the Florida Association of Court Clerks and Comptroller, Inc., or his or her designee.

(i) A county budget director, appointed by the Florida Association of Counties.

(j) A county management information system director, appointed by the Florida Association of Counties.

(3) An appointment may be made to fill a vacancy. When a member must hold office to be qualified for membership on the board, the member's term on the board shall expire upon failure to maintain the office.

(4) Board members shall serve without compensation but are entitled to reimbursement for expenses incurred in carrying out their duties as provided in s. 112.061. Members who are public officers or employees shall be reimbursed through the budget entity through which they are compensated.

(5) The board shall:

(a) Adopt a charter that defines the major objectives, activities, and deliverables necessary to implement only the requirements of this section.

(b) By January 15, 2005, provide a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court. The report shall:

1. Identify the minimum data elements and functional requirements needed by each of the state court system entities to conduct business transactions, and needed by the legislature to maintain policy oversight.

2. Identify the security and access requirements needed to enable and maintain data integration.

3. Identify information standards and protocols for data integration, to include common identifiers, common data field elements, and a common data dictionary.

4. Recommend policy, functional, and operational changes needed to achieve necessary access to data.

(c) Based upon the review and consideration of the January 15, 2005, report by the Legislature, and not later than January 15, 2006, provide a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court that proposes alternative integration models and analyzes associated advantages and disadvantages of each model. To the extent possible, standards, protocols, and processes that integrate disparate network systems using open standards, and data warehouse and middleware connectivity strategies that maintain and leverage existing networks and information systems should be considered in the report. For each alternative integration model proposed, the board shall:

1. Analyze and describe the specific policy, functional, operational, fiscal, and technical advantages and disadvantages. This shall also include an analysis of the specific plans and integration requirements related to the Judicial Inquiry System developed by the Office of State Court Administrator within the Supreme Court and the Comprehensive Case Information System developed by the Florida Association of Court Clerks and Comptroller, Inc.

2. Propose a system for maintaining security to prevent unauthorized access to applications or data.

The report shall also propose an operational governance structure to achieve and maintain the necessary level of integration among system users at both the state and judicial circuit levels as provided for in this subsection.

(6) For purposes of this section, integration shall be defined as the minimum requirements needed to provide authorized users of the state courts system, the legislature, and authorized Executive Branch agencies access to data reasonably required for the performance of official duties regardless of where the data is maintained. Such access should enable the secure and reliable transfer and exchange of state court system and legislative reporting data across multiple state and county systems involving multiple users at both the state level and within each judicial circuit.

(7) The board may establish workgroups as needed that shall be composed of representatives from their respective organizations who are knowledgeable concerning applicable business functions, related data processing requirements, and information system networks and infrastructure within their respective jurisdiction.

(8) The appointment of board members shall be completed in time to allow for the initial meeting of the board to be held no later than August 15, 2004. The board shall meet at the call of the chair.

(9) This section is repealed effective July 1, 2006.

Section 30. Subsection (1) of section 29.016, Florida Statutes, as created by chapter 2003-402, Laws of Florida, is amended to read:

29.016 Contingency fund; judicial branch.—

(1) An appropriation may be provided in the General Appropriations Act for the judicial branch to serve as a contingency fund to alleviate deficits in contracted due process services appropriation categories~~, including private court-appointed counsel categories,~~ that may occur from time to time due to extraordinary events that lead to unexpected expenditures.

Section 31. Subsections (1) and (2) of section 34.01, Florida Statutes, are amended to read:

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

(a) In all misdemeanor cases not cognizable by the circuit courts;

(b) Of all violations of municipal and county ordinances; and

(c) Of all actions at law in which the matter in controversy does not exceed the sum of $15,000, exclusive of interest, costs, and attorney's fees, except those within the exclusive jurisdiction of the circuit courts. ~~The party instituting any civil action, suit, or proceeding pursuant to this paragraph where the amount in controversy is in excess of $5,000 shall pay to the clerk of the county court the filing fees and service charges in the same amounts and in the same manner as provided in s. 28.241.~~

(2) The county courts shall have jurisdiction previously exercised by county judges' courts other than that vested in the circuit court by s. 26.012, except that county court judges may hear matters involving dissolution of marriage under the simplified dissolution procedure pursuant to *the* ~~Rule 1.611(c),~~Florida *Family* Rules of ~~Civil~~ Procedure or may issue a final order for dissolution in cases where the matter is uncontested, and the jurisdiction previously exercised by county courts, the claims court, small claims courts, small claims magistrates courts, magistrates courts, justice of the peace courts, municipal courts, and courts of chartered counties, including but not limited to the counties referred to in ss. 9, 10, 11, and 24, Art. VIII of the State Constitution of 1885.

Section 32. Section 34.041, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

34.041 Filing fees.—

(1)*(a)* Upon the institution of any civil action*, suit,* or proceeding in county court, the *party shall* ~~clerk of court may require the plaintiff, when filing an action or proceeding, to~~ pay the following filing fee, not to exceed:

1.~~(a)~~ For all claims less than $100 . . . . . $50.

2.~~(b)~~ For all claims of $100 or more but not more than $500 . . . . . $75.

3.~~(c)~~ For all claims of more than $500 but not more than $2,500 . . . . . $150.

4.~~(d)~~ For all claims of more than $2,500 . . . . . $250.

5.~~(e)~~ In addition, for all proceedings of garnishment, attachment, replevin, and distress . . . . . $75.

6.~~(f)~~ For removal of tenant action . . . . . $75.

(b) The first $50 of the filing fee collected under *subparagraph (a)4.* ~~paragraph (d)~~ shall be remitted to the Department of Revenue for deposit into the General Revenue Fund. One-third of any filing fees collected by the clerk under *this section* ~~paragraph (d)~~ in excess of the first $50 *collected under subparagraph (a)4.* shall be remitted to the Department of Revenue for deposit into the Department of Revenue Clerks of the Court Trust Fund. *An additional filing fee of $4 shall be paid to the clerk. The clerk shall transfer $3.50 to the Department of Revenue for deposit into the Court Education Trust Fund and shall transfer 50 cents to the Department of Revenue for deposit into the Department of Financial Services' Administrative Trust Fund to fund clerk education.* Postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance service is made. Except as provided herein, filing fees and service charges for performing duties of the clerk relating to the county court shall be as provided in ss. 28.24 and 28.241. Except as otherwise provided herein, all filing fees shall be retained as fee income of the office of the clerk of circuit court. Filing fees imposed by this section may not be added to any penalty imposed by chapter 316 or chapter 318.

(2) A party reopening any civil action, suit, or proceeding in the county court shall pay to the clerk of court a filing fee set by the clerk in an amount not to exceed $25 for all claims of not more than $500 and an amount not to exceed $50 for all claims of more than $500. For purposes of this section, a case is reopened when a case previously reported as disposed of is resubmitted to a court. A party is exempt from paying the fee for any of the following:

1. A writ of garnishment;

2. A writ of replevin;

3. A distress writ;

4. A writ of attachment;

5. A motion for rehearing filed within 10 days;

6. A motion for attorney's fees filed within 30 days of the entry of the judgment or final order;

7. A motion for dismissal filed after a mediation agreement has been filed;

8. A motion to withdraw by attorneys;

9. Stipulations; or

10. Responsive pleadings.

(3)~~(2)~~ If a *nonindigent* party *fails* ~~shall fail~~ to pay accrued costs, ~~though able to do so,~~ the judge shall have power to deny that party the right to file any new case while such costs remain unpaid and, likewise, to deny such litigant the right to proceed further in any *pending* case ~~pending~~.

(4)~~(3)~~ In criminal proceedings in county courts, costs shall be taxed against a person in county court upon conviction or estreature pursuant to chapter 939.

(5)~~(4)~~ Upon the institution of any appellate proceeding from the county court to the circuit court, *including any appeal filed by a county or municipality, the clerk shall charge and collect filing fees as provided in s. 28.241(2)* ~~there shall be charged and collected~~ from the party or parties instituting *the* ~~such~~ appellate proceedings~~, including appeals filed by a county or municipality, filing fees as provided in chapter 28~~. *If the party is determined to be indigent, the clerk shall defer payment of the fee.*

(6)~~(5)~~ A charge or a fee may not be imposed upon a party for responding by pleading, motion, or other paper to a civil or criminal action, suit, or proceeding in a county court or to an appeal to the circuit court.

(7)~~(6)~~ For purposes of this section, *the term "party"* ~~"plaintiff"~~ includes a county or municipality filing any civil action.

(8) From each attorney appearing pro hac vice, the clerk must collect a fee of $100 for deposit into the General Revenue Fund.

Section 33. Section 34.045, Florida Statutes, is created to read:

34.045 Cost recovery; use of the county court for ordinance or special law violations.—

(1)(a) In lieu of payment of a filing fee under s. 34.041, a filing fee of $10 shall be paid by a county or municipality when filing a violation of a county or municipal ordinance or a violation of a special law in county court. This fee shall be paid to the clerk of the court for performing court-related functions.

(b) No other filing fee may be assessed for filing the violation in county court. If a person contests the violation in court, the court shall

assess $40 in costs against the nonprevailing party. The county or municipality shall be considered the prevailing party when there is a finding of violation to any count or lesser included offense of the charge. Cost recovered pursuant to this paragraph shall be deposited into the clerk's fine and forfeiture fund established pursuant to s. 142.01.

(2) To offset costs incurred by the clerks of the court in performing court-related functions associated with the processing of violations of special laws and municipal ordinances, 10 percent of the total amount of fines paid to each municipality for special law or ordinance violations filed in county court shall be retained by the clerk of the court for deposit into the clerk's fine and forfeiture fund established pursuant to s. 142.01, except for fines a portion of which the clerk of the court retains pursuant to any other provision of state law.

Section 34. Section 34.191, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

34.191 Fines and forfeitures*; dispositions*.—All fines and forfeitures arising from offenses tried in the county court shall be collected and accounted for by the clerk of the court *and, other than the charge provided in s. 318.1215, disbursed in accordance with ss. 28.2402, 34.045, 142.01, and 142.13 and subject to the provisions of s. 28.246(5) and (6). Notwithstanding the provisions of this section, all fines and forfeitures arising from operation of the provisions of s. 318.1215 shall be disbursed in accordance with that section.* All fines and forfeitures received from violations of municipal ordinances committed within a municipality within the territorial jurisdiction of the county court*, other than the charge provided in s. 318.1215,* shall be paid monthly to the municipality except as provided in *s. 28.2402(2), s. 34.045(2),* s. 318.21*,* or s. 943.25. All other fines and forfeitures collected by the clerk*, other than the charge provided in s. 318.1215,* shall be considered income of the office of the clerk for use in performing court-related duties of the office.

Section 35. Subsections (3) and (6) of section 35.22, Florida Statutes, are amended to read:

35.22 Clerk of district court; appointment; compensation; assistants; filing fees; teleconferencing.—

(3) The clerk, upon the filing of a certified copy of a notice of appeal or petition, shall charge and collect a *filing fee* ~~service charge~~ of *$300* ~~$250~~ for each case docketed, and *service charges as provided in s. 28.24* for copying, certifying or furnishing opinions, records, papers or other instruments and for other services ~~the same service charges as provided in s. 28.24~~. The State of Florida or its agencies, when appearing as appellant or petitioner, is exempt from the filing fee required in this subsection. *From each attorney appearance pro hac vice, the clerk shall collect a fee of $100 for deposit as provided in this section.*

(6) The clerk of each district court of appeal is required to deposit all fees collected in the State Treasury to the credit of the General Revenue Fund*, except that $50 of each $300 filing fee collected shall be deposited into the state court's Grants and Donations Trust Fund to fund court improvement projects as authorized in the General Appropriations Act.* The clerk shall retain an accounting of each such remittance.

Section 36. Section 39.0134, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

39.0134 Appointed counsel; compensation.—If counsel is entitled to receive compensation for representation pursuant to a court appointment in a dependency *proceeding or a termination of parental rights* proceeding pursuant to this chapter, compensation shall be paid in accordance with s. 27.5304. The state may acquire and enforce a lien upon court-ordered payment of attorney's fees and costs in accordance with s. 984.08.

Section 37. Subsection (3) of section 39.3035, Florida Statutes, is amended to read:

39.3035 Child advocacy centers; standards; state funding.—

(3) *A child advocacy center within this state may not receive the funds generated pursuant to s. 983.10, state or federal funds administered by a state agency, or any other funds appropriated by the Legislature unless all of the standards of subsection (1) are met and the screening requirement of subsection (2) is met. The Florida Network of Children's Advocacy Centers, Inc., shall be responsible for tracking and documenting compliance with subsections (1) and (2) for any of the funds it administers to member child advocacy centers.* ~~Any child advocacy center within this state that meets the standards of subsection (1) and is certified by the Florida Network of Children's Advocacy Centers, Inc., as being a full member in the organization shall be eligible to receive state funds that are appropriated by the Legislature.~~

Section 38. Section 40.29, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

40.29 *Payment of* ~~Clerks to make estimates and requisitions for certain~~ due process costs.—

(1)*(a) Each clerk of the circuit court, on behalf of the courts, the state attorney, and the public defender shall forward to the Justice Administrative Commission, by county, a quarterly estimate of funds necessary to pay for witnesses, except expert witnesses paid pursuant to a contract or other professional services agreement, pursuant to ss. 29.005 and 29.006.*

(b) Each clerk of the circuit court shall forward to the Office of the State Courts Administrator, by county, a quarterly estimate of funds necessary to pay juror compensation. ~~The clerk of the court in and for any county shall make an estimate of the amount necessary during any quarterly fiscal period beginning July 1 and during each succeeding quarterly fiscal period for the payment by the state of juror compensation and expenses; court reporter, interpreter, and translator services; witnesses, including expert witnesses; mental health professionals; and private court-appointed counsel, each in accordance with the applicable requirements of ss. 29.005, 29.006, and 29.007. The clerk of such court shall forward each such estimate to the Justice Administrative Commission no later than the date scheduled by the Justice Administrative Commission. At the time of any forwarding of such estimate, the clerk of such court shall make a requisition upon the Justice Administrative Commission for the amount of such estimate; and the Justice Administrative Commission may reduce the amount upon finding that the costs are unreasonable, inconsistent with applicable contractual terms, or inconsistent with compensation standards established by general law.~~

(2) *Upon receipt of an estimate pursuant to subsection (1), the Justice Administrative Commission or Office of State Courts Administrator, as applicable, shall endorse the amount deemed necessary for payment by the clerk of the court during the quarterly fiscal period and shall submit a request for payment to the Chief Financial Officer.* ~~The provisions of chapter 82-176, Laws of Florida, shall take effect July 1, 1982, except that those provisions which provide for the state assumption of witness fees which are currently paid by the counties shall take effect on a date determined by the appropriation of funds for this purpose.~~

(3) Upon receipt of the funds from the Chief Financial Officer, the clerk of the court shall pay all invoices approved and submitted by the state attorney, public defender, and circuit court administrator for the items enumerated in paragraphs (1)(a) and (b).

(4) After review for compliance with applicable rates and requirements, the Justice Administrative Commission shall pay all due process service related invoices, except those enumerated in paragraphs (1)(a) and (b), approved and submitted by the state attorney, public defender, or court appointed counsel in accordance with the applicable requirements of ss. 29.005, 29.006, and 29.007.

Section 39. Section 40.32, Florida Statutes, is amended to read:

40.32 Clerks to disburse money.—All moneys drawn from the treasury under the provisions of this chapter by the clerk of the court shall be disbursed by the clerk of the court as far as needed in payment of jurors and witnesses*, except for expert witnesses paid pursuant to a contract or other professional services agreement pursuant to ss. 29.004, 29.005, 29.006, and 29.007,* for the legal compensation for service during the quarterly fiscal period for which said moneys were drawn and for no other purposes. Jurors and witnesses shall be paid by the clerk of the court either in cash or by warrant within 20 days after completion of jury service or of completion of service as a witness. Whenever the clerk of the court pays a juror or witness by cash, said juror or witness shall sign the payroll in the presence of the clerk, a deputy clerk, or some other person designated by the clerk. Whenever the clerk pays a juror or witness by warrant, he or she shall endorse on the payroll opposite the juror's or witness's name the words "Paid by warrant," giving the number and date of the warrant.

Section 40. Section 40.33, Florida Statutes, is amended to read:

40.33 Deficiency.—If the *funds required for payment of the items enumerated in s. 40.29(1)(a) or (b) in any county* ~~compensation of jurors and witnesses~~ during a quarterly fiscal period exceeds the amount *of the funds provided pursuant to s. 40.29(3)* ~~estimated by the clerk of the court and therefore is insufficient to pay in full the jurors and witnesses~~, the *state attorney or public defender, as applicable,* ~~clerk of the court~~ shall make a further *request* ~~requisition~~ upon the *Justice Administrative Commission for the items enumerated in s. 40.29(1)(a) or the clerk of court shall make a further request upon the Office of the* State Courts Administrator *for items enumerated in s. 40.29(1)(b)* for the amount necessary to *allow for full payment* ~~pay such default, and the amount required shall be transmitted to the clerk of the court by warrant issued by the Chief Financial Officer in the same manner as the original requisition or order~~.

Section 41. Section 40.361, Florida Statutes, is created to read:

40.361 Applicability of laws regarding state budgeting and finances.—The requirements contained within chapter 216, including the provisions of s. 216.192 related to release of funds, chapter 29, including ss. 29.015 and 29.016 related to use of contingency funds for due process services, and all other laws of this state relating to state budgeting and financing shall apply to all processes authorized or required under this chapter for the payment of the items enumerated in s. 40.29(1)(a) and (b).

Section 42. Subsection (1) of section 43.16, Florida Statutes, is amended to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(1) There is hereby created a Justice Administrative Commission, with headquarters located in the state capital. The necessary office space for use of the commission shall be furnished by the proper state agency in charge of state buildings. *For purposes of the fees imposed on agencies pursuant to s. 287.057(23), the Justice Administrative Commission shall be exempt from such fees.*

Section 43. Subsection (3) of section 44.103, Florida Statutes, is amended to read:

44.103 Court-ordered, nonbinding arbitration.—

(3) Arbitrators shall be selected and compensated in accordance with rules adopted by the Supreme Court. Arbitrators *shall* ~~may~~ be compensated by the ~~county or by the~~ parties*, or, upon a finding by the court that a party is indigent, an arbitrator may be partially or fully compensated from state funds according to the party's present ability to pay. Prior to approving the use of state funds to reimburse an arbitrator, the court must ensure that the party reimburses the portion of the total cost that the party is immediately able to pay and that the party has agreed to a payment plan established by the clerk of the court that will fully reimburse the state for the balance of all state costs for both the arbitrator and any costs of administering the payment plan and any collection efforts that may be necessary in the future*. ~~Compensation for arbitrators shall not exceed $200 per day, unless otherwise agreed by the parties and approved by the court.~~ Whenever possible, qualified individuals who have volunteered their time to serve as arbitrators shall be appointed. If an arbitration program is funded pursuant to s. 44.108, volunteer arbitrators shall be entitled to be reimbursed pursuant to s. 112.061 for all actual expenses necessitated by service as an arbitrator.

Section 44. Section 44.108, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

44.108 Funding of mediation and arbitration.—

(1) Mediation *and arbitration* should be accessible to all parties regardless of financial status. A filing fee of $1 is levied on all proceedings in the circuit or county courts to fund mediation and arbitration services which are the responsibility of the Supreme Court pursuant to the provisions of s. 44.106. The clerk of the court shall forward the moneys collected to the Department of Revenue for deposit in the state courts' Mediation and Arbitration Trust Fund.

(2) When court-ordered mediation services are provided by a circuit court's mediation program, the following fees, unless otherwise established in the General Appropriations Act, shall be collected by the clerk of court:

(a) Eighty dollars per person per session in family mediation when the parties' combined income is greater than $50,000, but less than $100,000 per year;

(b) Forty dollars per person per session in family mediation when the parties' combined income is less than $50,000; or

(c) Forty dollars per person per session in county court cases.

No mediation fees shall be assessed under this subsection in eviction cases, against a party found to be indigent, or for any small claims action. Fees collected by the clerk of court pursuant to this section shall be remitted to the Department of Revenue for deposit into the state court s Mediation and Arbitration Trust Fund to fund court-ordered mediation. The clerk of court may deduct $1 per fee assessment for processing this fee.

Section 45. Subsection (1) of section 45.031, Florida Statutes, is amended to read:

45.031 Judicial sales procedure.—In any sale of real or personal property under an order or judgment, the following procedure may be followed as an alternative to any other sale procedure if so ordered by the court:

(1) SALE BY CLERK.—In the order or final judgment, the court shall direct the clerk to sell the property at public sale on a specified day that shall be not less than 20 days or more than 35 days after the date thereof, on terms and conditions specified in the order or judgment. A sale may be held more than 35 days after the date of final judgment or order if the plaintiff or plaintiff's attorney consents to such time. Any sale held more than 35 days after the final judgment or order shall not affect the validity or finality of the final judgment or order or any sale held pursuant thereto. Notice of sale shall be published once a week for 2 consecutive weeks in a newspaper of general circulation, as defined in chapter 50, published in the county where the sale is to be held. The second publication shall be at least 5 days before the sale. The notice shall contain:

(a) A description of the property to be sold.

(b) The time and place of sale.

(c) A statement that the sale will be made pursuant to the order or final judgment.

(d) The caption of the action.

(e) The name of the clerk making the sale.

The clerk shall receive a service charge of *up to $60* ~~$40~~ for services in making, recording, and certifying the sale and title that shall be assessed as costs. The court, in its discretion, may enlarge the time of the sale. Notice of the changed time of sale shall be published as provided herein.

Section 46. Section 50.0711, Florida Statutes, is created to read:

50.0711 Court docket fund; service charges; publications.—

(1) The clerk of the court in each county may establish a court docket fund for the purpose of paying the cost of publication of the fact of the filing of any civil case in the circuit court of the county by the style and of the calendar relating to such cases. This court docket fund shall be funded by $1 mandatory court cost for all civil actions, suits, or proceedings filed in the circuit court of the county. The clerk shall maintain such funds separate and apart, and the proceeds from this court cost shall not be diverted to any other fund or for any purpose other than that established in this section. The clerk of the court shall dispense the fund to the designated record newspaper in the county on a quarterly basis.

(2) A newspaper qualified under the terms of s. 50.011 shall be designated as the record newspaper for such publication by an order of the majority of the judges in the judicial circuit in which such county is located, and such order shall be filed and recorded with the clerk of the circuit court for such county. The designated record newspaper may be changed at the end of any fiscal year of the county by a majority vote of

the judges of the judicial circuit of the county ordering such change 30 days prior to the end of the fiscal year, notice of which order shall be given to the previously designated record newspaper.

(3) The publishers of any designated record newspapers receiving payment from this court docket fund shall publish, without additional charge, the fact of the filing of any civil case, suit, or action filed in such county in the circuit. Such publication shall be in accordance with a schedule agreed upon between the record newspaper and the clerk of the court in such county.

(4) The publishers of any designated record newspapers receiving revenues from the court docket fund established in subsection (1) shall, without charge, accept legal advertisements for the purpose of service of process by publication under s. 49.011(4), (10), and (11) when such publication is required of persons authorized to proceed as indigent persons under s. 57.081.

Section 47. Subsection (5) of section 55.10, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

55.10 Judgments, orders, and decrees; lien of all, generally; extension of liens; transfer of liens to other security.—

(5) Any lien claimed under this section may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either depositing in the clerk's office a sum of money or filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state. Such deposit or bond shall be in an amount equal to the amount demanded in such claim of lien plus interest thereon at the legal rate for 3 years plus $500 to apply on any court costs which may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment, order, or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded and costs plus $500 for court costs. Upon such deposit being made or such bond being filed, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon the filing of the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. The clerk shall be entitled to a *service charge* ~~fee~~ of up to $15 for making and serving the certificate. If the transaction involves the transfer of multiple liens, an additional *service* charge of up to $7.50 for each additional lien shall be charged. Any number of liens may be transferred to one such security.

Section 48. Subsection (2) of section 55.141, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

55.141 Satisfaction of judgments and decrees; duties of clerk and judge.—

(2) Upon such payment, the clerk, or the judge if there is no clerk, shall issue his or her receipt therefor and shall record a satisfaction of judgment, provided by the judgment holder, upon payment of the recording charge prescribed in s. 28.24(12) plus the necessary costs of mailing to the clerk or judge. The clerk or judge shall formally notify the owner of record of such judgment or decree, if such person and his or her address are known to the clerk or judge receiving such payment, and, upon request therefor, shall pay over to the person entitled, or to his or her order, the full amount of the payment so received, less his or her *service charge* ~~fees~~ for *providing a receipt upon the court* issuing *a writ of* execution on such judgment or decree, if any has been issued, and less his or her *service charge* ~~fees~~ for receiving into and paying out of the registry of the court such payment, together with the *service charge* ~~fees~~ of the clerk for receiving into and paying such money out of the registry of the court.

Section 49. Subsections (2), (3), (4), and (5) of section 57.085, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

57.085 *Deferral* ~~Waiver~~ of prepayment of court costs and fees for indigent prisoners.—

(2) When a prisoner who is intervening in or initiating a judicial proceeding seeks to defer the prepayment of court costs and fees because of indigence, the prisoner must file an affidavit of indigence with the appropriate clerk of the court. The affidavit must contain complete information about the prisoner's identity; the nature and amount of the prisoner's income; all real property owned by the prisoner; all tangible and intangible property worth more than $100 which is owned by the prisoner; the amount of cash held by the prisoner; the balance of any checking, savings, or money market account held by the prisoner; the prisoner's dependents, including their names and ages; the prisoner's debts, including the name of each creditor and the amount owed to each creditor; and the prisoner's monthly expenses. The prisoner must certify in the affidavit whether the prisoner has been adjudicated indigent under this section, certified indigent under s. 57.081, or authorized to proceed as an indigent under 28 U.S.C. s. 1915 by a federal court. The prisoner must attach to the affidavit a photocopy of the prisoner's trust account records for the preceding 6 months or for the length of the prisoner's incarceration, whichever period is shorter. The affidavit must contain the following statements: "I am *presently* unable to pay court costs and fees. Under penalty of perjury, I swear or affirm that all statements in this affidavit are true and complete."

(3) Before a prisoner may receive a deferral of prepayment of any court costs and fees for an action brought under this section, the clerk of court must review the affidavit and *determine* ~~certify~~ the prisoner *to be* ~~is~~ indigent.

(4) When the clerk has *found the prisoner to be indigent* ~~issued a certificate of indigence under this section~~ but concludes the prisoner is able to pay part of the court costs and fees required by law, the court shall order the prisoner to make, prior to service of process, an initial partial payment of those court costs and fees. The initial partial payment must total at least 20 percent of the average monthly balance of the prisoner's trust account for the preceding 6 months or for the length of the prisoner's incarceration, whichever period is shorter.

(5) When the clerk has *found the prisoner to be indigent* ~~issued a certificate of indigence under this section~~, the court shall order the prisoner to make monthly payments of no less than 20 percent of the balance of the prisoner's trust account as payment of court costs and fees. When a court orders such payment, the Department of Corrections or the local detention facility shall place a lien on the inmate's trust account for the full amount of the court costs and fees, and shall withdraw money maintained in that trust account and forward the money, when the balance exceeds $10, to the appropriate clerk of the court until the prisoner's court costs and fees are paid in full.

Section 50. Paragraphs (b), (d), (e), and (f) of subsection (6) of section 61.14, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

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

(6)

(b)1. When an obligor is 15 days delinquent in making a payment or installment of support and the amount of the delinquency is greater than the periodic payment amount ordered by the court, the local depository shall serve notice on the obligor informing him or her of:

a. The delinquency and its amount.

b. An impending judgment by operation of law against him or her in the amount of the delinquency and all other amounts which thereafter become due and are unpaid, together with costs and a *service charge* ~~fee~~ of *up to $7.50* ~~$5~~, for failure to pay the amount of the delinquency.

c. The obligor's right to contest the impending judgment and the ground upon which such contest can be made.

d. The local depository's authority to release information regarding the delinquency to one or more credit reporting agencies.

2. The local depository shall serve the notice by mailing it by first class mail to the obligor at his or her last address of record with the local depository. If the obligor has no address of record with the local depository, service shall be by publication as provided in chapter 49.

3. When service of the notice is made by mail, service is complete on the date of mailing.

(d) The court shall hear the obligor's motion to contest the impending judgment within 15 days after the date of the filing of the motion. Upon the court's denial of the obligor's motion, the amount of the delinquency and all other amounts which thereafter become due, together with costs and a *service charge* ~~fee~~ of up to $7.50, become a final judgment by operation of law against the obligor. The depository shall charge interest at the rate established in s. 55.03 on all judgments for support.

(e) If the obligor fails to file a motion to contest the impending judgment within the time limit prescribed in paragraph (c) and fails to pay the amount of the delinquency and all other amounts which thereafter become due, together with costs and a *service charge* ~~fee~~ of up to $7.50, such amounts become a final judgment by operation of law against the obligor at the expiration of the time for filing a motion to contest the impending judgment.

(f)1. Upon request of any person, the local depository shall issue, upon payment of a *service charge* ~~fee~~ of up to $7.50, a payoff statement of the total amount due under the judgment at the time of the request. The statement may be relied upon by the person for up to 30 days from the time it is issued unless proof of satisfaction of the judgment is provided.

2. When the depository records show that the obligor's account is current, the depository shall record a satisfaction of the judgment upon request of any interested person and upon receipt of the appropriate recording fee. Any person shall be entitled to rely upon the recording of the satisfaction.

3. The local depository, at the direction of the department, or the obligee in a non-IV-D case, may partially release the judgment as to specific real property, and the depository shall record a partial release upon receipt of the appropriate recording fee.

4. The local depository is not liable for errors in its recordkeeping, except when an error is a result of unlawful activity or gross negligence by the clerk or his or her employees.

Section 51. Paragraph (b) of subsection (2) of section 61.181, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

61.181 Depository for alimony transactions, support, maintenance, and support payments; fees.—

(2)

(b)1. ~~For the period of July 1, 1992, through June 30, 2004,~~ The fee imposed in paragraph (a) shall be increased to 4 percent of the support payments which the party is obligated to pay, except that no fee shall be more than $5.25. The fee shall be considered by the court in determining the amount of support that the obligor is, or may be, required to pay. Notwithstanding the provisions of s. 145.022, 75 percent of the additional revenues generated by this paragraph shall be remitted monthly to the Clerk of the Court Child Support Enforcement Collection System Trust Fund administered by the department as provided in subparagraph 2. These funds shall be used exclusively for the development, implementation, and operation of the Clerk of the Court Child Support Enforcement Collection System to be operated by the depositories, including the automation of civil case information necessary for the State Case Registry. The department shall contract with the Florida Association of Court Clerks and the depositories to design, establish, operate, upgrade, and maintain the automation of the depositories to include, but not be limited to, the provision of on-line electronic transfer of information to the IV-D agency as otherwise required by this chapter. The department's obligation to fund the automation of the depositories is limited to the state share of funds available in the Clerk of the Court Child Support Enforcement Collection System Trust Fund. Each depository created under this section shall fully participate in the Clerk of the Court Child Support Enforcement Collection System and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks and the department.

2. Moneys to be remitted to the department by the depository shall be done daily by electronic funds transfer and calculated as follows:

a. For each support payment of less than $33, 18.75 cents.

b. For each support payment between $33 and $140, an amount equal to 18.75 percent of the fee charged.

c. For each support payment in excess of $140, 18.75 cents.

3. The fees established by this section shall be set forth and included in every order of support entered by a court of this state which requires payment to be made into the depository.

Section 52. Subsections (1) and (2) of section 125.69, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended, subsections (3), (4), and (5) of said section are renumbered as subsections (2), (3), and (4), respectively, and present subsections (3) and (4) of said section are amended, to read:

125.69 Penalties; enforcement by code inspectors.—

(1) Violations of county ordinances shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the *state* ~~county~~ in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed $500 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. However, a county may specify, by ordinance, a violation of a county ordinance which is punishable by a fine in an amount exceeding $500, but not exceeding $2,000 a day, if the county must have authority to punish a violation of that ordinance by a fine in an amount greater than $500 in order for the county to carry out a federally mandated program.

~~(2) For the purpose of prosecuting violations of special laws and county ordinances notwithstanding the prosecutorial authority of the state attorney pursuant to s. 27.02(1), the board of county commissioners of each county and the governing board of each charter county may designate as the county's prosecuting attorney an attorney employed by the county or a contract attorney. Subject to the control and oversight of the appointing authority, such attorney may employ assistants as necessary. Such person shall have all powers exercisable by the state attorney in the prosecution of violations of county ordinances under this section as of June 30, 2004. Such person shall be subject to suspension and removal by the Governor and Senate from the exercise of prosecutorial powers in the same manner as state attorneys.~~

(2)~~(3)~~ Each county is authorized and required to pay any attorney appointed by the court to represent a defendant *charged with a criminal violation of a special law or county ordinance not ancillary to a state charge* ~~prosecuted under this section~~ if the *defendant is indigent and otherwise entitled to court-appointed counsel under* ~~provision of an attorney at public expense is required by~~ the Constitution of the United States or the Constitution of the State of Florida ~~and if the party is indigent as established pursuant to s. 27.52~~. In *these* ~~such~~ cases, the court shall appoint counsel to represent the defendant in accordance with s. 27.40, and shall order the county to pay the reasonable *attorney's* fees, ~~expenses, and~~ costs*, and related expenses of the* ~~of such~~ defense. *The county may contract with the public defender of the judicial circuit in which the county is located to serve as court-appointed counsel pursuant to s. 27.54.*

(3)~~(4)~~ ~~The county shall bear all court fees and costs of any prosecution under this section, and may,~~ If *the county is the prevailing party* ~~it prevails~~, *the county may* recover the court fees and costs paid by it and the fees and expenses paid to court-appointed counsel as part of its judgment. The state shall bear no expense of actions brought under this section except those that it would bear in an ordinary civil action between private parties in county court.

Section 53. Subsection (3) of section 129.02, Florida Statutes, is amended to read:

129.02 Requisites of budgets.—Each budget shall conform to the following specific directions and requirements:

(3) The *budget for the county* fine and forfeiture fund ~~budget~~ shall contain an estimate of receipts by source and balances as provided herein, and an itemized estimate of expenditures that need to be incurred to carry on all criminal prosecution ~~as provided in s. 142.01~~, and all other law enforcement functions and activities of the county now or hereafter authorized by law, and of indebtedness of the *county* fine and forfeiture fund; also of the reserve for contingencies and the balance, as hereinbefore provided, which should be carried forward at the end of the year.

Section 54. Section 142.01, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

142.01 Fine and forfeiture fund*; clerk of the circuit court*.—There shall be established by the clerk of the circuit court in each county of this state a separate fund to be known as the fine and forfeiture fund for use by the clerk of the circuit court in performing court-related functions. The fund shall consist of *the following:*

(1) Fines and penalties pursuant to ss. 28.2402(2), 34.045(2), 316.193, 327.35, 327.72, 372.72(1), and 775.083(1).

(2) That portion of civil penalties directed to this fund pursuant to s. 318.21.

(3) Court costs pursuant to ss. 28.2402(1)(b), 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and (11)(a), and 938.05(3).

(4) Proceeds from forfeited bail bonds or recognizances pursuant to ss. 321.05(4)(a), 372.72(1), and 903.26(3)(a).

(5) Fines and forfeitures pursuant to s. 34.191.

(6) All other revenues received by the clerk as revenue authorized by law to be retained by the clerk.

Notwithstanding the provisions of this section, all fines and forfeitures arising from operation of the provisions of s. 318.1215 shall be disbursed in accordance with that section. ~~all fines and forfeitures collected by the clerk of the court for violations of the penal or traffic laws of the state, except those fines imposed under s. 775.0835(1); allocations of court costs and civil penalties pursuant to ss. 318.18 and 318.21; assessments imposed under ss. 938.21, 938.23, and 938.25; and all costs refunded to the county~~.

Section 55. Section 142.03, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

142.03 Disposition of fines, forfeitures, and civil penalties *to municipalities*.—~~Except as to~~ Fines, forfeitures, and civil penalties collected in cases involving violations of municipal ordinances, violations of chapter 316 committed within a municipality, or infractions under the provisions of chapter 318 committed within a municipality~~, in which cases such fines, forfeitures, and civil penalties~~ shall be ~~fully~~ paid *in full each month* ~~monthly~~ to the appropriate municipality as provided in ss. *28.2402, 34.045* ~~34.191~~, 316.660, and 318.21~~, and except as to fines imposed under s. 775.0835(1), and assessments imposed under ss. 938.21, 938.23, and 938.25, all fines imposed under the penal laws of this state in all other cases, and the proceeds of all forfeited bail bonds or recognizances in all other cases, shall be paid into the fine and forfeiture fund of the clerk of the county in which the indictment was found or the prosecution commenced, and judgment must be entered therefor in favor of the state for the use by the clerk of the circuit court in performing court-related functions~~.

Section 56. Section 142.09, Florida Statutes, is amended to read:

142.09 If defendant is not convicted or dies.—If the defendant is not convicted, or the prosecution is abated by the death of the defendant, or if the costs are imposed on the defendant and execution against him or her is returned no property found, or if a nolle prosse be entered, in each of these cases the fees of witnesses and officers arising from criminal causes shall be paid by the *state* ~~county~~ in the manner specified in *s. 40.29* ~~ss. 142.10-142.12~~; provided, that when a committing magistrate holds to bail or commits a person to answer to a criminal charge and an information is not filed or an indictment found against such person, the costs and fees of such committing trial shall not be paid by the *state* ~~county~~, except the costs of executing the warrants.

Section 57. Subsection (3) is added to section 218.245, Florida Statutes, to read:

218.245 Revenue sharing; apportionment.—

(3) Revenues attributed to the increase in distribution to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 212.20(6)(d)6. from 1.0715 percent to 1.3409 percent provided in chapter 2003-402, Laws of Florida, shall be distributed to each eligible municipality and any unit of local government which is consolidated as provided by s. 9, Article VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968 revised constitution, as follows: each eligible local government's allocation shall be based on the amount it received from the half-cent sales tax under s. 218.61 in the prior state fiscal year divided by the total receipts under s. 218.61 in the prior state fiscal year for all eligible local governments. For eligible municipalities that began participating in the allocation of half-cent sales tax under s. 218.61 in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the result multiplied by 12.

Section 58. Paragraph (b) of subsection (10) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(10)

(b) Any person cited for an offense listed in this subsection shall present proof of compliance prior to the scheduled court appearance date. For the purposes of this subsection, proof of compliance shall consist of a valid, renewed, or reinstated driver's license or registration certificate and proper proof of maintenance of security as required by s. 316.646. Notwithstanding waiver of fine, any person establishing proof of compliance shall be assessed court costs of $22, except that a person charged with violation of s. 316.646(1)-(3) may be assessed court costs of $7. One dollar of such costs shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund of the Department of Children and Family Services. One dollar of such costs shall be distributed to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund. Twelve dollars of such costs shall be distributed to the municipality and $8 shall be *deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01* ~~retained by the county~~, if the offense was committed within the municipality. If the offense was committed in an unincorporated area of a county or if the citation was for a violation of s. 316.646(1)-(3), the ~~county shall retain the~~ entire amount *shall be deposited by the clerk of the court into the fine and forfeiture fund established pursuant to s. 142.01*, except for the moneys to be deposited into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund. This subsection shall not be construed to authorize the operation of a vehicle without a valid driver's license, without a valid vehicle tag and registration, or without the maintenance of required security.

Section 59. Subsection (2) of section 318.15, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.—

(2) After suspension of the driver's license and privilege to drive of a person under subsection (1), the license and privilege may not be reinstated until the person complies with all obligations and penalties imposed on him or her under s. 318.18 and presents to a driver license office a certificate of compliance issued by the court, together with a nonrefundable service *charge* ~~fee~~ of up to *$47.50* ~~$37.50~~ imposed under s. 322.29, or *presents a certificate of compliance and* pays the aforementioned service *charge* ~~fee~~ of up to *$47.50* ~~$37.50~~ to the clerk of the court or tax collector clearing such suspension. *Of the charge collected by the clerk of the court or the tax collector, $10 shall be remitted to the Department of Revenue to be deposited into the Highway Safety Operating Trust Fund.* Such person shall also be in compliance with requirements of chapter 322 prior to reinstatement.

Section 60. Subsection (11) of section 318.18, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended, and subsection (13) is added to said section, to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(11)(a) ~~Court costs that are to be~~ In addition to the stated fine*, court costs* must be paid in ~~an amount not less than~~ the following *amounts* and shall be deposited by the clerk into the fine and forfeiture fund established pursuant to s. 142.01:

For pedestrian infractions . . . . . $ 3.

For nonmoving traffic infractions . . . . . $ 16.

For moving traffic infractions . . . . . $ 30.

(b) In addition to the court cost required under paragraph (a), up to $3 for each infraction shall be collected and distributed by the clerk in those counties that have been authorized to establish a criminal justice selection center or a criminal justice access and assessment center pursuant to the following special acts of the Legislature:

1. Chapter 87-423, Laws of Florida, for Brevard County.

2. Chapter 89-521, Laws of Florida, for Bay County.

3. Chapter 94-444, Laws of Florida, for Alachua County.

4. Chapter 97-333, Laws of Florida, for Pinellas County.

Funds collected by the clerk pursuant to this paragraph shall be distributed to the centers authorized by those special acts.

(c) In addition to the court cost required under paragraph (a), a $2.50 court cost must be paid for each infraction to be distributed by the clerk to the county to help pay for criminal justice education and training programs pursuant to s. 938.15. Funds from the distribution to the county not directed by the county to fund these centers or programs shall be retained by the clerk and used for funding the court-related services of the clerk.

(d)~~(b)~~ In addition to the court cost required under paragraph (a), a $3 court cost must be paid for each infraction to be distributed as provided in s. 938.01 and a $2 court cost as provided in s. 938.15 when assessed by a municipality or county.

(13) In addition to any penalties imposed for noncriminal traffic infractions pursuant to chapter 318 or imposed for criminal violations listed in s. 318.17, a board of county commissioners or any unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the Constitution of 1968:

(a) May impose by ordinance a surcharge of up to $15 for any infraction or violation to fund state court facilities. The court shall not waive this surcharge.

(b) That imposed increased fees or service charges by ordinance under s. 28.2401, s. 28.241, or s. 34.041 for the purpose of securing payment of the principal and interest on bonds issued by the county before July 1, 2003, to finance state court facilities, may impose by ordinance a surcharge for any infraction or violation for the exclusive purpose of securing payment of the principal and interest on bonds issued by the county before July 1, 2003, to fund state court facilities until the date of stated maturity. The court shall not waive this surcharge. Such surcharge may not exceed an amount per violation calculated as the quotient of the maximum annual payment of the principal and interest on the bonds as of July 1, 2003, divided by the number of traffic citations for county fiscal year 2002-2003 certified as paid by the clerk of the court of the county. Such quotient shall be rounded up to the next highest dollar amount. The bonds may be refunded only if savings will be realized on payments of debt service and the refunding bonds are scheduled to mature on the same date or before the bonds being refunded.

A county may not impose both of the surcharges authorized under paragraphs (a) and (b) concurrently.

Section 61. Paragraphs (a), (g), and (h) of subsection (2), paragraphs (a) and (b) of subsection (3), and subsection (8) of section 318.21, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(2) Of the remainder:

(a) Twenty and six-tenths percent shall be remitted to the Department of Revenue for deposit into the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the *Justice Administrative Commission* ~~state courts system~~ for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels in a constitutional charter county as provided for in s. 39.702.

(g)1. If the violation occurred within ~~a municipality or~~ a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe, 56.4 percent shall be paid to that ~~municipality or~~ special improvement district.

2. If the violation occurred within a municipality, 50.8 percent shall be paid to that municipality and 5.6 percent shall be deposited into the fine and forfeiture trust fund established pursuant to s. 142.01.

3.~~2.~~ If the violation occurred within the unincorporated area of a county that is not within a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe, 56.4 percent shall be deposited into the fine and forfeiture fund established pursuant to s. 142.01.

~~(h) Fifteen percent must be deposited into the General Revenue Fund.~~

(3)~~(a)~~ Moneys paid to a municipality or special improvement district under subparagraph (2)(g)1. must be used to fund local criminal justice training as provided in s. 938.15 when such a program is established by ordinance; to fund a municipal school crossing guard training program; and for any other lawful purpose.

~~(b) Moneys paid to a county under subparagraph (2)(g)2. shall be used to fund local criminal justice training as provided in s. 938.15 when such a program is established by ordinance, to fund a county school crossing guard training program, and for any other lawful purpose.~~

(8) Fines and forfeitures received from violations committed within a municipality must be paid monthly to that municipality; fines and forfeitures received from violations committed within a special improvement district created for the Seminole Indian Tribe or Miccosukee Indian Tribe under s. 285.17 must be paid monthly to that special improvement district. These fines and forfeitures must be paid monthly to that municipality or special improvement district in addition to any other fines and forfeitures received by a county court which are required to be paid to that municipality or special improvement district under any other law. If, on February 1, 1972, any chartered county court that has countywide jurisdiction was trying traffic offenses committed within a municipality in that county, two-thirds of the fines and forfeitures received as a result of violations of this chapter, or of any ordinances adopting matter covered by this chapter, committed within a municipality must be paid and distributed to the municipality, and the remainder must be paid *into the fine and forfeiture fund established pursuant to s. 142.01* ~~to the county~~, except as otherwise provided in subsection (5). The amount of fines and forfeitures payable to a special improvement district created under s. 285.17 which is located in a charter county must be determined in the same manner as the amount of fines and forfeitures payable to a municipality in that county. All fines and forfeitures received by any county court as the result of citations issued under s. 316.640(2)(c)1. must be paid *into the fine and forfeiture fund established pursuant to s. 142.01* ~~to the county~~ whether or not such citations were issued for parking violations that occurred within a municipality or special improvement district created under s. 285.17.

Section 62. Section 318.325, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

318.325 Jurisdiction and procedure for parking infractions.—Any county or municipality may adopt an ordinance that allows the county or municipality to refer cases involving the violation of a county or municipal parking ordinance to a hearing officer funded by the county or municipality. Notwithstanding the provisions of ss. 318.14 and 775.08(3), any parking violation shall be deemed to be an infraction as defined in s. 318.13(3). However, the violation must be enforced and disposed of in accordance with the provisions of general law applicable to parking violations and with the charter or code of the county or municipality where the violation occurred. The clerk of the court or the designated traffic violations bureau must collect and distribute the fines, forfeitures, and court costs assessed under this section. ~~Notwithstanding the provisions of s. 318.21, fines and forfeitures received from parking violations committed within the unincorporated areas of the county or within the boundaries of the municipality must be collected and paid monthly to the county or municipality, respectively. Court costs assessed by the hearing officer must be paid to the county.~~

Section 63. Paragraph (a) of subsection (4) of section 321.05, Florida Statutes, is amended to read:

321.05 Duties, functions, and powers of patrol officers.—The members of the Florida Highway Patrol are hereby declared to be conservators of the peace and law enforcement officers of the state, with the common-law right to arrest a person who, in the presence of the arresting officer, commits a felony or commits an affray or breach of the peace constituting a misdemeanor, with full power to bear arms; and they shall apprehend, without warrant, any person in the unlawful commission of any of the acts over which the members of the Florida Highway Patrol are given jurisdiction as hereinafter set out and deliver him or her to the sheriff of the county that further proceedings may be had against him or her according to law. In the performance of any of the powers, duties, and functions authorized by law, members of the Florida Highway Patrol shall have the same protections and immunities afforded other peace officers, which shall be recognized by all courts having jurisdiction over offenses against the laws of this state, and shall have authority to apply for, serve, and execute search warrants, arrest warrants, capias, and other process of the court in those matters in which patrol officers have primary responsibility as set forth in subsection (1). The patrol officers under the direction and supervision of the Department of Highway Safety and Motor Vehicles shall perform and exercise throughout the state the following duties, functions, and powers:

(4)(a) All fines and costs and the proceeds of the forfeiture of bail bonds and recognizances resulting from the enforcement of this chapter by patrol officers shall be paid into the fine and forfeiture fund *established pursuant to s. 142.01* of the county where the offense is committed. In all cases of arrest by patrol officers, the person arrested shall be delivered forthwith by said officer to the sheriff of the county, or he or she shall obtain from such person arrested a recognizance or, if deemed necessary, a cash bond or other sufficient security conditioned for his or her appearance before the proper tribunal of such county to answer the charge for which he or she has been arrested; and all fees accruing shall be taxed against the party arrested, which fees are hereby declared to be part of the compensation of said sheriffs authorized to be fixed by the Legislature under s. 5(c), Art. II of the State Constitution, to be paid such sheriffs in the same manner as fees are paid for like services in other criminal cases. All patrol officers are hereby directed to deliver all bonds accepted and approved by them to the sheriff of the county in which the offense is alleged to have been committed. However, no sheriff shall be paid any arrest fee for the arrest of a person for violation of any section of chapter 316 when the arresting officer was transported in a Florida Highway Patrol car to the vicinity where the arrest was made; and no sheriff shall be paid any fee for mileage for himself or herself or a prisoner for miles traveled in a Florida Highway Patrol car. No patrol officer shall be entitled to any fee or mileage cost except when responding to a subpoena in a civil cause or except when such patrol officer is appearing as an official witness to testify at any hearing or law action in any court of this state as a direct result of his or her employment as a patrol officer during time not compensated as a part of his or her normal duties. Nothing herein shall be construed as limiting the power to locate and to take from any person under arrest or about to be arrested deadly weapons. Nothing contained in this section shall be construed as a limitation upon existing powers and duties of sheriffs or police officers.

Section 64. Section 322.245, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

322.245 Suspension of license upon failure of person charged with specified offense under chapter 316, chapter 320, or this chapter 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 *or failure to pay any financial obligation in any other criminal case*.—

(1) If a person ~~who is~~ charged with a violation of any of the criminal offenses enumerated in s. 318.17 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 or her that, if he or she does not comply with the directives of the court within 30 days after the date of the notice and pay a delinquency fee of up to $15 to the clerk, his or her 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 in accordance with s. 61.13016 the notice specified in that section, notifying him or her that if he or she does not comply with the requirements of that section and pay a delinquency fee of $10 to the depository or the clerk, his or her 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) 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 period specified in that statute, the depository or the clerk of the court shall notify the department of such failure within 10 days. Upon receipt of the notice, the department shall immediately issue an order suspending the person's driver's license and privilege to drive effective 20 days after the date the order of suspension is mailed in accordance with s. 322.251(1), (2), and (6).

(4) After suspension of the driver's license of a person pursuant to *subsection (1), subsection (2), or subsection (3)* ~~this section~~, the license may not be reinstated until the person complies with all court directives imposed upon him or her, 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).

(5)(a) When the department receives notice from a clerk of the court that a person licensed to operate a motor vehicle in this state under the provisions of this chapter has failed to pay financial obligations for any criminal offense other than those specified in subsection (1), in full or in part under a payment plan pursuant to s. 28.246(4), the department shall suspend the license of the person named in the notice.

(b) The department must reinstate the driving privilege when the clerk of the court provides an affidavit to the department stating that:

1. The person has satisfied the financial obligation in full or made all payments currently due under a payment plan;

2. The person has entered into a written agreement for payment of the financial obligation if not presently enrolled in a payment plan; or

3. A court has entered an order granting relief to the person ordering the reinstatement of the license.

(c) The department shall not be held liable for any license suspension resulting from the discharge of its duties under this section.

Section 65. Paragraph (b) of subsection (4) of section 327.73, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

327.73 Noncriminal infractions.—

(4) Any person charged with a noncriminal infraction under this section may:

(b) If he or she has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either of the above procedures, he or she shall be deemed to have admitted the noncriminal infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings. If a person who is cited for a violation of s. 327.395 can show a boating safety identification card issued to that person and valid at the time of the citation, the clerk of the court may dismiss the case and may assess a ~~$5~~ dismissal fee *of up to $7.50*. If a person who is cited for a violation of s. 328.72(13) can show proof of having a registration for that vessel which was valid at the time of the citation, the clerk may dismiss the case and may assess *the* ~~a $5~~ dismissal fee.

Section 66. Subsection (1) of section 372.72, Florida Statutes, is amended to read:

372.72 Disposition of fines, penalties, and forfeitures.—

(1) All moneys collected from fines, penalties, or forfeitures of bail of persons convicted under this chapter shall be deposited in the fine and forfeiture fund *established pursuant to s. 142.01* ~~of the county~~ where such convictions are had, except for the disposition of moneys as provided in subsection (2).

Section 67. Section 382.023, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

382.023 Department to receive dissolution-of-marriage records; fees.—Clerks of the circuit courts shall collect for their services at the time of the filing of a final judgment of dissolution of marriage a fee of up to $10.50, of which 43 percent shall be retained by the *clerk of the* circuit court as a part of the cost in the cause in which the judgment is granted. The remaining 57 percent shall be remitted to the Department of Revenue for deposit to the Department of Health to defray part of the cost of maintaining the dissolution-of-marriage records. A record of each and every judgment of dissolution of marriage granted by the court during the preceding calendar month, giving names of parties and such other data as required by forms prescribed by the department, shall be transmitted to the department, on or before the 10th day of each month, along with an accounting of the funds remitted to the Department of Revenue pursuant to this section.

Section 68. Section 384.288, Florida Statutes, is amended to read:

384.288 Fees and other compensation; payment by board of county commissioners.—

(1) For the services required to be performed under the provisions of ss. 384.27, 384.28, and 384.281, compensation shall be paid as follows:

(a) The sheriff shall receive the same fees and mileage as are prescribed for like services in criminal cases.

(b) The counsel appointed by the court to represent an indigent person shall receive ~~such reasonable~~ compensation as *provided in s. 27.5304* ~~is fixed by the court appointing him or her~~.

(2) All court-related fees, mileage, and charges *provided to the sheriff pursuant to paragraph (1)(a)* shall be taxed by the court as costs in each proceeding and shall be paid by the board of county commissioners ~~out of the general fund or fine and forfeiture fund of the county~~. *All compensation provided to court-appointed counsel pursuant to paragraph (1)(b) shall be taxed by the court as costs and paid by the state.*

Section 69. Section 392.68, Florida Statutes, is amended to read:

392.68 Fees and other compensation.—

(1) For the services required to be performed under ss. 392.55, 392.56, 392.57, and 392.62, compensation shall be paid as follows:

(a) The sheriff shall receive the same fees and mileage as are prescribed for like services in criminal cases.

(b) The counsel appointed by the court to represent an indigent person shall receive ~~such reasonable~~ compensation as *provided in s. 27.5304* ~~shall be fixed by the court appointing him or her~~.

(2) All fees, mileage, and charges *provided to the sheriff pursuant to paragraph (1)(a)* shall be taxed by the court as costs in each proceeding and shall be paid by the board of county commissioners ~~out of the general funds or the fine and forfeiture funds of the county~~. *All compensation provided to court-appointed counsel pursuant to paragraph (1)(b) shall be taxed by the court as costs and paid by the state.*

Section 70. Section 394.473, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

394.473 Attorney's fee; expert witness fee.—

(1) In *the* case of *an indigent* ~~the indigence of any~~ person for whom an attorney is appointed pursuant to the provisions of this part, the attorney shall be *compensated by the state pursuant to s. 27.5304* ~~entitled to a reasonable fee to be determined by the court and paid from the general fund of the county from which the patient was involuntarily detained~~. In *the* case of *an indigent* ~~the indigence of any such~~ person, the court may appoint a public defender. The public defender shall receive no additional compensation other than that usually paid his or her office.

(2) In *the* case of *an indigent* ~~the indigence of any~~ person for whom expert testimony is required in a court hearing pursuant to the provisions of this act, the expert, except one who is classified as a full-time employee of the state or who is receiving remuneration from the state for his or her time in attendance at the hearing, shall be *compensated by the state pursuant to s. 27.5304* ~~entitled to a reasonable fee to be determined by the court and paid from the general fund of the county from which the patient was involuntarily detained~~.

Section 71. Subsection (1) of section 395.3025, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(1) Any licensed facility shall, upon written request, and only after discharge of the patient, furnish, in a timely manner, without delays for legal review, to any person admitted therein for care and treatment or treated thereat, or to any such person's guardian, curator, or personal representative, or in the absence of one of those persons, to the next of kin of a decedent or the parent of a minor, or to anyone designated by such person in writing, a true and correct copy of all patient records, including X rays, and insurance information concerning such person, which records are in the possession of the licensed facility, provided the person requesting such records agrees to pay a charge. The exclusive charge for copies of patient records may include sales tax and actual postage, and, except for nonpaper records *that* ~~which~~ are subject to a charge not to exceed $2 ~~as provided in s. 28.24(6)(c)~~, may not exceed $1 per page~~, as provided in s. 28.24(5)(a)~~. A fee of up to $1 may be charged for each year of records requested. These charges shall apply to all records furnished, whether directly from the facility or from a copy service providing these services on behalf of the facility. However, a patient whose records are copied or searched for the purpose of continuing to receive medical care is not required to pay a charge for copying or for the search. The licensed facility shall further allow any such person to examine the original records in its possession, or microforms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed to assure that the records will not be damaged, destroyed, or altered.

Section 72. Subsection (5) of section 397.334, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

397.334 Treatment-based drug court programs.—

(5) If a county chooses to fund a treatment-based drug court program, the county must secure funding from sources other than the state for those costs not otherwise assumed by the state pursuant to s. 29.004. *However, this does not preclude counties from using treatment and other service dollars provided through state executive branch agencies.* Counties may provide, by interlocal agreement, for the collective funding of these programs.

Section 73. Subsection (1) of section 713.24, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

713.24 Transfer of liens to security.—

(1) Any lien claimed under this part may be transferred, by any person having an interest in the real property upon which the lien is imposed or the contract under which the lien is claimed, from such real property to other security by either:

(a) Depositing in the clerk's office a sum of money, or

(b) Filing in the clerk's office a bond executed as surety by a surety insurer licensed to do business in this state,

either to be in an amount equal to the amount demanded in such claim of lien, plus interest thereon at the legal rate for 3 years, plus $1,000 or 25 percent of the amount demanded in the claim of lien, whichever is greater, to apply on any attorney's fees and court costs that may be taxed in any proceeding to enforce said lien. Such deposit or bond shall be conditioned to pay any judgment or decree which may be rendered for the satisfaction of the lien for which such claim of lien was recorded. Upon making such deposit or filing such bond, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and shall mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon filing the certificate of transfer, the real

property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. In the absence of allegations of privity between the lienor and the owner, and subject to any order of the court increasing the amount required for the lien transfer deposit or bond, no other judgment or decree to pay money may be entered by the court against the owner. The clerk shall be entitled to a *service charge* ~~fee~~ for making and serving the certificate, in the *amount* ~~sum~~ of up to $15. If the transaction involves the transfer of multiple liens, an additional charge of up to $7.50 for each additional lien shall be charged. For recording the certificate and approving the bond, the clerk shall receive her or his usual statutory service charges as prescribed in s. 28.24. Any number of liens may be transferred to one such security.

Section 74. Subsections (1) and (3) of section 721.83, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

721.83 Consolidation of foreclosure actions.—

(1) A complaint in a foreclosure proceeding involving timeshare estates may join in the same action multiple defendant obligors and junior interestholders of separate timeshare estates, provided:

(a) The foreclosure proceeding involves a single timeshare property.~~;~~

(b) The foreclosure proceeding is filed by a single plaintiff.~~;~~

(c) The default and remedy provisions in the written instruments on which the foreclosure proceeding is based are substantially the same for each defendant.~~; and~~

(d) The nature of the defaults alleged is the same for each defendant.

(e) No more than fifteen timeshare estates, without regard to the number of defendants, are joined within the same consolidated foreclosure action.

(3) *A consolidated timeshare foreclosure action shall be considered a single action, suit, or proceeding for the payment of filing fees and service charges pursuant to general law. In addition to the payment of such filing fees and service charges, an additional filing fee of up to $5 for each timeshare estate joined in that action shall be paid to the clerk of court.* ~~The clerk of court shall require a plaintiff to pay separate filing fees and service charges as provided by general law for each defendant in a consolidated foreclosure action filed pursuant to this section.~~

Section 75. Subsection (2) of section 741.01, Florida Statutes, is amended to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(2) The fee charged for each marriage license issued in the state shall be increased by the sum of *$25* ~~$30~~. This fee shall be collected upon receipt of the application for the issuance of a marriage license and remitted by the clerk to the Department of Revenue for deposit in the Domestic Violence Trust Fund. The Executive Office of the Governor shall establish a Domestic Violence Trust Fund for the purpose of collecting and disbursing funds generated from the increase in the marriage license fee. Such funds which are generated shall be directed to the Department of Children and Family Services for the specific purpose of funding domestic violence centers, and the funds shall be appropriated in a "grants-in-aid" category to the Department of Children and Family Services for the purpose of funding domestic violence centers. From the proceeds of the surcharge deposited into the Domestic Violence Trust Fund as required under s. 938.08, the Executive Office of the Governor may spend up to $500,000 each year for the purpose of administering a statewide public-awareness campaign regarding domestic violence.

Section 76. Paragraph (b) of subsection (7) of section 744.331, Florida Statutes, is amended to read:

744.331 Procedures to determine incapacity.—

(7) FEES.—

(b) The fees awarded under paragraph (a) shall be paid by the guardian from the property of the ward or, if the ward is indigent, by the *state* ~~county~~. The *state* ~~county~~ shall have a creditor's claim against the guardianship property for any amounts paid under this section. The *state may* ~~county must~~ file its claim within 90 days after the entry of an order awarding attorney ad litem fees. If the *state* ~~county~~ does not file its claim within the 90-day period, the *state* ~~county~~ is thereafter barred from asserting the claim. Upon petition by the *state* ~~county~~ for payment of the claim, the court shall enter an order authorizing immediate payment out of the property of the ward. The *state* ~~board of county commissioners~~ shall keep a record of such payments.

Section 77. Subsection (6) of section 744.365, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

744.365 Verified inventory.—

(6) AUDIT FEE.—

(a) Where the value of the ward's property exceeds $25,000, a guardian shall pay from the ward's property to the clerk of the circuit court a fee of up to $75, upon the filing of the verified inventory, for the auditing of the inventory. *Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate.* Any guardian unable to pay the auditing fee may petition the court for waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

(b) An audit fee may not be charged to any ward whose property has a value of less than $25,000. ~~In such case, the audit fee must be paid from the general fund of the county in which the guardianship proceeding is conducted.~~

Section 78. Subsection (4) of section 744.3678, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

744.3678 Annual accounting.—

(4) The guardian shall pay from the ward's estate to the clerk of the circuit court a fee based upon the following graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:

(a) For estates with a value of $25,000 or less the clerk of the court may charge a fee of up to $15.

(b) For estates with a value of more than $25,000 up to and including $100,000 the clerk of the court may charge a fee of up to $75.

(c) For estates with a value of more than $100,000 up to and including $500,000 the clerk of the court may charge a fee of up to $150.

(d) For estates with a value in excess of $500,000 the clerk of the court may charge a fee of up to $225.

Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate. Any guardian unable to pay the auditing fee may petition the court for a waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian ~~in~~support of the waiver.

Section 79. Subsection (2) of section 766.104, Florida Statutes, is amended to read:

766.104 Pleading in medical negligence cases; claim for punitive damages; authorization for release of records for investigation.—

(2) Upon petition to the clerk of the court where the suit will be filed and payment to the clerk of a filing fee, not to exceed *$37.50* ~~$25, established by the chief judge~~, an automatic 90-day extension of the statute of limitations shall be granted to allow the reasonable investigation required by subsection (1). This period shall be in addition to other tolling periods. No court order is required for the extension to be effective. The provisions of this subsection shall not be deemed to revive a cause of action on which the statute of limitations has run.

Section 80. Subsection (2) of section 903.035, Florida Statutes, is amended to read:

903.035 Applications for bail; information provided; hearing on application for modification; penalty for providing false or misleading information or omitting material information.—

(2) An application for modification of bail on any felony charge must be heard by a court in person, at a hearing with the defendant present,

and with at least 3 hours' notice to the state attorney ~~and the county attorney~~.

Section 81. Paragraph (a) of subsection (3) and subsection (8) of section 903.26, Florida Statutes, are amended to read:

903.26 Forfeiture of the bond; when and how directed; discharge; how and when made; effect of payment.—

(3) Sixty days after the forfeiture notice has been mailed:

(a) State and county officials having custody of forfeited money shall deposit the money in the ~~county~~ fine and forfeiture fund *established pursuant to s. 142.01*;

(8) If the defendant is arrested and returned to the county of jurisdiction of the court prior to judgment, the clerk, upon affirmation by the sheriff or the chief correctional officer, shall, without further order of the court, discharge the forfeiture of the bond. However, if the surety agent fails to pay the costs and expenses incurred in returning the defendant to the county of jurisdiction, the clerk shall not discharge the forfeiture of the bond. If the surety agent and the *state* ~~county~~ attorney fail to agree on the amount of said costs, then the court, after notice to the *state* ~~county~~ attorney, shall determine the amount of the costs.

Section 82. Subsection (8) of section 903.28, Florida Statutes, is amended to read:

903.28 Remission of forfeiture; conditions.—

(8) An application for remission must be accompanied by affidavits setting forth the facts on which it is founded; however, the surety must establish by further documentation or other evidence any claimed attempt at procuring or causing the apprehension or surrender of the defendant before the court may order remission based upon an attempt to procure or cause such apprehension or surrender. The state attorney ~~and the county attorney~~ must be given 20 days' notice before a hearing on an application and be furnished copies of all papers, applications, and affidavits. Remission shall be granted on the condition of payment of costs, unless the ground for remission is that there was no breach of the bond.

Section 83. Section 925.09, Florida Statutes, is amended to read:

925.09 Authority of state attorney to order autopsies.—The state attorney may have an autopsy performed, before or after interment, on a dead body found in the county when she or he decides it is necessary in determining whether or not death was the result of a crime. Physicians performing the autopsy shall be paid reasonable fees *by* ~~from~~ the county ~~fine and forfeiture fund~~ upon the approval of the county commission and the state attorney ordering the autopsy.

Section 84. Section 938.10, Florida Statutes, is created to read:

938.10 Additional court cost imposed in cases of certain crimes against minors.—

(1) If a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, any offense against a minor in violation of s. 784.085, chapter 787, chapter 794, s. 796.03, s. 800.04, chapter 827, s. 847.0145, or s. 985.4045, the court shall impose a court cost of $101 against the offender in addition to any other cost or penalty required by law.

(2) Each month the clerk of the court shall transfer the proceeds of the court cost, less $1 from each sum collected which the clerk shall retain as a service charge, to the Department of Revenue for deposit into the Department of Children and Family Services' Child Advocacy Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc., for the purpose of funding children's advocacy centers that are members of the network. If the Child Advocacy Trust Fund is not created by law within the Department of Children and Family Services, the clerk of the court shall transfer the proceeds to the Department of Revenue for deposit into the Department of Children and Family Services' Grants and Donations Trust Fund for disbursement to the Florida Network of Children's Advocacy Centers, Inc., for the purpose of funding children's advocacy centers that are members of the network.

(3) At the end of each fiscal year, each children's advocacy center receiving revenue as provided in this section must provide a report to the Board of Directors of the Florida Network of Children's Advocacy Centers, Inc., which reflects center expenditures, all sources of revenue received, and outputs that have been standardized and agreed upon by network members and the board of directors, such as the number of clients served, client demographic information, and number and types of services provided. The Florida Network of Children's Advocacy Centers, Inc., must compile reports from the centers and provide a report to the President of the Senate and the Speaker of the House of Representatives in August of each year beginning in 2005.

Section 85. Section 938.17, Florida Statutes, is amended to read:

938.17 County delinquency prevention*; juvenile assessment centers and school board suspension programs*.—

(1) ~~A county may adopt a mandatory cost to be assessed in specific cases by incorporating by reference the provisions of this section in a county ordinance.~~ Prior to the *use of costs received pursuant to s. 939.185* ~~adoption of the county ordinance~~, the sheriff's office of the county must be a partner in a written agreement with the Department of Juvenile Justice to participate in a juvenile assessment center or with the district school board to participate in a suspension program.

~~(2) In counties in which the sheriff's office is a partner in a juvenile assessment center pursuant to s. 985.209, or a partner in a suspension program developed in conjunction with the district school board in the county of the sheriff's jurisdiction, the court shall assess court costs of $3 per case, in addition to any other authorized cost or fine, on every person who, with respect to a charge, indictment, prosecution commenced, or petition of delinquency filed in that county or circuit, pleads guilty, nolo contendere to, or is convicted of, or adjudicated delinquent for, or has an adjudication withheld for, a felony or misdemeanor, or a criminal traffic offense or handicapped parking violation under state law, or a violation of any municipal or county ordinance, if the violation constitutes a misdemeanor under state law.~~

~~(3)(a) The clerks of the county and circuit court, in a county where the sheriff's office is a partner in an assessment center or suspension program as specified in subsection (1), shall collect and deposit the assessments collected pursuant to this section in an appropriate, designated account established by the clerk of the court, for disbursement to the sheriff as needed for the implementation and operation of an assessment center or suspension program.~~

~~(b) The clerk of the circuit and county court shall withhold 5 percent of the assessments each court collects pursuant to this section, for the costs of administering the collection of assessments under this section.~~

(2)~~(c)~~ Assessments collected by clerks of the circuit courts comprised of more than one county shall remit the funds collected pursuant to *s. 939.185* ~~this section~~ to the county in which the offense at issue was committed for deposit and disbursement ~~according to this section~~.

(3)~~(d)~~ Any other funds the sheriff's office obtains for the implementation or operation of an assessment center or suspension program may be deposited into the designated account for disbursement to the sheriff as needed.

(4) A sheriff's office that receives *proceeds pursuant to s. 939.185* ~~the cost assessments established in subsection (1)~~ shall account for all funds *annually* ~~that have been deposited into the designated account~~ by August 1 ~~annually~~ in a written report to the juvenile justice county council if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.

Section 86. Subsection (4) of section 938.29, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended, and subsections (5) and (6) of said section are renumbered as subsections (4) and (5), respectively, to read:

938.29 Legal assistance; lien for payment of attorney's fees or costs.—

~~(4) The clerk of the county claiming such lien is authorized to contract with a private attorney or collection agency for collection of such debts or liens, provided the fee for such collection shall be on a contingent basis not to exceed 50 percent of the recovery. However, no fee shall be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.~~

Section 87. Section 938.35, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

938.35 Collection of court-related financial obligations.—The board of county commissioners *or the governing body of a municipality* may pursue the collection of any *fees, service charges,* fines, ~~court costs,~~ or ~~other~~ costs to which it is entitled which remain unpaid for 90 days or more, or refer *the account* ~~such collection~~ to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559. In pursuing the collection of such unpaid financial obligations through a private attorney or collection agent, the board of county commissioners *or the governing body of a municipality* must determine this is cost-effective and follow applicable procurement practices. *The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the board of county commissioners or the governing body of a municipality may be added to the balance owed, in an amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agents for collection.*

Section 88. Section 939.185, Florida Statutes, is created to read:

939.185 Assessment of additional court costs.—

(1)(a) The board of county commissioners may adopt by ordinance an additional court cost, not to exceed $65, to be imposed by the court when a person pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state. Such additional assessment shall be accounted for separately by the county in which the offense occurred and be used only in the county imposing this cost, to be allocated as follows:

1. Twenty-five percent of the amount collected shall be allocated to fund innovations to supplement state funding for the elements of the state courts system identified in s. 29.004 and county funding for local requirements under s. 29.008(2)(a)2.

2. Twenty-five percent of the amount collected shall be allocated to assist counties in providing legal aid programs required under s. 29.008(3)(a).

3. Twenty-five percent of the amount collected shall be allocated to fund personnel and legal materials for the public as part of a law library.

4. Twenty-five percent of the amount collected shall be used as determined by the board of county commissioners to support teen court programs, juvenile assessment centers, and other juvenile alternative programs.

Each county receiving funds under this section shall report the amount of funds collected pursuant to this section and an itemized list of expenditures for all authorized programs and activities. The report shall be submitted in a format developed by the Supreme Court to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives on a quarterly basis beginning with the quarter ending September 30, 2004. Quarterly reports shall be submitted no later than 30 days after the end of the quarter. Any unspent funds at the close of the county fiscal year allocated under subparagraphs 2., 3., and 4., shall be transferred for use pursuant to subparagraph 1.

(b) The disbursement of costs collected under this section shall be subordinate in priority order of disbursement to all other state-imposed costs authorized in this chapter, restitution or other compensation to victims, and child support payments.

(2) The court shall order a person to pay the additional court cost. If the person is determined to be indigent, the clerk shall defer payment of this cost.

Section 89. Paragraph (l) of subsection (1) of section 960.001, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, is amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(l) Local witness coordination services.—The requirements for notification provided for in paragraphs *(c)*~~(b)~~, (d), ~~(f),~~ and (i) may be performed by the state attorney or public defender *for their own witnesses* ~~as provided in s. 27.0065, as appropriate~~.

Section 90. Subsections (2) and (3) of section 985.203, Florida Statutes, as amended by chapter 2003-402, Laws of Florida, are amended to read:

985.203 Right to counsel.—

(2) If the parents or legal guardian of an indigent child are not indigent but refuse to employ counsel, the court shall appoint counsel pursuant to s. 27.52~~(3)(d)~~ to represent the child at the detention hearing and until counsel is provided. Costs of representation are hereby imposed as provided by ss. 27.52~~(3)(d)~~ and 938.29. Thereafter, the court shall not appoint counsel for an indigent child with nonindigent parents or legal guardian but shall order the parents or legal guardian to obtain private counsel. A parent or legal guardian of an indigent child who has been ordered to obtain private counsel for the child and who willfully fails to follow the court order shall be punished by the court in civil contempt proceedings.

(3) An indigent child with nonindigent parents or legal guardian may have counsel appointed pursuant to s. 27.52~~(2)(d)~~ if the parents or legal guardian have willfully refused to obey the court order to obtain counsel for the child and have been punished by civil contempt and then still have willfully refused to obey the court order. Costs of representation are hereby imposed as provided by ss. 27.52~~(2)(d)~~ and 938.29.

Section 91. Section 149 of chapter 2003-402, Laws of Florida, is amended to read:

Section 149. *Fees,* service charges*,* and *costs* ~~fees~~ imposed by the governing authority of counties by ordinance and special law pursuant to authority granted in ss. *28.2401, 28.241, 34.041* ~~28.242-34.041~~, *938.17, and 938.19,* Florida Statutes, *on or before* ~~prior to~~ June 30, 2004, are repealed and abolished effective July 1, 2004.

Section 92. *(1) It is the intent of the Legislature to implement Revision 7 to Article V of the State Constitution in a way which recognizes the allocation of funding responsibilities among the state, counties, and system users.*

(2) The Legislature hereby declares that the provisions of this act designed to achieve that allocation of responsibility fulfill an important state interest.

Section 93. *Court-related assessments to be retained by the clerk of the court after July 1, 2004, to fund court-related functions included on the standard list in section 28.35(4)(a), Florida Statutes, shall be remitted to the clerk of the court after July 1, 2004, regardless of the date of assessment.*

Section 94. *On July 1, 2004, all cash balances within county funds previously established to provide dedicated funding to benefit specific court-related programs shall be used to fund these programs after July 1, 2004, until those funds are depleted.*

Section 95. *Cost sharing of due process costs; legislative intent.—It is the intent of the Legislature to provide state-funded due process services to the state courts system, state attorneys, public defenders, and court-appointed counsel in the most cost-effective and efficient manner. The state courts system, state attorneys, public defenders, and court-appointed counsel may enter into contractual agreements to share, on a pro rata basis, the costs associated with court reporting services, court interpreter and translation services, court experts, and all other due process services funded by the state pursuant to chapter 29, Florida Statutes. These costs shall be budgeted within the funds appropriated to each of the affected users of services.*

Section 96. *The Division of Statutory Revision of the Office of Legislative Services shall redesignate, in the next edition of the Florida Statutes,*

the title of chapter 40, Florida Statutes, as "Juries; Payment of Jurors and Due Process Costs."

Section 97. *Billings submitted for payment of due process services, including, but not limited to, court reporter services, court interpreter services, expert witness services, mental health evaluations, and court-appointed counsel services must be paid by the counties if the services were rendered before July 1, 2004. Counties must also pay for the entire cost of any flat-fee-per-case payment pursuant to a contract or professional services agreement with court-appointed counsel for appointments made before July 1, 2004, regardless of whether work on the case is actually concluded prior to July 1, 2004. Except for flat-fee contracts with court-appointed counsel, billings for services on any case that commenced prior to July 1, 2004, but continues past July 1, 2004, must be submitted with an itemized listing of payment due for services rendered before July 1, 2004, and on or after July 1, 2004. The county shall pay the portion of the bill for services rendered before July 1, 2004, and provide a copy of the itemized bill to the Justice Administrative Commission or the Office of the State Courts Administrator as appropriate for payment of the portion of the bill for services provided on or after July 1, 2004.*

Section 98. *No later than July 1, 2004, the Office of the State Courts Administrator shall prepare and disseminate a manual of court-related filing fees, service charges, costs, and fines imposed pursuant to state law, organized by county for each type of action and offense and classified as either mandatory or discretionary. The Office of the State Courts Administrator shall disseminate this manual to the chief judge, state attorney, public defender, and court administrator in each circuit and to the clerk of the court in each county. The Office of the State Courts Administrator shall update and disseminate this manual on July 1, of each year thereafter.*

Section 99. *Procurement of state-funded services; review of procurement policies and practices; training assistance; assistance with competitive solicitations.—*

(1) The Department of Management Services, with the assistance of the Auditor General, shall review the procurement of state-funded services under chapter 29, Florida Statutes, by the state courts system, state attorneys, and public defenders. In conducting this review, the department shall evaluate existing procurement polices and practices and propose strategies for achieving cost-savings through efficiencies in contract administration and contracting methods, including the use of regional or statewide contracts. The department shall report its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the Justice Administrative Commission, by January 1, 2005. The report should include operational strategies for consideration by the procuring entities and policy recommendations for consideration by the Legislature.

(2) In accordance with section 287.042, Florida Statutes, the department may assist the Office of the State Courts Administrator and the Justice Administrative Commission with competitive solicitations for the procurement of state-funded services under chapter 29, Florida Statutes. This may include assistance in the development and review of proposals in compliance with chapter 287, Florida Statutes, and rules adopted under that chapter.

Section 100. *(1) The Department of Revenue may adopt rules necessary to carry out its responsibilities in sections 28.35, 28.36, and 28.37, Florida Statutes. The rules shall include forms and procedures for transferring funds from the clerks of the court to the Clerks of the Court Trust Fund within the Department of Revenue.*

(2) The Department of Financial Services may adopt rules as necessary to carry out its responsibilities under sections 28.35, 28.36, and 28.37, Florida Statutes.

Section 101. *Effective July 1, 2004, sections 11.75, 40.30, 142.04, 142.05, 142.06, 142.07, 142.08, 142.10, 142.11, 142.12, 142.13, and 939.18, Florida Statutes, are repealed.*

Section 102. *There is hereby appropriated $75,000 from nonrecurring general revenue to the Department of Management Services to conduct the review required in this act. Funds may be used for expenses, consulting assistance, and temporary staff necessary to conduct the review.*

Section 103. *There is appropriated $2,500,000 from the Department of Financial Services' Administrative Trust Fund and five full-time equivalent positions are authorized for fiscal year 2004-2005 to fund the contract with the Florida Clerks of Court Operations Corporation created pursuant to section 28.35, Florida Statutes, and to provide for personnel and other expenses necessary to implement the department's responsibilities pursuant to this act. Funds for the contract with the Clerks of the Court Operations Corporation shall be appropriated in a special category created only for this purpose by the Executive Office of the Governor in consultation with the chairs of the respective committees responsible for appropriations in the Senate and the House of Representatives.*

Section 104. *There is appropriated $20,000,000 from the Clerks of the Court Trust Fund in the Department of Revenue for fiscal year 2004-2005 to fund the revenue deficits for the clerks of the circuit court in accordance with the provisions of section 28.36, Florida Statutes. The Executive Office of the Governor may provide release authority for these funds as needed in accordance with the provisions of section 28.36, Florida Statutes, and subject to all other provisions of chapter 216, Florida Statutes.*

Section 105. *There is appropriated from the Clerks of the Court Trust Fund in the Department of Revenue, $13,600,000 from funds resulting from the recording fee collected pursuant to section 15 of this act and the imposition of the filing fee for reopened cases required by section 31 of chapter 2003-402, Laws of Florida. These funds shall be used for the purpose of addressing cash-flow problems that may arise in Clerks of the Court offices during July and August of 2004, and shall be distributed pursuant to the provisions of section 28.36, Florida Statutes.*

Section 106. *The sum of $500,000 is hereby appropriated from General Revenue Fund to the Office of Legislative Services on a nonrecurring basis for fiscal year 2004-2005. These appropriated funds shall be used by the President of the Senate and the Speaker of the House of Representatives to pay for the expenses of the Article V Technology Board created pursuant to section 29.0086, Florida Statutes, and to hire or contract for staff to work under the direction of the board.*

Section 107. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2004.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the state judicial system; amending s. 25.241, F.S.; authorizing the Supreme Court to impose certain appearance fees on certain attorneys; providing for deposit of such fees into the state courts Grants and Donations Trust Fund; amending s. 25.383, F.S.; requiring the Supreme Court to determine court reporter certification administration fees; providing for deposit of such fees into the state courts Grants and Donations Trust Fund; clarifying state attorney authorization to charge certain fees for discovery; amending 25.384, F.S.; revising purposes for which Court Education Trust Fund moneys must be used; amending s. 27.02, F.S.; authorizing state attorneys to appear in certain courts to prosecute certain special laws and local ordinances; providing for reimbursement of state attorneys for such prosecutions; amending s. 27.34, F.S.; authorizing counties and municipalities to contract with, or appropriate or contribute funds to the operation of, various state attorneys; requiring state attorneys to contract with counties and municipalities to recover the costs of certain services or reimburse the state for costs of assigning certain attorneys for work on behalf of the counties or municipalities; providing contract requirements; specifying amounts of rates or costs; providing for deposit of payments into the state courts Grants and Donations Trust Fund; clarifying a prohibition against certain state attorneys from receiving any supplemental salary under certain circumstances; requiring the Chief Financial Officer to contract with the public defender to provide certain indigent representation under certain circumstances; providing contract authorizations; prohibiting state attorneys from spending certain state funds on county funding obligations; providing exceptions; requiring a state attorney to request reimbursement by a county for certain authorized short-term advance funding under certain circumstances; providing limitations on such funding; providing for deposit of reimbursement payments into the General Revenue Fund; amending s. 27.40, F.S.; clarifying when a circuit Article V indigent services committee must maintain and use a registry of counsel; revising requirements; amending s. 27.42, F.S.; clarifying membership of Article V indigent services committees; clarifying when a circuit Article V indigent services committee must maintain and use a registry of counsel; revising registry use requirements; revising fee and expense allowance rate schedule criteria; including the Governor and Chief Justice of the Supreme Court in a distribution list for certain

reports; requiring the Justice Administrative Commission to provide staff support for such committees from appropriated funds; specifying separate appropriations for certain attorney's fees and expenses and other funds; requiring the Justice Administrative Commission to separately track private court-appointed counsel expenditures by category; amending s. 27.51, F.S.; expanding representation responsibilities of public defenders to include violations of special laws or local ordinances; providing contracting requirements; providing limitations; revising representation requirements; clarifying appeal procedures; amending s. 27.52, F.S.; revising provisions relating to determining indigent status of defendants; authorizing clerks of court to contract for such determinations; providing application fee requirements and procedures; specifying certain required financial information; specifying criteria for indigent status; specifying distributions of application fees; deleting certain affidavit requirements; providing for disposition of certain amounts recovered from certain persons; amending s. 27.5303, F.S.; revising standards for determining counsel's conflict of interest in certain cases; revising compensation of private court-appointed counsel provisions; amending s. 27.5304, F.S.; revising compensation of private court-appointed counsel provisions; amending s. 27.54, F.S.; requiring public defenders to contract with counties and municipalities to recover the costs of certain services or reimburse the state for costs of assigning certain attorneys for work on behalf of the counties or municipalities; providing contract requirements; specifying amounts of rates or costs; providing for deposit of payments into the state courts Grants and Donations Trust Fund; prohibiting public defenders from spending certain state funds on county funding obligations; providing exceptions; requiring a public defender to request reimbursement by a county for certain authorized short-term advance funding under certain circumstances; providing limitations on such funding; providing for deposit of reimbursement payments into the General Revenue Fund; amending s. 27.562, F.S.; providing for distribution of funds collected pursuant to provisions providing for legal assistance and liens and payments of attorney's fees or costs of a public defender; amending s. 28.101, F.S.; increasing a charge for petitions for dissolution of marriage; amending s. 28.24, F.S.; clarifying access to public records by court personnel, state attorneys, public defenders, and guardians ad litem; providing for administrative fees for partial payments and payment plans; amending s. 28.2401, F.S.; increasing the additional service charge on petitions seeking summary administration in probate matters; providing for distribution of the increase; amending s. 28.2402, F.S.; reducing the filing fee for a county or municipality to file a code or ordinance violation in court; providing a court cost to be assessed against the nonprevailing party; requiring allocation of certain fines to the clerk of the court to offset certain costs relating to processing violations special laws and local ordinances; amending s. 28.241, F.S.; revising filing fees for trial and appellate proceedings; providing exemptions from certain filing fee requirements; providing for deferring such fees for indigent persons; revising distributions of such filing fees; establishing a fee to be paid by counsel appearing pro hac vice before the circuit court; amending s. 28.245, F.S.; requiring electronic transmittal to the Department of Revenue of moneys collected by clerks of court for subsequent distribution to state entities; requiring moneys collected by clerks of court to be distributed pursuant to the law in effect at time of collection; amending s. 28.246, F.S.; revising court-related fees, charges, and costs information reporting requirements; requiring separate identification of certain amounts; requiring certain persons to enroll in payment programs under certain circumstances; revising a funds distribution priority provision; authorizing clerks to impose and collect certain service charges for certain purposes; providing for collection fees to be in addition to certain amounts; amending s. 28.345, F.S.; limiting an exemption from certain court-related fees and charges; amending s. 28.35, F.S.; replacing the Clerk of Court Operations conference with the not-for-profit Florida Clerks of Court Conference, Inc.; providing organizational and operational requirements; providing for a governing board of directors; providing for board membership; revising duties of the conference; providing requirements for and limitations on court-related functions clerks may fund from certain fees, charges, costs, and fines; providing for conference funding; amending s. 28.36, F.S.; revising certain budget proposal and operations procedures for court-related functions of clerks of court; providing limitations; revising requirements; providing reporting requirements for certain funds insufficiencies; providing responsibilities of the Department of Revenue; authorizing clerks of court to retain certain funds under certain revenue deficit conditions; revising budget proposal and implementation requirements for clerks of court; providing for reimbursement of the Clerks of the Court Trust Fund for certain ineligible budget expenditures for certain purposes; requiring the department to certify certain budgets; amending s. 28.37, F.S.; changing the date for remittance of revenues by clerks of the court; requiring clerks operating as fee officers for court-related services to determine certain fees and expenses for such services; providing for remittance of certain excess fees to a county; requiring certain deficits to be funded by a county; revising payment procedures; deleting Department of Revenue authority to adopt rules providing for penalties for failure to comply with remittance; amending s. 29.005, F.S.; clarifying witnesses to be paid from state revenue when summoned by a state attorney; requiring certain motor vehicles and transportation services to be transferred to the state; amending s. 29.006, F.S.; clarifying witnesses to be paid from state revenue when summoned by a public defender; amending s. 29.008, F.S.; revising county funding requirements for certain equipment and support staff; revising definitions; establishing funding levels for legal aid programs; requiring the Department of Revenue to withhold certain revenue sharing receipts from certain counties under certain circumstances; specifying criteria for amounts withheld; requiring the state to apply amounts withheld to certain to certain payments; creating s. 29.0086, F.S.; creating the Article V Technology Board; providing for membership; providing duties and responsibilities of the board; requiring a report to Legislature; providing for future repeal; amending s. 29.016, F.S.; revising purposes for which judicial branch contingency funds may be used; amending s. 34.01, F.S.; deleting a requirement that parties instituting civil actions, suits, or proceedings pay certain fees and charges to the clerk; correcting a cross-reference; amending s. 34.041, F.S.; requiring parties instituting civil actions, suits, or proceedings in county court to pay certain filing fees; providing for allocation of such fees; providing certain exemptions from such fees; clarifying application to nonindigent parties; providing for filing fees in appellate proceedings; authorizing clerks to impose a fee upon attorneys appearing pro hac vice; providing for deposit of such fees; creating s. 34.045, F.S.; providing for certain payments in lieu of filing fees for certain filings in county court; providing requirements and limitations; providing allocations of certain fines to offset costs incurred by clerks in performing court-related functions associated with violations of special laws or local ordinances; amending s. 34.191, F.S.; revising distribution requirements for fines and forfeitures arising from offenses tried in county court; amending s. 35.22, F.S.; providing for collecting certain filing fees and services charges; establishing a fee to be paid by counsel appearing pro hac vice before a district court of appeal; amending s. 39.0134, F.S.; providing for compensation of appointed counsel in termination of parental rights proceedings; amending s. 40.29, F.S.; requiring state attorneys, public defenders, and clerks of court to provide the Justice Administrative Commission with estimates of required payments for witnesses; providing exceptions; providing for payment of certain invoices by clerks and the commission; amending s. 40.32, F.S.; revising payment disbursement requirements and procedures for clerks of court; amending s. 40.33, F.S.; revising procedures for deficiencies in certain funds; creating s. 40.361, F.S.; providing for applicability of laws relating to state budgeting and finances; amending s. 43.16, F.S.; exempting the Justice Administrative Commission from certain fees; amending s. 44.103, F.S.; revising provisions for compensating arbitrators; amending s. 44.108, F.S.; revising provisions for funding of mediation and arbitration; amending s. 45.031, F.S.; increasing a service charge for certain services in sales by clerks; creating s. 50.0711, F.S.; authorizing clerks of circuit courts to establish a court docket fund for paying for publishing notice of certain filings in certain newspapers; providing for funding by an additional service charge to certain filing fees; providing fund use requirements; providing for designating and funding certain newspapers for purposes of such publications; providing publication requirements for such newspapers; amending ss. 55.10 and 55.141, F.S.; clarifying provisions relating to fees and charges for clerks for certain services; amending s. 57.085, F.S.; clarifying certain provisions relating deferral of prepayment of court costs and fees for indigent prisoners; amending s. 61.14, F.S.; recharacterizing certain fees as service charges; increasing a certain charge; amending s. 61.181, F.S.; deleting an obsolete time period reference; amending s. 125.69, F.S.; deleting a provision authorizing certain persons to prosecute special laws and county ordinances; requiring counties to pay attorneys appointed by court to represent certain indigent defendants; authorizing a county to contract with the public defender for representation in certain cases; amending s. 129.02, F.S.; revising a county fine and forfeiture fund budget provision; amending s. 142.01, F.S.; specifying constituent funding sources for clerk of circuit court fine and forfeiture funds; amending s. 142.03, F.S.; revising provisions providing for disposition of fines, forfeitures, and civil penalties municipalities; amending s. 142.09, F.S.; requiring certain fees of witnesses and officers arising from criminal causes to be paid by the state; providing an exception; amending s. 218.245, F.S.; providing additional distribution requirements for revenues attributed to increase in distribution to the Revenue Sharing Trust

Fund for Municipalities; amending s. 318.14, F.S.; providing for deposit of certain court costs into a fine and forfeiture fund instead of being retained by a county; amending s. 318.15, F.S.; recharacterizing and increasing certain fees; providing for an alternative distribution certain charges; amending s. 318.18, F.S.; clarifying application of certain civil penalty deposit provisions; authorizing boards of county commissioners to impose by ordinance a surcharge for certain infractions or violations for payment of certain bond principal and interest payments; prohibiting court waiver of the surcharge; providing limitations; amending s. 318.21, F.S.; providing for deposit of certain funds in the Grants and Donations Trust Fund in the Justice Administrative Commission rather than such fund in the state courts system; deleting a requirement that a certain percentage of certain civil penalties be deposited into the General Revenue Fund; deleting a provision requiring certain moneys paid counties to be used for funding local criminal training under certain circumstances; amending s. 318.325, F.S.; providing that county and municipal parking fine revenues are subject to any applicable provisions of s. 318.21, F.S.; eliminating a requirement that county and municipal parking fine revenues be paid monthly to the county or municipality; eliminating a requirement that court costs assessed by a hearing officer be paid to the county; amending s. 321.05, F.S.; specifying a fine and forfeiture fund designation provision; amending s. 322.245, F.S.; requiring the Department of Highway Safety and Motor Vehicles to suspend the driver license of persons failing to pay certain financial obligations for certain criminal offenses; providing for reinstatement under certain circumstances; providing the department with immunity from liability for such license suspensions; amending s. 327.73, F.S.; increasing a dismissal fee; amending s. 372.72, F.S.; specifying a fine and forfeiture fund designation provision; amending s. 382.023, F.S.; specifying the clerk of the circuit court as the entity to retain a portion of a certain filing fee; amending ss. 384.288 and 392.68, F.S.; revising provisions providing for compensation of certain personnel for certain services and taxation of certain fees and charges as court costs; amending s. 394.473, F.S.; providing for compensation of attorneys and expert witnesses in cases involving indigent persons; amending s. 395.3025, F.S.; clarifying certain patient records copying charge provisions; amending s. 397.334, F.S.; clarifying authority of counties to use certain alternative moneys to fund treatment-based drug court programs; amending s. 713.24, F.S.; recharacterizing a fee as a service charge; amending s. 721.83, F.S.; providing additional limitations on complaints in certain timeshare estate foreclosure proceedings; providing criteria for consolidate timeshare foreclosure actions; providing for an additional filing fee for joined timeshare estates; amending s. 741.01, F.S.; increasing a fee charged for issuance of a marriage license; amending s. 744.331, F.S.; requiring the state to pay certain fees instead of counties in certain cases involving indigents; amending ss. 744.365 and 744.3678, F.S.; providing for deferral rather then waiver of certain fees; amending s. 766.104, F.S.; increasing a filing fee in certain medical negligence case proceedings; deleting a requirement that the fee be established by the chief judge; amending s. 903.035, F.S.; removing a county attorney from certain notification of bail modification application requirements; amending s. 903.26, F.S.; specifying a fine and forfeiture fund designation provision; providing for application of certain provisions to state attorneys instead of county attorneys; amending s. 903.28, F.S.; removing a county attorney from certain notification of certain remission of forfeiture application requirements; amending s. 925.09, F.S.; requiring counties to pay reasonable fees to physicians performing autopsies; creating s. 938.10, F.S.; imposing an additional court cost against persons who plead guilty or nolo contendere to, or who are found guilty of, certain crimes against minors; requiring the clerk of the court to transfer the proceeds of the court cost to the Department of Revenue for deposit into a specified trust fund to be used to fund children's advocacy centers; requiring the clerk of the court to retain a portion of the court cost as a service charge; requiring annual reports; requiring a report to the Legislature; amending s. 39.3035, F.S.; requiring compliance with specified statutory provisions in order for a child advocacy center to receive certain funding; directing the Florida Network of Children's Advocacy Centers, Inc., to document such compliance; amending s. 938.17, F.S.; providing for juvenile assessment centers and school board suspension programs; revising provisions relating to county delinquency prevention; amending s. 938.29, F.S.; deleting a provision authorizing county clerks to contract to collect certain debts or liens; amending s. 938.35, F.S.; authorizing governing bodies of municipalities to pursue collection of fees, charges, fines, and costs under certain circumstances; authorizing collection fees and attorney fees to be added to certain balances owed; creating s. 939.185, F.S.; authorizing boards of county commissioners to adopt by ordinance additional court costs for certain pleadings and findings of guilt; limiting uses; specifying allocations; providing priorities of disbursements; deleting an annual financial reporting requirement; amending s. 960.001, F.S.; clarifying application of certain witness notification provisions; amending s. 985.203, F.S.; correcting a cross reference; amending s. 149, ch. 2003-402, Laws of Florida; providing for repeal of certain fees, service charges, and costs imposed by county ordinance and special law; providing legislative intent; providing a legislative declaration of important state interest; providing requirements for remittance of court-related assessments retained by clerks of court; requiring cash balances on a certain date in county funds established for certain court-related program purposes to be used for such purposes; providing legislative intent relating sharing of due process costs; providing for state funding of certain due process services; authorizing contractual agreements to share costs associated with certain due process services; requiring the Division of Statutory Revision to redesignate the title of chapter 40, F.S.; requiring counties to pay for certain billings of certain due process services and certain flat-fee-per-case payments; providing submittal requirements for billings for certain services; requiring the Office of the State Courts Administrator to annually prepare and disseminate a manual of court-related fees, charges, costs, and fines; requiring the Department of Management Services, with the assistance of the Auditor General, to review procurement of certain state-funded services; providing requirements; requiring a report; authorizing the department to assist the Office of the State Courts Administrator and the Justice Administrative Commission with competitive solicitations for procurement of certain state-funded services; repealing s. 11.75, F.S., relating to the Joint Legislative Committee on Article V of the State Constitution; repealing s. 40.30, F.S., relating to required juror and witness payment requisition endorsements by the State Courts Administrator or a designee; repealing s. 142.04, F.S., relating to a requirement that clerk of court issue certain certificates to witnesses; repealing s. 142.05, F.S., relating to a prohibition against a clerk of court receiving certain fees; repealing s. 142.06, F.S., relating to a prescribed payroll form; repealing s. 142.07, F.S., relating to clerk of court payroll requirements; repealing s. 142.08, F.S., relating to clerk responsibility for certain certificates; repealing s. 142.10, F.S., relating to certain required officer accounts; repealing s. 142.11, F.S., relating to powers and duties of county commissioners relating to accounts; repealing s. 142.12, F.S., relating to audit requirements of county commissioners; repealing s. 142.13, F.S., relating to a right of an officer to test the validity of certain bills or accounts; repealing s. 939.18, F.S., relating to court assessments of additional court costs for court facilities; requiring the Department of Revenue to adopt rules; providing requirements; authorizing the Department of Financial Services to adopt rules; providing appropriations; providing effective dates.

MOTION

On motion by Senator Smith, the rules were waived to allow the following amendment to be considered:

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

Amendment 1A (503324)—On page 59, line 1, after the period (.) insert: *For purposes of this section, the term "circuit and county courts" shall include the offices and staffing of the guardian ad litem programs.*

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for SB 2962** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

CS for SB 2008—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; revising the exemption from public-records requirements for personal information contained in a motor vehicle record; removing the requirement that the exemption be conditioned on a request for exemption by the person who is the subject of the record; restricting the release of social security numbers and medical and disability information; revising certain conditions under which the Department of Highway Safety and Motor Vehicles may release information in connection with a legal proceeding; revising conditions for the release of information for bulk distribution use; providing for release of information when the subject has given consent on a form prescribed by the

department; providing that the restrictions on the disclosure of information do not affect the use of organ donor information; providing for rulemaking; providing for future legislative review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 2008** to **HB 1737**.

Pending further consideration of **CS for SB 2008** as amended, on motion by Senator Sebesta, by two-thirds vote **HB 1737** was withdrawn from the Committees on Transportation; Judiciary; Governmental Oversight and Productivity; and Rules and Calendar.

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

HB 1737—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; revising the exemption from public records requirements for personal information contained in a motor vehicle record; removing the requirement that the exemption be conditioned on a request for exemption by the person who is the subject of the record; revising certain conditions under which the Department of Highway Safety and Motor Vehicles may release information in connection with a legal proceeding; revising conditions for the release of information for bulk distribution use; providing for release of information when the department has obtained consent from the subject of the record; providing that the restrictions on the disclosure of information do not affect the use of organ donor information; providing for future repeal and legislative review; providing legislative finding of public necessity; providing an effective date.

—a companion measure, was substituted for **CS for SB 2008** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1737** was placed on the calendar of Bills on Third Reading.

MOTION

On motion by Senator Villalobos, the rules were waived and time of recess was extended until completion of **CS for SB's 1940 and 2636**, motions and announcements.

On motion by Senator Geller—

CS for SB's 1940 and 2636—A bill to be entitled An act relating to arcade amusement centers; amending s. 849.161, F.S.; revising provisions exempting certain amusement centers from the application of gambling regulations; restricting the use of points or coupons received by players in arcade amusement centers; clarifying a reference; prohibiting gambling devices at arcade amusement centers; providing that, with respect to arcade amusement centers, local governments may establish or amend the zoning map designation of a parcel or parcels of land or change the actual list of permitted, conditional, or prohibited uses within a zoning category; authorizing local governments to limit the hours of operation of arcade amusement centers and limit the number of machines in such centers; providing an effective date.

—was read the second time by title.

Senator Geller moved the following amendments which were adopted:

Amendment 1 (041154)—On page 1, lines 29 and 30, delete those lines and insert: having amusement games or machines *not proscribed by ss. 849.15 and 849.16,* which operate by means of the insertion of a coin *or electronic token* and

SENATOR WEBSTER PRESIDING

Amendment 2 (443458)—On page 2, delete line 20 and insert: coin*, electronic token,* or other currency and which by application of skill may

Amendment 3 (352752)(with title amendment)—On page 3, between lines 9 and 10, insert:

3. This chapter does not apply to any children's amusement center having amusement games that operate by means of the insertion of a coin or other currency or other token and that may entitle the person operating the game or machine to receive points or coupons that may be exchanged for noncash prizes, toys, or novelties for children under the age of 14 years. As used in this subparagraph, the term "children's amusement center" means a place of business, the general concept or theme of which is the amusement or entertainment of children under the age of 14 years and that operates coin-operated amusement games and machines in which the majority of such games or machines are for the use or operation by children under the age of 14 years. The term does not include any business that allows the use of video poker games or any other game or device classified as a gambling device in chapter 24 of 15 U.S.C. s. 1171 unless excluded from these requirements under subsection (2) or subsection (3) of s. 1178. Points or coupons received by a player may be exchanged only at the same business or a franchise thereof. Points or coupons received by a player may not be exchanged for any credit card, gift certificate, or similar conveyance, or for cash, alcoholic beverages, tobacco products, or coupons redeemable for cash, alcoholic beverages, or tobacco products.

And the title is amended as follows:

On page 1, line 8, after the semicolon (;) insert: providing an exemption from regulation for certain children's amusement centers;

Amendment 4 (714116)—On page 3, delete line 11 and insert: construed as applicable to a coin-operated *or electronic-token-operated* game or device

Amendment 5 (863028)—On page 3, delete line 13 and insert: purposes *and not proscribed by ss. 849.15 and 849.16,* which game or device

Amendment 6 (815482)—On page 4, line 8, delete "*The*" and insert: *In addition and supplemental to any other authority under law, the*

Amendment 7 (732542)(with title amendment)—On page 1, line 22, insert:

Section 1. *Sections 1 through 4 of this act may be known by the popular name the "Evelyn Wiesman-Price Act."*

Section 2. Effective July 1, 2004, subsections (1), (2), (5), (7), (8), (9), (10), and (11) of section 849.0931, Florida Statutes, are amended, present subsection (13) of said section is renumbered as subsection (14) and amended, and a new subsection (13) is added to said section, to read:

849.0931 Bingo authorized; conditions for conduct; permitted uses of proceeds; limitations.—

(1) As used in this section:

(a) "Bingo game" means and refers to the activity, commonly known as "bingo," in which participants pay a sum of money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out "bingo" and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

(b) "Bingo card" means and refers to the flat piece of paper or thin pasteboard employed by players engaged in the game of bingo. The bingo card shall have not fewer than 24 playing numbers printed on it. These playing numbers shall range from 1 through 75, inclusive. More than one set of bingo numbers may be printed on any single piece of paper.

(c) "Charitable, nonprofit, or veterans' organization" means an organization which has qualified for exemption from federal income tax as an exempt organization under the provisions of s. 501(c) of the Internal Revenue Code of 1954 or s. 528 of the Internal Revenue Code of 1986, as amended; which is engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar activities; and which has been in existence and active for a period of 3 years or more.

(d) "Deal" means a separate set or package of not more than 4,000 instant bingo tickets in which the predetermined minimum prize payout is at least 65 percent of the total receipts from the sale of the entire deal.

(e) "Instant bingo" means a game that is played using tickets by which a player wins a prize by opening and removing a cover from the ticket to reveal a set of numbers, letters, objects, or patterns, some of which have been predesignated in advance as prize winners.

(f)~~(d)~~ "Objects" means a set of 75 balls or other precision shapes that are imprinted with letters and numbers in such a way that numbers 1 through 15 are marked with the letter "B," numbers 16 through 30 are marked with the letter "I," numbers 31 through 45 are marked with the letter "N," numbers 46 through 60 are marked with the letter "G," and numbers 61 through 75 are marked with the letter "O."

(g)~~(e)~~ "Rack" means the container in which the objects are placed after being drawn and announced.

(h)~~(f)~~ "Receptacle" means the container from which the objects are drawn or ejected.

(i)~~(g)~~ "Session" means a designated set of games played in a day or part of a day.

(2)(a) None of the provisions of this chapter shall be construed to prohibit or prevent charitable, nonprofit, or veterans' organizations engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar endeavors, which organizations have been in existence and active for a period of 3 years or more, from conducting bingo games *or instant bingo*, provided the entire proceeds derived from the conduct of such games, less actual business expenses for articles designed for and essential to the operation, conduct, and playing of bingo *or instant bingo*, are donated by such organizations to the endeavors mentioned above. In no case may the net proceeds from the conduct of such games be used for any other purpose whatsoever. The proceeds derived from the conduct of bingo games *or instant bingo* shall not be considered solicitation of public donations.

(b) It is the express intent of the Legislature that no charitable, nonprofit, or veterans' organization serve as a sponsor of a bingo game *or instant bingo* conducted by another, but such organization may only be directly involved in the conduct of such a game as provided in this act.

(5) *Except for instant bingo prizes, which are limited to those displayed on the ticket, a* ~~no~~ jackpot *may not* ~~shall~~ exceed the value of $250 in actual money or its equivalent, and there *may not* ~~shall~~ be ~~no~~ more than three jackpots in any one session of bingo.

(7) *Except for instant bingo prizes, which are limited to those displayed on the ticket,* there *may not* ~~shall~~ be ~~no~~ more than three jackpots on any one day of play. All other game prizes *may* ~~shall~~ not exceed $50.

(8) Each person involved in the conduct of any bingo game *or instant bingo* must be a resident of the community where the organization is located and a bona fide member of the organization sponsoring such game and may not be compensated in any way for operation of such ~~bingo~~ game. When bingo games *or instant bingo* are conducted by a charitable, nonprofit, or veterans' organization, the organization conducting the ~~bingo~~ games *must* ~~shall be required to~~ designate up to three members of that organization to be in charge of the games, one of whom *must* ~~shall~~ be present during the entire session at which the ~~bingo~~ games are conducted. The organization conducting the ~~bingo~~ games is responsible for posting a notice, which notice states the name of the organization and the designated member or members, in a conspicuous place on the premises at which the session is held *or instant bingo is played*. ~~In no event may~~ A caller in a bingo game *may not* be a participant in that bingo game.

(9) Every charitable, nonprofit, or veterans' organization involved in the conduct of a bingo game *or instant bingo* must be located in the county, or within a 15-mile radius of, where the bingo game *or instant bingo* is located.

(10)(a) No one under 18 years of age shall be allowed to play any bingo game *or instant bingo* or be involved in the conduct of a bingo game *or instant bingo* in any way.

(b) Any organization conducting bingo open to the public may refuse entry to any person who is objectionable or undesirable to the sponsoring organization, but such refusal of entry shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap.

(11) Bingo games *or instant bingo* may be held only on the following premises:

(a) Property owned by the charitable, nonprofit, or veterans' organization.

(b) Property owned by the charitable, nonprofit, or veterans' organization that will benefit by the proceeds.

(c) Property leased for a period of not less than 1 year by a charitable, nonprofit, or veterans' organization, providing the lease or rental agreement does not provide for the payment of a percentage of the proceeds generated at such premises to the lessor or any other party and providing the rental rate for such premises does not exceed the rental rates charged for similar premises in the same locale.

(d) Property owned by a municipality or a county when the governing authority has, by appropriate ordinance or resolution, specifically authorized the use of such property for the conduct of such games.

(e) With respect to bingo games conducted by a condominium association, a cooperative association, a homeowners' association as defined in s. 720.301, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513, property owned by the association, property owned by the residents of the mobile home park or recreational vehicle park, or property which is a common area located within the condominium, mobile home park, or recreational vehicle park.

(13)(a) Instant bingo tickets must be sold at the price printed on the ticket by the manufacturer, not to exceed $1. Discounts may not be given for purchases of multiple tickets, nor may tickets be given away free of charge.

(b) The sets of numbers, letters, objects, or patterns that have been predesignated by the manufacturer as winning combinations for a deal of instant bingo tickets must be posted before the sale of any tickets from that deal.

(c) Each instant bingo ticket in a deal must bear the same serial number and there may not be more than one serial number in each deal. Serial numbers printed on a deal of instant bingo tickets may not be repeated by the manufacturer on the same form for a period of 3 years.

(d) The serial number for each deal must be clearly and legibly placed on the outside of each deal's package, box, or other container.

(e) Instant bingo tickets manufactured, sold, or distributed in this state must comply with the applicable mandatory standards on pull-tabs of the North American Gaming Regulators Association, as amended.

(f) Except as provided under paragraph (e), an instant bingo ticket manufactured, sold, or distributed in this state must:

1. Be manufactured so that it is not possible to identify whether it is a winning or losing instant bingo ticket until it has been opened by the player as intended.

2. Be manufactured using at least a two-ply paper stock construction so that the instant bingo ticket is opaque.

3. Have the form number, the deal's serial number, and the name or logo of the manufacturer conspicuously printed on the face or cover of the instant bingo ticket.

4. Have a form of winner protection that allows the organization to verify, after the instant bingo ticket has been played, that the winning instant bingo ticket presented for payment is an authentic winning instant bingo ticket for the deal in play. The manufacturer shall provide a written description of the winner protection with each deal of instant bingo tickets.

(g) Each manufacturer and distributor that sells or distributes instant bingo tickets in this state to charitable, nonprofit, or veterans' organizations shall prepare an invoice that contains the following information:

1. Date of sale.

2. Form number and the serial number of each deal sold.

3. Number of instant bingo tickets in each deal sold.

4. Name of distributor or organization to whom each deal is sold.

5. Price of each deal sold.

All information contained on an invoice must be maintained by the distributor or manufacturer for 3 years.

(h) The invoice, or a true and accurate copy thereof, must be on the premises where any deal of instant bingo tickets is stored or in play.

(i) The Department of the Lottery shall keep a list of at least six qualified instant bingo ticket manufacturers that are authorized to sell instant bingo tickets within the state. The Department of the Lottery shall process all applications to be placed on the list of instant bingo ticket manufacturers pursuant to s. 120.60. A distributor or charitable, nonprofit, or veterans' organization may not purchase, distribute, or sell instant bingo tickets manufactured by any manufacturer other than those qualified instant bingo ticket manufacturers listed by the Department of the Lottery.

(14)~~(13)~~ Any organization or other person who willfully and knowingly violates any provision of this section *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For a second or subsequent offense, the organization or other person *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Effective July 1, 2004, for the purpose of incorporating the amendment to section 849.0931, Florida Statutes, in references thereto, section 718.114, Florida Statutes, is reenacted to read:

718.114 Association powers.—An association has the power to enter into agreements, to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities. It has this power whether or not the lands or facilities are contiguous to the lands of the condominium, if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners. All of these leaseholds, memberships, and other possessory or use interests existing or created at the time of recording the declaration must be stated and fully described in the declaration. Subsequent to the recording of the declaration, the association may not acquire or enter into agreements acquiring these leaseholds, memberships, or other possessory or use interests except as authorized by the declaration. The declaration may provide that the rental, membership fees, operations, replacements, and other expenses are common expenses and may impose covenants and restrictions concerning their use and may contain other provisions not inconsistent with this chapter. A condominium association may conduct bingo games as provided in s. 849.0931.

Section 4. Effective July 1, 2004, for the purpose of incorporating the amendment to section 849.0931, Florida Statutes, in references thereto, subsection (8) of section 723.079, Florida Statutes, is reenacted to read:

723.079 Powers and duties of homeowners' association.—

(8) Any mobile home owners' association or group of residents of a mobile home park as defined in this chapter may conduct bingo games as provided in s. 849.0931.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to games and gaming; providing a popular name; amending s. 849.0931, F.S.; defining the terms "instant bingo" and "deal"; providing rules for the operation of instant bingo games; providing penalties; providing requirements for the manufacture and sale of instant bingo tickets; providing duties of the Department of the Lottery; reenacting ss. 718.114 and 723.079(8), F.S., relating to condominiums and homeowners' associations, to incorporate the amendment to s. 849.0931, F.S., in references thereto;

Pursuant to Rule 4.19, **CS for SB's 1940 and 2636** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Fasano, by two-thirds vote **SR 3142** was withdrawn prior to introduction.

On motion by Senator Lee, by two-thirds vote **CS for SB 1632** was withdrawn from the Committee on Governmental Oversight and Productivity.

MOTIONS

On motion by Senator Lee, a deadline of one hour after the availability of engrossed bills was set for filing amendments to Bills on Third Reading to be considered Wednesday, April 28.

On motion by Senator Lee, by two-thirds vote all bills remaining on the Special Order Calendar this day were established as the Special Order Calendar for Wednesday, April 28.

COMMUNICATION

The Honorable James E. "Jim" King, Jr., President April 27, 2004
The Florida Senate

Dear Mr. President:

In compliance with Article III, Section 19(d) of the Constitution and Joint Rule 2, copies of the Conference Committee Reports on **HB 1835** and **HB 1837** have been furnished to each member of the Legislature, each member of the Cabinet, the Governor, and the Chief Justice of the Supreme Court.

The House Clerk has certified that delivery was completed April 27, 2004 at 7:08 p.m.

Respectfully submitted,
Faye W. Blanton, Secretary

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, April 27, 2004: CS for CS for SB 528, SB 300, CS for SB's 332, 1912 and 2678, CS for SB 714, CS for SB 2008, CS for SB's 1940 and 2636, SB 2968, CS for CS for CS for SB 1698, SB 2922, CS for SB 2448, CS for CS for SB 1456, CS for CS for SB 162, CS for SB 2664, CS for SB 3000, CS for SB 612, CS for SB 1842, CS for CS for CS for CS for SB 700, CS for SB 1374, CS for SB 1226, CS for SB 1588, CS for SB's 2346 and 516, CS for CS for SB 1280, CS for SB 1782, CS for SB 1820, CS for SB 338, CS for SB 1824, CS for CS for SB 1982, CS for CS for SB 2042, CS for CS for SB 2722, CS for CS for SB 520 and CS for SB 494, CS for CS for SB 3004, CS for CS for SB 3006, CS for CS for SB 2704, CS for CS for SB 354, CS for CS for CS for SB 2676, CS for SB 2246, CS for SB 1578, CS for SM 2522, CS for CS for SB 1380, CS for SB 2302, CS for SB 2322, CS for CS for SB 2682, SM 2818

Respectfully submitted,
Tom Lee, Chair

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

Senate Resolutions 3178-3180—Not referenced.

By Senator Campbell—

SB 3182—A bill to be entitled An act relating to Broward County; amending chapter 2000-461, Laws of Florida, relating to the Children's Services Council of Broward County; increasing the membership of the council; revising the requirements concerning delivery of the written

budget to Broward County; revising procedures concerning levying of ad valorem taxes; requiring interlocal agreements between the council and applicable community redevelopment agencies; providing expenditure authority and procedures for budgeted funds up to $5,000; authorizing expenditures by electronic wire transfers under specified procedures; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SR 3184—Not referenced.

By Senator Campbell—

SB 3186—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Fort Lauderdale or the City of Oakland Park; providing for annexation of the unincorporated area known as North Andrews Gardens; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3188—A bill to be entitled An act relating to the North Lauderdale Water Control District, Broward County; amending, reenacting, repealing, and codifying chapters 97-370, 94-428, 85-385, 82-273, and 63-661, Laws of Florida, relating to the North Lauderdale Water Control District; revising district boundaries; revising the powers of the district, to provide that the district may borrow money at a rate not exceeding that which is provided by law; providing that the members of the board of supervisors shall be the "city commission," rather than the "city council," of the City of North Lauderdale and that a board chair and vice chair shall be elected at each annual meeting and as necessary to fill vacancies; providing meeting notice requirements and requiring that meetings be held at a public place; providing that the City Clerk of the City of North Lauderdale shall serve as the district secretary; providing for reimbursement of supervisors for travel expenses pursuant to section 112.061, Florida Statutes; providing that the interest rate on bonds issued by the board not exceed the maximum rate allowed by law; providing that the interest rates on tax anticipation notes issued by the board shall not exceed the maximum rate allowed by law; deleting provision relating to payment of taxes not authorized in advance; providing for the use of non-ad valorem assessments; updating references to chapter 298, Florida Statutes; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SR 3190—Not referenced.

By Senator Campbell—

SB 3192—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Lauderdale Lakes or the City of Lauderhill; providing for annexation of the unincorporated area known as Boulevard Gardens; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3194—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the Town of Davie, the City of Fort Lauderdale, or the City of Plantation; providing for annexation of the unincorporated area known as Broadview Park; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3196—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Lauderdale Lakes, the City of Lauderhill, and the City of Plantation; providing for annexation of the unincorporated area known as Broward Estates; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing for effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3198—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Fort Lauderdale; providing for annexation of the unincorporated area known as Rock Island; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for continuation of certain Broward County regulations; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3200—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Pompano Beach or the City of Deerfield Beach; providing for annexation of the unincorporated area known as the Pompano Highlands; providing for an election; providing for an effective date of annexation; providing for interlocal agreement; providing for continuation of certain Broward County regulations; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3202—A bill to be entitled An act relating to the South Broward Hospital District, Broward County; providing for codification of special laws regarding special districts pursuant to section 189.429, Florida Statutes, relating to South Broward Hospital District, an independent special tax district in Broward County; providing legislative intent; codifying, repealing, amending, and reenacting chapters 24415 (1947), 59-

1125, 59-1126, 59-1128, 61-1925, 61-1932, 61-1935, 63-1180, 65-1296, 65-1339, 67-1164, 69-910, 70-618, 71-566, 71-577, 72-494, 74-436, 74-450, 75-346, 75-349, 76-337, 76-339, 79-431, 80-459, 80-466, 80-467, 80-469, 81-351, 82-269, 83-378, 84-400, 90-488, and 99-423, Laws of Florida; providing district boundaries; providing for a board of commissioners; providing powers, functions, and duties of the district and its board of commissioners; providing a district charter; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Campbell—

SB 3204—A bill to be entitled An act relating to the South Broward Drainage District, Broward County; amending chapter 98-524, Laws of Florida; providing for the number of supervisors of the district; providing single-member zones; providing the method of election of supervisors; providing the qualifications of supervisors; providing the term of office for supervisors; providing that the officers of the district shall be members of the board of supervisors; providing for the limitation of supervisors' benefits; deleting obsolete provisions; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed HB 341, HB 469, HB 625, HB 785, HB 923, HB 961, HB 971, HB 987, HB 1023, HB 1151, HB 1391, HB 1413, HB 1415, HB 1483, HB 1545, HB 1577, HB 1599, HB 1645, HB 1669, HB 1671, HB 1675; has passed as amended HB 599, HB 601, HB 611, HB 629, HB 635, HB 653, HB 711, HB 733, HB 749, HB 771, HB 817, HB 823, HB 827, HB 883, HB 895, HB 921, HB 1091, HB 1121, HB 1127, HB 1145, HB 1159, HB 1247, HB 1341, HB 1381, HB 1389, HB 1393, HB 1395, HB 1397, HB 1399, HB 1401, HB 1407, HB 1409, HB 1411, HB 1417, HB 1449, HB 1453, HB 1457, HB 1475, HB 1485, HB 1487, HB 1491, HB 1507, HB 1573, HB 1607, HB 1609, HB 1621, HB 1625, HB 1639, HB 1647, HB 1649, HB 1709, HB 1747, HB 1755, HB 1757, HB 1831; has passed by the required Constitutional two-thirds vote of the membership HB 1737; has passed as amended by the required Constitutional two-thirds vote of the membership HB 1785, HB 1833, HB 1925 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Kravitz and others—

HB 341—A bill to be entitled An act relating to student financial assistance; providing legislative intent to expand access to postsecondary education and reduce student indebtedness; requiring each state university and community college to report information relating to certain funds used to provide financial assistance to certain students; prohibiting the use of such funds to provide financial assistance to specified foreign students; providing for the redirection of funds to provide additional need-based financial assistance to students classified as residents for tuition purposes; requiring annual state university and community college reporting; providing an effective date.

—was referred to the Committees on Education; Home Defense, Public Security, and Ports; Appropriations Subcommittee on Education; and Appropriations.

By Representative Evers and others—

HB 469—A bill to be entitled An act relating to the documentary stamp tax on promissory or nonnegotiable notes and written obligations to pay money; amending s. 201.08, F.S.; exempting from the tax notes or other written obligations to pay money executed by agriculture producers in this state to the Commodity Credit Corporation and security instruments for such notes and obligations; providing an effective date.

—was referred to the Committees on Agriculture; Banking and Insurance; Finance and Taxation; Appropriations Subcommittee on General Government; and Appropriations.

By Representative Harrington—

HB 625—A bill to be entitled An act relating to the Charlotte County Airport Authority; amending chapter 98-508, Laws of Florida; revising and providing definitions; providing for compensation and travel expenses; providing for meetings of the authority; revising powers of the authority; providing for the authority to borrow money, incur debt, and issue bonds; providing for terms of bonds; providing for fixing and collecting rent; providing methods for expending funds; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Murman and others—

HB 785—A bill to be entitled An act relating to Hillsborough County; authorizing the waiver of payment and performance bonds 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 when the cost of the project is $500,000 or less and the contract for the construction, completion, or repair is awarded pursuant to an economic development program established to encourage local small businesses to participate in county procurement programs; providing for a committee to determine suitable projects; providing requirements for the economic development program for local small businesses; providing procedures for waiver of the payment and performance bond; requiring a report; providing for repeal of the act; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative M. Davis and others—

HB 923—A bill to be entitled An act relating to the Big Cypress Stewardship District, Collier County; creating and establishing an independent special district in Collier County to be known as the Big Cypress Stewardship District; creating a charter; providing for minimum charter requirements; providing for powers of the district and compliance with county plans and regulations; providing for the sale of real estate in the district; requiring a disclosure to the purchaser; describing the boundaries of the district; providing for a board of supervisors; providing qualifications, terms of office, election procedures, powers, duties, and compensation of the board; requiring an annual landowners' meeting; providing for taxes and non-ad valorem assessments; providing for penalties on delinquent taxes; providing for enforcement of taxes and assessments; providing for the issuance of bonds; providing for liberal construction; providing for severability; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Murman and others—

HB 961—A bill to be entitled An act relating to the City of Tampa, Hillsborough County; revising provisions relating to the City Pension

Fund for Firefighters and Police Officers in the City of Tampa; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to revise the definition of pensionable earnings to include up to 300 hours per year of overtime and any other payments required to be included under chapters 175 and 185, Florida Statutes; revising the medical examination requirements for membership; providing for an increase in the accrual of benefits from 2.5 percent to 3.15 percent; providing for a minimum benefit for retirees; providing that the act is contingent upon execution of a contract between the city and the bargaining agents for the firefighters and police officers; providing for the execution of certain supplemental contract provisions by a date certain or forever barring the receipt of the benefits therein provided; confirming in part the City of Tampa Firefighters and Police Officers Pension Contract; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Kravitz—

HB 971—A bill to be entitled An act relating to the City of Jacksonville, Duval County; amending chapter 92-341, Laws of Florida, as amended, being the Charter of the City of Jacksonville, to allow certain city employees to become employed by the First Coast Metropolitan Planning Organization and to retain their city pension membership; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Anderson and others—

HB 987—A bill to be entitled An act relating to Pasco County; providing legislative findings and intent with respect to monopoly water utilities; providing for a pilot project for Pasco County to facilitate county response to certain consumer complaints; permitting the chair of the board of county commissioners to establish a monopoly water utility ad hoc committee for a prescribed period; providing for the membership and duties of the committee; allowing the county commission to adopt additional technological standards to address issues relating to black water and rotten-egg odor in domestic plumbing; requiring that utilities receive notice of the standards and submit a compliance plan to the county; prohibiting the county commission from adopting standards that relate to the finances of a monopoly water utility or conflict with specified standards imposed by other regulatory bodies; providing procedures for challenging standards adopted by the county; providing for a monopoly water utility to recover certain costs of compliance with the county requirements; providing that this act supersedes conflicting provisions of ch. 367, F.S.; providing for future repeal; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Joyner and others—

HB 1023—A bill to be entitled An act relating to the City of Tampa, Hillsborough County; amending chapter 23559 (1945), Laws of Florida, as amended; revising provisions relating to the pension fund for general employees of the City of Tampa; clarifying covered employees; revising the definition of "average monthly salary," "pension credit," and "normal retirement date" to provide for 6-year vesting; revising deferred pension, early retirement, and disability retirement provisions to provide for 6-year vesting; providing additional cost-of-living adjustments; revising benefits provisions regarding reemployment after termination to provide for 6-year vesting; providing for 6-year vesting for elective officers, department heads, and appointive officers; revising the eligibility requirements for the Deferred Retirement Option Program to provide for 6-year vesting; adding a provision regarding limitations on amounts of benefits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Needelman—

HB 1151—A bill to be entitled An act relating to the City of Melbourne, Brevard County; extending and enlarging the corporate limits of the City of Melbourne to include specified unincorporated lands within said corporate limits; providing for the transfer of certain roads; providing for the application of municipal powers over the land annexed; providing that the annexation shall not abrogate certain contracts; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1391—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Lauderdale Lakes or the City of Lauderhill; providing for annexation of the unincorporated area known as Boulevard Gardens; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1413—A bill to be entitled An act relating to the City of Weston, Broward County; extending and enlarging the corporate limits of the City of Weston to include specified unincorporated lands within said corporate limits; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1415—A bill to be entitled An act relating to Broward County; providing for deannexation of certain lands from the City of Cooper City; providing for annexation of certain lands into the Town of Southwest Ranches; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative M. Davis and others—

HB 1483—A bill to be entitled An act relating to the Immokalee Water and Sewer District, Collier County; amending chapter 98-495, Laws of Florida; amending the boundaries of the district; increasing the amount for disbursements of district funds that must made pursuant to warrant or check; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Sorensen—

HB 1545—A bill to be entitled An act relating to Monroe County; amending chapter 99-395, Laws of Florida, as amended; revising provi-

sions relating to interim construction standards for new, expanded, or existing onsite sewage treatment and disposal systems scheduled to be served by a central sewage facility before July 1, 2010; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Sorensen—

HB 1577—A bill to be entitled An act relating to Monroe County; amending chapter 2002-337, Laws of Florida, as amended; providing conditions for use of certain funds by the Key Largo Wastewater Treatment District; revising provisions relating to vacancies on the governing board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Troutman and others—

HB 1599—A bill to be entitled An act relating to the Highlands County Hospital District; codifying, pursuant to s. 189.429, F.S., special laws relating to the Highlands County Hospital District; codifying, reenacting, amending, and repealing chapters 61-2232, 72-553, 74-487, 78-519, 80-506, 81-384, 84-437, 85-420, 88-456, and 96-443, Laws of Florida; fixing and prescribing boundaries of the district; providing for its governing and administration; providing and defining powers and purposes of the district and its board of commissioners; authorizing the board to establish, contract for, lease, operate, and maintain any hospital it has established in the district; authorizing and providing for issuance and sale of district bonds; authorizing the board to borrow money and give notes therefor; authorizing and providing for levy and collection of taxes for payment of bonds and notes and interest thereon; providing for exercise of the power of eminent domain; authorizing establishment of hospital staff and a nursing school; providing for liability insurance; providing construction; providing severability; providing for the issuance of revenue bonds; authorizing the transfer of certain funds and limiting the uses thereof; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Sansom—

HB 1645—A bill to be entitled An act relating to Holley-Navarre Fire District, Santa Rosa County; providing for codification of special laws relating to the district; amending, codifying, reenacting, and repealing all prior special acts; providing definitions; providing for creation, status, charter amendments, and boundaries; providing for a board of supervisors and powers, duties, and responsibilities; preserving the authority to levy ad valorem taxes and non-ad valorem assessments; providing powers and authorities; providing for a non-ad valorem assessment schedule; specifying limitations; providing for liens; providing for authority to disburse funds; authorizing district to borrow money; providing for use of district funds; requiring a record of all board meetings; authorizing the board to adopt policies and regulations; providing for an annual budget; authorizing the board to enact fire prevention ordinances, appoint a fire marshal, acquire land, enter contracts, and operate a fire rescue service; providing for district authority upon annexation of district lands; providing for dissolution; providing immunity from tort liability for officers, agents, and employees; providing for district expansion; providing for construction, effect, conflict, and repeal of all prior special acts; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Homan and others—

HB 1669—A bill to be entitled An act relating to Hillsborough County; providing definitions; providing purpose; authorizing purchases of goods and services by the county and other public bodies operating in the county under bids submitted to other federal, state, and local governmental entities; providing conditions; providing an exemption; providing construction; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Domino—

HB 1671—A bill to be entitled An act relating to Palm Beach County; amending chapter 2000-467, Laws of Florida, relating to Northern Palm Beach County Improvement District; amending the boundaries of the district to include additional lands; amending chapter 2001-313, Laws of Florida, relating to South Indian River Water Control District, by amending the boundaries of the district to delete lands; providing for an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gannon—

HB 1675—A bill to be entitled An act relating to the Boca Raton Airport Authority; providing for a codified charter for the Boca Raton Airport Authority; creating the Boca Raton Airport Authority; providing for its membership, terms of office, officers, quorum, and meetings; defining the powers and duties of the authority; providing for reimbursement of travel expenses; providing for budgets; providing for transfer of funds; providing for an airport manager; defining the relationship between the authority, the City of Boca Raton, Palm Beach County, and the State of Florida; providing for continued vesting of title to the land comprising the Boca Raton Airport in the Board of Trustees of the Internal Improvement Trust Fund; providing the authority is liable for certain obligations and damages; declaring the authority to be an agency of the state; repealing chapters 82-259, 83-371, 91-381, and 99-421, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Culp and others—

HB 599—A bill to be entitled An act relating to dealing in stolen property; amending s. 812.022, F.S.; creating an inference that certain persons accepting used property knew or should have known that the property was stolen if the property conspicuously displays specified information; specifying actions such persons may take to avoid the inference; providing exceptions providing an effective date.

—was referred to the Committees on Criminal Justice; and Judiciary.

By Representative Brandenburg—

HB 601—A bill to be entitled An act relating to Palm Beach County; amending chapter 93-367, Laws of Florida, as amended; revising provisions relating to employees of the Palm Beach County Sheriff; revising the definition of "career service employee" and providing restrictions for reduction in rank of certain employees; providing applicability; specifying rights of such employees; revising procedures for appeal of disciplinary actions and complaints against employees; revising provisions for the appointment of boards to hear appeals and procedures with respect thereto; revising provisions relating to monetary emoluments based on performance; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Stargel and others—

HB 611—A bill to be entitled An act relating to conveyances of land; transferring, renumbering, and amending s. 689.26, F.S.; modifying a disclosure form that a prospective purchaser must receive before executing a contract for sale; providing that certain contracts are voidable for a specified period; requiring that a purchaser provide written notice of cancellation; transferring and renumbering s. 689.265, F.S., relating to required financial reports of certain residential subdivision developers; amending s. 498.025, F.S., relating to the disposition of subdivided lands; conforming cross references; providing an effective date.

—was referred to the Committees on Regulated Industries; Judiciary; and Comprehensive Planning.

By Representative Cusack—

HB 629—A bill to be entitled An act relating to the Daytona Beach Downtown Development Authority, Volusia County; codifying, amending, reenacting, and repealing the authority's special acts; providing a popular name; providing definitions; providing legislative findings; providing boundaries; providing for supervision, appointment, removal, terms, qualifications, compensation, and filling of vacancies on the authority; providing for functions and powers of the authority; providing for ad valorem taxation; providing for board records and fiscal management; providing for issuance of certificates; providing for elections; providing for millage limitations; providing for special assessments; providing for liberal construction; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Vana and others—

HB 635—A bill to be entitled An act relating to a public records exemption; amending s. 119.07, F.S.; providing an exemption from public records requirements for information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents of guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, and photograph of such child, the names and locations of schools attended by such child, and the names, home addresses, telephone numbers, and social security numbers of the parents or guardians of such child; providing for disclosure of such information by court order upon a showing of good cause; providing for retroactive effect of the exemption; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

—was referred to the Committees on Governmental Oversight and Productivity; and Rules and Calendar.

By Representative Zapata and others—

HB 653—A bill to be entitled An act relating to health care; amending s. 400.487, F.S.; revising home health agency service agreements and treatment orders; amending s. 400.506, F.S.; requiring nurse registries to advise patients, their families, or persons action on behalf of patients of the availability of registered nurses to make visits at an additional cost; removing the requirement for registered nurses to make monthly visits to patients under the care of certified nursing assistants or home health aides; revising requirements for private residence plans of treatment; amending s. 464.009, F.S.; saving a certain requirement for licensure by endorsement from repeal; providing an effective date.

—was referred to the Committees on Health, Aging, and Long-Term Care; Appropriations Subcommittee on Health and Human Services; Appropriations; and Rules and Calendar.

By Representative Negron—

HB 711—A bill to be entitled An act relating to the St. Lucie County Erosion District; providing for codification of special laws relating to the district; amending, codifying, reenacting, and repealing all prior special acts; preserving current authority; providing definitions; providing the board of the district shall be the St. Lucie County Commission; providing for meetings and applicability of ch. 189, F.S.; providing district powers; providing that employees of the district shall be considered employees of St. Lucie County; providing that contracts for services, supplies, and materials shall be entered into as provided by the charter and general law; providing district board authorization to amend, abolish, or consolidate existing district zone boundaries and determine benefits for the purpose of levying ad valorem taxes; providing district board authorization to levy and collect non-ad valorem assessments; providing district board authorization for issuance of bonds pursuant to general law and this act; providing that the purchase of commodities and services shall be in accordance with the purchasing policies of St. Lucie County; providing for severability; repealing chapters 67-2001 and 97-354, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Vana—

HB 733—A bill to be entitled An act relating to the Loxahatchee Groves Water Control District, Palm Beach County; amending chapter 99-425, Laws of Florida; amending the district's election procedures; clarifying that the power of the district with respect to roadways and roads is not limited to roads shown on the replat of Loxahatchee Groves and clarifying that the levying of assessments by the district is pursuant to chapter 298, Florida Statutes, or this act; eliminating references to other types of assessments; providing a procedure for the dedication of roads to the district; amending the permitting of culverts, other drainage systems, bridges, or culvert crossings; providing procedures when such bridges or culvert crossings restrict the normal conveyance of water within the district's canals; providing that special assessments are not limited to roads and roadways but may be levied for district improvements; providing that the issuance of special assessment bonds are not limited to roads and roadways but may be used for district improvements; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Fields and others—

HB 749—A bill to be entitled An act relating to the City of Jacksonville, Duval County; amending chapter 92-341, Laws of Florida, as amended; amending the Charter of the City of Jacksonville; establishing a Correctional Officers Pension Fund within the City of Jacksonville's 1937 General Employee's Pension Fund and an additional funding source for pension benefits for correctional officers of the Office of the Sheriff; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Stansel and others—

HB 771—A bill to be entitled An act relating to Columbia County; providing for career service for members of the Columbia County Sheriff's Office; providing for application of the act, career status of members, and administration; providing for a procedure with respect to complaints against members; providing for appeals; providing for certain protections during the transition of a new Sheriff; providing for a Career Service Appeal Board; providing for status as career members; prohibiting certain actions to circumvent the act; providing for exclusions; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Spratt—

HB 817—A bill to be entitled An act relating to Spring Lake Improvement District, Highlands County; providing for codification of special laws relating to the Spring Lake Improvement District, a special tax district; providing legislative intent; codifying, reenacting, and amending chapters 71-669, 77-563, 88-461, and 90-434, Laws of Florida; providing for minimum charter requirements; providing for provision of other laws made applicable; repealing chapters 71-669, 77-563, 88-461, and 90-434, Laws of Florida; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Stargel—

HB 823—A bill to be entitled An act relating to the Lakeland Downtown Development Authority; codifying, amending, repealing, and reenacting special acts relating to the Lakeland Downtown Development Authority, an independent special district; providing definitions; providing a statement of policy; providing a method of defining the downtown area; creating a board to be known as the Lakeland Downtown Development Authority; providing for composition of the board; providing for appointment, term of office, compensation, bonding, and liability of the members of the board; providing for filling vacancies in office; providing for bylaws and internal governance of the board; prescribing the functions and powers of the board; providing for Polk County to levy an ad valorem tax of not more than 2 mills; providing for records and fiscal management; providing for issuing revenue certificates; providing for succession by the city if the board ceases to exist or operate; providing for referenda; prescribing the scope of this act; providing for liberal construction; repealing chapters 77-588 and 78-549, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Littlefield—

HB 827—A bill to be entitled An act relating to Meadow Pointe and Meadow Pointe II Community Development Districts, Pasco County; requiring owners to submit building plans to the district board under certain circumstances; permitting architectural review by each district board; providing for the enforcement of deed restrictions within each district; providing penalties; excluding certain villages from the provisions of this act; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative H. Gibson—

HB 883—A bill to be entitled An act relating to the Lake County Water Authority district; amending, codifying, reenacting, and repealing chapter 29222, Laws of Florida, 1953, as amended; codifying special acts relating to the district in conformity to s. 189.429, F.S.; providing district boundaries; providing purposes; providing for a governing body and prescribing its powers, duties, functions, membership, and organization; providing duties of constitutional officers in Lake County with respect to the authority; repealing chapter 29222, Laws of Florida, 1953, and chapters 57-1484, 59-1466, 63-1507, 65-1787, 69-1209, 2000-492, 2003-376, Laws of Florida, relating to the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Garcia—

HB 895—A bill to be entitled An act relating to medical specialties; amending s. 458.3312, F.S.; authorizing physicians to be certified as specialists by a board of certification of the American Association of Physician Specialists, Inc.; prohibiting lowering of certification standards; providing for rescinding of certification authority under certain circumstances; amending s. 456.039, F.S., to conform; providing an effective date.

—was referred to the Committees on Health, Aging, and Long-Term Care; Appropriations Subcommittee on Health and Human Services; and Appropriations.

By Representative Sorensen and others—

HB 921—A bill to be entitled An act relating to the Florida Keys Aqueduct Authority, Monroe County; providing for codification of special laws relating to the Florida Keys Aqueduct Authority; providing legislative intent; codifying, repealing, amending, and reenacting chapters 76-441, 77-604, 77-605, 80-546, 83-468, 84-483, 84-484, 86-419, 87-454, 98-519, 2003-304, and 2003-327, Laws of Florida; providing for liberal construction; providing a savings clause in the event any provision of the act is deemed invalid; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Russell—

HB 1091—A bill to be entitled An act relating to the City of Weeki Wachee, Hernando County; prohibiting the City of Weeki Wachee from exercising the right of eminent domain; prohibiting the annexation of land; limiting the amount of ad valorem taxes that may be assessed; providing for rules governing municipal elections; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Green and others—

HB 1121—A bill to be entitled An act relating to health care providers; amending s. 766.1115, F.S.; revising definitions; providing qualifications for volunteer, uncompensated services; extending protection of sovereign immunity to free clinics as health care providers; requiring the Department of Health to adopt certain rules to specify methods for determination and approval of patient eligibility; providing requirements for such rules; defining the term "health care practitioner"; providing for waiver of biennial license renewal fees and fulfillment of a portion of continuing education hours for specified health care practitioners who provide services, without compensation, to low-income recipients as agents of governmental contractors; amending s. 381.00593, F.S.; providing that for purposes of the public school volunteer health care practitioner program, a licensed dietitian/nutritionist is a health care practitioner; providing an effective date.

—was referred to the Committees on Health, Aging, and Long-Term Care; Appropriations Subcommittee on Health and Human Services; and Appropriations.

By Representative Harrington and others—

HB 1127—A bill to be entitled An act relating to preserving Florida's history; amending s. 267.031, F.S.; providing additional responsibilities

of the Division of Historical Resources of the Department of State relating to preserving archaeological sites and artifacts; authorizing the division to enter into a memorandum of agreement with the University of West Florida for purposes of a network of regional public archaeology centers; amending s. 267.14, F.S.; providing additional legislative intent relating to local archaeology; creating s. 267.145, F.S.; requiring the Department of State to create a network of public archaeology centers for certain purposes; requiring administration of the network through a center at the University of West Florida; providing for establishing additional centers; creating s. 267.174, F.S.; providing a popular name; creating the Discovery of Florida Quincentennial Commemoration Commission within the Department of State for certain purposes; providing for commission membership; providing for terms of members; providing for successor appointment; providing for election of officers; requiring the commission to adopt bylaws; providing for commission meetings; specifying serving without compensation; providing for per diem and travel expenses; requiring the commission to develop a master plan for certain purposes; requiring a timetable and budget for the plan; requiring a report to the Governor and Legislature; providing responsibilities of the department; authorizing the appointment of subcommittees; requiring the Secretary of State to appoint an advisory committee composed of all former living governors of the state; requiring the commission to provide advice and assistance to the Department of State regarding master plan implementation and activities of a citizen support organization; specifying the appointment of two subcommittees; providing compensation only for per diem and travel expenses; requiring the Department of State to provide administrative support and consulting services subject to an appropriation; authorizing the Department of State to enter into contracts or accept loans or grants for money, property, or personal services to implement requirements; providing for assumption of other functions to carry out provisions; providing for the establishment of a citizen support organization for certain purposes; authorizing the organization to receive moneys for certain purposes; authorizing the Secretary of State to adopt a master plan; providing for legislative budget requests; providing for a term of existence of the commission and the citizen support organization; providing for transfer of documents and remaining assets of the commission and citizen support organization upon termination; providing an effective date.

—was referred to the Committees on Governmental Oversight and Productivity; Appropriations Subcommittee on Transportation and Economic Development; and Appropriations.

By Representative M. Davis and others—

HB 1145—A bill to be entitled An act relating to the East Naples Fire Control and Rescue District, Collier County; amending chapter 2000-444, Laws of Florida, relating to the district's powers to issue general obligation bonds, notes, or certificates of indebtedness and to charge and collect impact fees on new construction within the district in order to be consistent with the amended provisions of this act, chapter 189 or chapter 191, Florida Statutes, or other applicable law; providing for liberal construction; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Ausley—

HB 1159—A bill to be entitled An act relating to the Tallahassee-Leon County Civic Center Authority; codifying, amending, repealing, and reenacting the authority's special acts; providing for planning, developing, operating, and maintaining a comprehensive complex of civic, governmental, educational, recreational, convention, and entertainment facilities; providing for the method and manner of the election, selection, and terms of membership of the authority; providing powers, functions, privileges, duties, and responsibilities of the authority; providing for the issuance of bonds; providing for the rights and remedies of bondholders; providing for the sources of revenues to the authority; naming the Tallahassee-Leon County Civic Center; requiring the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a beverage license to the authority or its designee; providing severability; repealing chapters 72-605, 77-480, 79-502, and 81-494, Laws of Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Cantens and others—

HB 1247—A bill to be entitled An act relating to traffic control; amending s. 316.1945, F.S.; prohibiting stopping a vehicle in a school zone to load or unload passengers when the school zone speed limit is in force; providing exceptions; amending s. 316.650, F.S.; providing for a parental notification system to be developed by the Department of Highway Safety and Motor Vehicles; requiring the form to be completed by a traffic enforcement officer upon issuing a traffic citation or a written warning to a person under 18 years of age; requiring the department to provide such notification to the parent, guardian, or other responsible adult who signed the driver's license application; amending s. 322.09, F.S.; requiring a parent, guardian, or other responsible adult signing the driver license application of a minor to provide certain contact information; providing an effective date.

—was referred to the Committees on Education; and Transportation.

By Representative Sorensen and others—

HB 1341—A bill to be entitled An act relating to motor vehicles; creating the "Road Rage Reduction Act"; providing legislative intent; amending s. 316.081, F.S.; requiring operators of motor vehicles to drive in the right-hand lane on certain highways; providing exceptions; providing penalties for violation; amending s. 322.27, F.S.; providing for the assessment of points for violating specified provisions that require operators of motor vehicles to drive on the right side of the road; requiring the Department of Highway Safety and Motor Vehicles to provide an educational awareness campaign; providing an effective date.

—was referred to the Committees on Transportation; and Judiciary.

By Representative Paul—

HB 1381—A bill to be entitled An act relating to the Englewood Water District, Charlotte and Sarasota Counties; codifying, amending, reenacting, and repealing the district's special acts; establishing boundaries; providing definitions; providing for election of a board of supervisors to govern said district; providing powers, authority, and duties of the board; granting to said governing board the authority in the territory defined to construct, acquire, extend, enlarge, reconstruct, improve, maintain, equip, repair, and operate a water system, wastewater system, or wastewater reuse system, or any combination thereof; authorizing the levy and collection of non-ad valorem assessments on property benefited by the construction of such water system, wastewater system, or wastewater reuse system, or combined systems; providing for optional methods of financing the cost of the water system, wastewater system, or wastewater reuse system or combined systems or extensions and additions thereto by the issuance of revenue bonds or assessment bonds or any combination thereof and the fixing and collection thereof and the fixing and collection of rates and charges on users of such systems; providing for the levy and collection of non-ad valorem assessments on benefited property and the pledge of such assessments for the payment of any revenue bonds, or assessment bonds; providing for the rights, remedies, and security of any of the holders of said bonds; providing penalties; repealing chapter 96-499, Laws of Florida, relating to the Englewood Water District; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb—

HB 1389—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Coral Springs; providing for annexation of the unincorporated area known as Ramblewood East Condominium; providing for continuation of certain regula-

tions; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1393—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the Town of Davie, the City of Fort Lauderdale, or the City of Plantation; providing for annexation of the unincorporated area known as Broadview Park; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1395—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Lauderdale Lakes, the City of Lauderhill, and the City of Plantation; providing for annexation of the unincorporated area known as Broward Estates; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing for effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1397—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Lauderdale Lakes or the City of Lauderhill; providing for annexation of the unincorporated area known as St. George; providing for an election; providing an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain regulations; providing for the continuation of certain rights; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1399—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Fort Lauderdale or the City of Oakland Park; providing for annexation of the unincorporated area known as Twin Lakes North; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb—

HB 1401—A bill to be entitled An act relating to Broward County; amending chapter 75-350, Laws of Florida, as amended by chapters 76-336, 77-507, and 81-349, Laws of Florida; revising provisions relating to the governing of municipal elections in Broward County; specifying the dates on which municipal candidates shall file qualification papers and pay certain fees with respect to certain elections; revising provisions relating to the dates on which municipal primary and general elections shall be held; authorizing municipalities to extend or reduce terms of office for certain purposes; authorizing the governing body of each municipality to change the date of its municipal elections by ordinance, subject to approval by referendum; requiring the supervisor of elections to provide to each municipality a schedule of fees and charges for all municipal election services for the following calendar year by a time certain; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1407—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Deerfield Beach; providing for annexation of specified unincorporated areas; providing for an interlocal agreement; providing for continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1409—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Pompano Beach or the City of Deerfield Beach; providing for annexation of the unincorporated area known as the Pompano Highlands; providing for an election; providing for an effective date of annexation; providing for interlocal agreement; providing for continuation of certain Broward County regulations; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb—

HB 1411—A bill to be entitled An act relating to the Town of Lauderdale-By-The-Sea and the Village of Sea Ranch Lakes, Broward County; clarifying and delineating the corporate limits of the Town of Lauderdale-By-The-Sea and the Village of Sea Ranch Lakes to include specified lands within said corporate limits; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1417—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Pompano Beach; providing for annexation of specified unincorporated areas; providing for an interlocal agreement; providing for continuation of certain Broward County regulations; providing for the transfer of Broward County roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Harrington—

HB 1449—A bill to be entitled An act relating to the DeSoto County Hospital District; codifying special laws relating to DeSoto County Hospital District pursuant to section 189.429, Florida Statutes; providing legislative intent; codifying, repealing, amending, and reenacting chapters 65-1450, 69-1011, 71-605, 73-443, 78-498, 82-288, and 89-493, Laws of Florida; providing district status and boundaries; providing for applicability of chapter 189, Florida Statutes, and other general laws; providing a district charter; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative H. Gibson—

HB 1453—A bill to be entitled An act relating to the North Sumter County Hospital District; providing a popular name; providing district purpose; providing district boundaries; providing for a board of trustees as the governing body of the district; prescribing the powers and duties of the board; providing for compensation and meetings of the board; authorizing the board to levy and collect an annual ad valorem tax upon taxable property within the district; providing for a referendum; providing for purpose of the tax; providing for a method for such levy; providing for an annual report; providing for financial disclosure; providing for liens and foreclosure of liens; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Evers—

HB 1457—A bill to be entitled An act relating to land surveying and mapping; amending s. 472.019, F.S.; authorizing and providing conditions, including fees, for the reinstatement and reissuance of licenses for certain individuals whose licenses became null under specified circumstances; providing for future repeal; providing an effective date.

—was referred to the Committees on Regulated Industries; and Governmental Oversight and Productivity.

By Representative Gardiner—

HB 1475—A bill to be entitled An act relating to cemeteries; amending s. 704.08, F.S.; providing a statutory easement for ingress and egress, for the visitation and maintenance of a cemetery, for members of not-for-profit organizations whose purposes include the preservation of the state's history and maintenance of historic cemeteries; limiting the time and frequency of statutory easements for ingress and egress; requiring prior notice to the landowner; providing that the landowner is not liable for an injury caused by a person who goes on the land; authorizing certain not-for-profit organizations to request the owner to provide for reasonable maintenance of the cemetery; limiting the scope of maintenance of a cemetery; requiring the not-for-profit organization to file a letter with the Department of State describing the proposed activity; amending s. 810.011, F.S.; providing that certain enclosed cemeteries are not required to satisfy the definition of "posted land" in order to obtain certain benefits pertaining to trespass on enclosed lands; providing an effective date.

—was referred to the Committees on Judiciary; and Banking and Insurance.

By Representative Gottlieb and others—

HB 1485—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Fort Lauderdale or the City of Oakland Park; providing for annexation of the unincorporated area known as North Andrews Gardens; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for a continuation of certain Broward County regulations; providing for the transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb and others—

HB 1487—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the City of Fort Lauderdale; providing for annexation of the unincorporated area known as Rock Island; providing for an election; providing for an effective date of annexation; providing for an interlocal agreement; providing for continuation of certain Broward County regulations; providing for transfer of public roads and rights-of-way; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb—

HB 1491—A bill to be entitled An act relating to Broward County; creating the charter of the City of West Park; providing for the corporate name and purpose of the charter; establishing form of government and territorial boundaries of the municipality; providing powers of the municipality and of certain officers; providing for election and terms of office of a city commission, including the mayor and vice mayor, and providing for qualifications, powers, and duties of and restrictions on its membership; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; providing a procedure for establishing compensation and expense reimbursement for the mayor and city commission; providing for rules of procedure; providing for a city administrator, city clerk, and city attorney and powers and duties of each; providing restrictions on expenditure of city funds; authorizing establishment of city boards and agencies; providing for commission meetings, procedural rules, and recordkeeping and voting at meetings; providing for emergency ordinances; providing for budget requirements, adoption, and amendment and establishing a fiscal year; providing procedures for authentication, recording, and disposition of ordinances, resolutions, and charter amendments; establishing the right to determine, order, levy, assess, and collect taxes; providing for borrowing by the city; providing for an annual independent audit; providing for quasi-judicial procedures; establishing election requirements and guidelines; providing for charter amendments and review; providing for severability; providing for standards of conduct; providing for a personnel system; providing requirements for charitable contributions; providing for transition, including a referendum on incorporation and alternate manners of elections for the city commission, initial election and terms, and date of creation and establishment of the municipality; providing for interim adoption of codes and ordinances and taxes and fees; providing for payment of certain revenues and for transitional ordinances and resolutions; entitling the city to state shared and local option gas tax revenues; providing for the sharing of certain revenues; providing for the city commission to rename the city under certain circumstances; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Evers—

HB 1507—A bill to be entitled An act relating to condominiums; amending s. 718.301, F.S.; providing for the effect of actions taken by members of the board of administration of an association; requiring examination and certification of certain defects by certain licensed individuals or entities; providing an effective date.

—was referred to the Committees on Comprehensive Planning; Regulated Industries; Judiciary; and Commerce, Economic Opportunities, and Consumer Services.

By Representative Stansel and others—

HB 1573—A bill to be entitled An act relating to street lighting; creating s. 768.1382, F.S.; limiting liability for certain public and private entities providing street lights, security lights, or other similar illumination; providing that certain entities do not owe duty to the public to provide, operate, or maintain illumination; providing for exceptions; prohibiting certain findings of fault or responsibility of an entity not a party to litigation; providing for severability; providing for application; providing an effective date.

—was referred to the Committees on Comprehensive Planning; Governmental Oversight and Productivity; and Judiciary.

By Representative Gottlieb and others—

HB 1607—A bill to be entitled An act relating to the South Broward Drainage District, Broward County; amending chapter 98-524, Laws of Florida; providing for the number of supervisors of the district; providing single-member zones; providing the method of election of supervisors; providing the qualifications of supervisors; providing the term of office for supervisors; providing that the officers of the district shall be members of the board of supervisors; providing for the limitation of supervisors' benefits; deleting obsolete provisions; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Baker—

HB 1609—A bill to be entitled An act relating to the North Lake County Hospital District, Lake County; amending chapter 2002-348, Laws of Florida; providing for payment of tax proceeds to designees of the Florida Hospital Waterman, Inc., and Leesburg Regional Medical Center, Inc., under specified circumstances; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Negron and others—

HB 1621—A bill to be entitled An act relating to services and research related to the elderly; amending s. 400.141, F.S.; extending an exception to nursing home facility liability insurance coverage requirements; creating s. 430.7032, F.S.; creating the Program of All-Inclusive Care for the Elderly; providing a popular name; authorizing the Department of Elderly Affairs and the Agency for Health Care Administration to contract with certain entities to provide benefits under the program; requiring the agency and department to contract with nonprofit organizations in certain counties; requiring the agency to approve a certain number of enrollees within a certain period; providing an exemption for providers under the program; amending s. 430.707, F.S.; deleting a transferred subsection; amending s. 430.502, F.S.; designating an additional memory disorder clinic; requiring the Louis de la Parte Florida Mental Health Institute to establish a workgroup on emergency mental health services for persons with dementia; providing for appointment to such workgroup; providing duties; providing that members shall serve without compensation; requiring a report to the Governor and Legislature; providing for future repeal; creating s. 430.042, F.S.; establishing the Office of Destination Florida; assigning duties; appointing a director; providing for rules; amending s. 1004.445, F.S.; providing for additional members of the board of directors of the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute; providing effective dates.

—was referred to the Committees on Children and Families; Governmental Oversight and Productivity; Criminal Justice; Appropriations Subcommittee on Health and Human Services; and Appropriations.

By Representative M. Davis and others—

HB 1625—A bill to be entitled An act relating to the Ave Maria Stewardship Community District, Collier County; providing a popular name; creating the Ave Maria Stewardship Community District; providing for findings, determinations, ascertainments, intent, purpose, definitions, and policy; creating the charter of the District; providing for authority and jurisdiction; creating the District as a special, limited, and single-purpose independent district, an independent local government and corporate body politic, to provide community development infrastructure to the Ave Maria community development in that certain portion of the unincorporated area of the Collier County political subdivision within and subject to the Growth Management Plan and the Rural Lands Stewardship Area Zoning Overlay District in Eastern Collier County; prescribing and fixing the boundaries of the District; providing for election of a Board of Supervisors and terms of office and powers and duties thereof; requiring certain financial reports; providing for disclosure of public financing information; authorizing and providing for the levy and collection of taxes; authorizing special powers relating to water management and control, roads and bridges, and other public facilities; providing for the issuance of bonds and short-term borrowing; providing procedures for competitive procurement of goods, supplies, and materials; providing for enforcement of provisions of the Act and providing penalties for violation thereof; providing for the applicability of provisions of chapter 189, Florida Statutes, and other general laws; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Llorente and others—

HB 1639—A bill to be entitled An act relating to sovereign immunity; providing legislative findings and intent; amending s. 766.1115, F.S.; specifying nonapplicability to certain affiliation agreements or contracts to provide certain comprehensive health care services protected by sovereign immunity; amending s. 768.28, F.S.; expanding a definition to include certain health care providers; including under sovereign immunity protection provisions certain colleges, universities, and medical schools providing comprehensive health care services to patients at public hospitals under certain circumstances; providing definitions; providing an exception; specifying that certain records held by a medical school are public records subject to certain public records requirements; providing an effective date.

—was referred to the Committees on Health, Aging, and Long-Term Care; Judiciary; Appropriations Subcommittee on Education; and Appropriations.

By Representative D. Davis—

HB 1647—A bill to be entitled An act relating to the Jacksonville Airport Authority, Consolidated City of Jacksonville, Duval County; creating and establishing separate charter provisions concerning the airport authority known as the Jacksonville Airport Authority, which was established effective October 1, 2001, pursuant to chapter 2001-319, Laws of Florida, as amended; establishing the separate airport authority as a county authority, providing for governing bodies, appointment of members, terms, staggered terms, rules of procedure, providing for employment of a managing director and other employees, providing for interrelations with and use of services of the City of Jacksonville; providing definitions; establishing powers; providing for issuance of bonds; providing for budgetary and financial matters; providing for rights of bondholders; providing rights of employees and participation in the Florida Retirement System; providing for cooperation with other entities; providing for audits and bonds; providing for purchasing, procurement, and award of contracts; providing for execution of instruments and examination of claims; providing for transfer, effective October 1, 2001, of assets and liabilities from the former consolidated Jacksonville Port Authority to the separate airport authority and for assumption of responsibilities; making the Port Facilities Financing Act applicable to airport operations; declaring a county and public purpose; providing for liberal construction; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative D. Davis—

HB 1649—A bill to be entitled An act relating to the Jacksonville Port Authority, Consolidated City of Jacksonville, Duval County; creating and establishing separate charter provisions concerning the seaport authority known as the Jacksonville Port Authority which was established effective October 1, 2001, pursuant to chapter 2001-319, Laws of Florida, as amended; establishing the separate seaport authority as a county authority, providing for governing bodies, appointment of members, terms, staggered terms, and rules of procedure; providing for employment of a managing director and other employees; providing for interrelations with and use of services of the City of Jacksonville; providing definitions; establishing powers; providing for issuance of bonds; providing for budgetary and financial matters; providing for rights of bondholders; providing rights of employees and participation in the Florida Retirement System; providing for cooperation with other entities; providing for audits and bonds; providing for purchasing, procurement, and award of contracts; providing for execution of instruments and examination of claims; effective October 1, 2001, providing for transfer of assets and liabilities from the former consolidated Jacksonville Port Authority to the separate seaport authority and for assumption of responsibilities; making the Port Facilities Financing Act applicable to seaport operations; declaring a county and public purpose; providing for liberal construction; providing for severability; repealing chapter 2001-319, Laws of Florida, as amended; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Gottlieb—

HB 1709—A bill to be entitled An act relating to the Coral Springs Improvement District, Broward County; providing for codification of special laws regarding special districts pursuant to s. 189.429, Florida Statutes, relating to the Coral Springs Improvement District; codifying, amending, and reenacting chapters 70-617 and 89-419, Laws of Florida; providing legislative intent; deleting gender-specific references; providing a district charter; repealing chapters 70-617 and 89-419, Laws of Florida, relating to the Coral Springs Improvement District; providing severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Allen—

HB 1747—A bill to be entitled An act relating to the Canaveral Port District, Brevard County; amending chapter 2003-335, Laws of Florida; increasing the amount for which the Canaveral Port Authority may encumber personal properties and facilities of the authority; increasing the amount for which contracts for construction, improvement, repair, or building may be entered into or goods, supplies, or materials may be purchased by the district or authority; conforming a required electors signature provision; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Judiciary; and Representative Kottkamp—

HB 1755—A bill to be entitled An act relating to fiduciary relationships; amending s. 711.501, F.S.; including additional investment instruments within the definition of the term "security account"; amending s. 737.402, F.S.; revising the powers conferred upon a trustee; amending s. 737.403, F.S.; specifying circumstances in which court authorization is not required for a trustee to exercise his or her power when a conflict of interest exists; amending s. 738.104, F.S.; providing that adjustments affecting the value of trust assets are not deemed to benefit a trustee under certain circumstances; providing for applicability of trustee adjustment power to certain trusts; amending s. 738.1041, F.S., relating to total return unitrust; defining the terms "fair market value" and "unitrust amount"; providing a remedy; providing that certain provisions shall apply to the administration of certain trusts; amending s. 738.303, F.S.; defining the term "undistributed income"; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Judiciary.

By the Committee on Education K-20; and Representative Kilmer and others—

HB 1757—A bill to be entitled An act relating to display of flags in educational institutions; providing a popular name; amending s. 1000.06, F.S.; requiring the flag of the United States to be displayed in each classroom in public K-20 educational institutions; providing for procurement of flags; providing an effective date.

—was referred to the Committees on Education; and Military and Veterans' Affairs, Base Protection, and Spaceports.

By the Committee on Public Safety and Crime Prevention; and Representative Barreiro—

HB 1831—A bill to be entitled An act relating to limitation of actions; amending s. 775.15, F.S.; authorizing the prosecution of specified sexual offenses in certain circumstances within 1 year after the identity of the accused is established through analysis of DNA evidence, in addition to the time limitations otherwise prescribed by law; providing for applicability; providing an effective date.

—was referred to the Committees on Judiciary; and Criminal Justice.

By the Committee on Transportation; and Representative Russell—

HB 1737—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; revising the exemption from public records requirements for personal information contained in a motor vehicle record; removing the requirement that the exemption be conditioned on a request for exemption by the person who is the subject of the record; revising certain conditions under which the Department of Highway Safety and Motor Vehicles may release information in connection with a legal proceeding; revising conditions for the release of information for bulk distribution use; providing for release of information when the department has obtained consent from the subject of the record; providing that the restrictions on the disclosure of information do not affect the use of organ donor information; providing for future repeal and legislative review; providing legislative finding of public necessity; providing an effective date.

—was referred to the Committees on Transportation; Judiciary; Governmental Oversight and Productivity; and Rules and Calendar.

By the Committee on State Administration; and Representative Benson and others—

HB 1785—A bill to be entitled An act relating to a public records exemption; amending s. 119.07, F.S.; creating an exemption from public records

requirements for the home addresses, telephone numbers, social security numbers, and photographs of active or former emergency medical technicians or paramedics certified in compliance with chapter 401, the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such emergency medical technicians and paramedics, and the names and locations of schools and day care facilities attended by the children of

such emergency medical technicians and paramedics, upon written request by the emergency medical technician or paramedic, which must include official verification that the emergency medical technician or paramedic has received a work-related threat to his or her life, health, or safety or to the life, health, or safety of a member of his or her family; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—was referred to the Committees on Health, Aging, and Long-Term Care; Governmental Oversight and Productivity; and Rules and Calendar.

By the Committee on Natural Resources; and Representative Spratt and others—

HB 1833—A bill to be entitled An act relating to an exemption from public records requirements; amending s. 253.034, F.S.; providing an exemption from public records requirements for a written valuation of state-owned land determined by the Board of Trustees of the Internal Improvement Trust Fund to be surplus land and related documents used to form the valuation or which pertain to the valuation; providing for limited duration of the exemption; authorizing the disclosure of appraisals, valuations, and valuation information under specified circumstances; providing for review and repeal; providing a statement of public necessity; providing an effective date.

—was referred to the Committees on Natural Resources; Governmental Oversight and Productivity; and Rules and Calendar.

By the Committee on Public Safety and Crime Prevention; and Representative Barreiro and others—

HB 1925—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; creating an exemption from public records requirements for the home addresses, telephone numbers, social security numbers, and photographs of current or former personnel of a crime laboratory or medical examiner's office, the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel, and the names and locations of schools and day care facilities attended by the children of such personnel, upon written request by the current or former personnel of a crime laboratory or medical examiner s office, which must include official verification that the person has received a work-related threat to his or her life, health, or safety or to the life, health, or safety of a member of his or her family; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—was referred to the Committees on Criminal Justice; Health, Aging, and Long-Term Care; Governmental Oversight and Productivity; and Rules and Calendar.

RETURNING MESSAGES—FINAL ACTION

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed SB 120, CS for SB 204, CS for SB 340, CS for CS for SB 1294, CS for SB 1572 and SB 2484; and passed CS for SB 466 and CS for SB 2496 by the required Constitutional two-thirds vote of the membership of the House.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 26 was corrected and approved.

CO-SPONSORS

Senators Aronberg—CS for SB 2054; Campbell—CS for CS for SB 2262; Dawson—CS for SB 444, CS for SB 1122; Fasano—CS for SB 2054; Geller—SB 2636; Haridopolos—CS for SB 280, SB 1962; Lynn—CS for CS for SB 546, SB 2426, CS for SB 2856, SB 3010 and Wilson—SB 3010

Senator Constantine withdrew as a co-sponsor of SB 2636.

RECESS

On motion by Senator Lee, the Senate recessed at 7:03 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Wednesday, April 28 or upon call of the President.