

1  
2           An act relating to governmental reorganization;  
3           amending s. 20.04, F.S.; providing an exception  
4           to departmental structure requirements;  
5           deleting reference to the Department of Banking  
6           and Finance and substituting the Department of  
7           Financial Services; creating s. 20.121, F.S.;  
8           creating the Department of Financial Services;  
9           specifying the Chief Financial Officer as the  
10          head of the department; providing for  
11          departmental structure; creating the Financial  
12          Services Commission; providing commission  
13          composition, structure, and powers;  
14          establishing the Office of Insurance Regulation  
15          and the Office of Financial Institutions and  
16          Securities Regulation within the commission;  
17          providing powers, duties, and responsibilities  
18          of such offices; requiring the commission to  
19          establish certain additional organizational  
20          structure of such offices; providing for  
21          appointment and specifying qualifications of  
22          directors of such offices; providing for  
23          administrative support for such offices;  
24          transferring certain programs, including  
25          employees and equipment, from the Department of  
26          Banking and Finance and the Department of  
27          Insurance to the Department of Financial  
28          Services, the Office of Insurance Regulation,  
29          and the Office of Financial Institutions and  
30          Securities Regulation; transferring certain  
31          trust funds from the Department of Banking and

1 Finance and the Department of Insurance to the  
2 Department of Financial Services, the Office of  
3 Insurance Regulation, and the Office of  
4 Financial Institutions and Securities  
5 Regulation; specifying that certain statutory  
6 appointment responsibilities vested by law in  
7 certain officers are the responsibility of the  
8 Chief Financial Officer; specifying that rules  
9 of the Department of Banking and Finance and  
10 the Department of Insurance become rules of the  
11 Department of Financial Services or the  
12 Financial Services Commission; providing for  
13 preservation of validity of judicial or  
14 administrative actions involving such  
15 departments; providing for substitution of  
16 certain parties in interest in such actions;  
17 creating the Committee of Transition  
18 Management; providing for independent function;  
19 providing for treatment for administrative  
20 purposes as an office of the Executive Office  
21 of the Governor; providing for appointment of  
22 committee members; specifying powers and duties  
23 of the committee; requiring certain reports,  
24 proposed organizational plans, and written  
25 recommendations to the Financial Services  
26 Commission and the Legislature; providing  
27 additional legislative intent relating to  
28 statutory responsibility for certain  
29 appointments becoming the responsibility of the  
30 Chief Financial Officer or the Financial  
31 Services Commission; providing for conforming

1           legislation; providing for assistance of  
2           certain legislative substantive committees by  
3           the Division of Statutory Revision for certain  
4           purposes; amending s. 1, ch. 2002-194, Laws of  
5           Florida; providing an exception to a transfer  
6           provided for in said act; amending s. 288.99,  
7           F.S.; redefining the terms "early stage  
8           technology business" and "qualified  
9           distribution"; defining the terms "Program One"  
10          and "Program Two"; revising procedures and  
11          dates for certification and decertification  
12          under Program One and Program Two; revising the  
13          process for earning premium tax credits;  
14          providing a limitation on tax credits under  
15          Program Two; providing for distributions under  
16          both programs; requiring the Department of  
17          Revenue to adopt certain rules; providing for  
18          additional premium; providing for additional  
19          allocations of certain insurance premium tax  
20          credits under certain circumstances;  
21          authorizing the Department of Revenue to adopt  
22          rules; amending s. 517.12, Florida Statutes;  
23          exempting general lines insurance agents and  
24          life insurance agents from registration  
25          requirements relating to sales of certain  
26          securities in certain circumstances; providing  
27          for the applicability of specified sections of  
28          the Insurance Code; amending s. 570.07, F.S.;  
29          specifying emergency powers of the Commissioner  
30          of Agriculture; amending s. 624.91, F.S.;  
31          revising provisions of the Florida Healthy Kids

1 Corporation Act, to conform; creating ss.  
2 633.801, 633.802, 633.803, 633.804, 633.805,  
3 633.806, 633.807, 633.808, 633.809, 633.810,  
4 633.811, 633.812, 633.813, 633.814, 633.815,  
5 633.816, 633.817, 633.818, 633.819, 633.820,  
6 and 633.821, F.S.; providing a short title;  
7 providing definitions; providing legislative  
8 intent; authorizing the Division of State Fire  
9 Marshal of the Department of Insurance to adopt  
10 rules related to firefighter safety  
11 inspections; requiring the division to conduct  
12 a study of firefighter occupational diseases;  
13 authorizing representatives of the division to  
14 enter and inspect any place of firefighter  
15 employment; requiring firefighter employers to  
16 provide safe employment conditions; authorizing  
17 the division to adopt rules that prescribe  
18 means for preventing accidents in places of  
19 firefighter employment and establish standards  
20 for construction, repair, and maintenance;  
21 requiring the division to inspect places of  
22 firefighter employment and to develop safety  
23 and health programs for those firefighter  
24 employers whose employees have a high frequency  
25 or severity of work-related injuries; requiring  
26 certain firefighter employers to establish  
27 workplace safety committees and to maintain  
28 certain records; providing penalties for  
29 firefighter employers who violate provisions of  
30 the act; providing exemptions; providing a  
31 penalty for the failure to implement a safety

1 and health program and cancellations; providing  
2 for expenses of administration; providing  
3 penalties for refusal to admit division;  
4 specifying firefighter employee rights and  
5 responsibilities; providing division remedies  
6 for failure to comply; providing penalties for  
7 firefighter employers who make false statements  
8 to the division or to an insurer; providing  
9 criminal penalties for false, malicious, or  
10 fraudulent statements and representatives;  
11 specifying applicability to volunteer  
12 firefighters and fire departments; providing  
13 for workplace safety and to authorize the  
14 division to adopt rules including federal  
15 standards for assuring safe working conditions  
16 for all firefighter employees; amending s.  
17 633.31, F.S.; changing the name of and  
18 expanding and diversifying the Firefighters  
19 Standards and Training Council; amending s.  
20 633.33, F.S.; providing additional duties of  
21 the council; amending ss. 383.3362, 633.330,  
22 and 633.32, F.S.; conforming language;  
23 providing a declaration of important state  
24 interest; amending s. 163.05, F.S.; revising  
25 legislative findings; providing criteria for  
26 contracts between the Commissioner of  
27 Agriculture and program providers; deleting  
28 responsibilities of the Comptroller and the  
29 Legislative Committee on Intergovernmental  
30 Relations; authorizing the Commissioner of  
31 Agriculture to award contracts to provide

1 assistance to small counties; requiring the  
2 Commissioner of Agriculture to provide fiscal  
3 oversight and performance reviews; providing an  
4 appropriation; providing effective dates.  
5

6 Be It Enacted by the Legislature of the State of Florida:  
7

8 Section 1. Effective January 7, 2003, subsection (3)  
9 of section 20.04, Florida Statutes, is amended to read:

10 20.04 Structure of executive branch.--The executive  
11 branch of state government is structured as follows:

12 (3) For their internal structure, all departments,  
13 except for the Department of Financial Services ~~Banking and~~  
14 ~~Finance~~, the Department of Children and Family Services, the  
15 Department of Corrections, the Department of Management  
16 Services, the Department of Revenue, and the Department of  
17 Transportation, must adhere to the following standard terms:

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

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

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

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

27 Section 2. Effective January 7, 2003, section 20.121,  
28 Florida Statutes, is created to read:

29 20.121 Department of Financial Services.--There is  
30 created a Department of Financial Services.  
31

1           (1) DEPARTMENT HEAD.--The head of the Department of  
2 Financial Services is the Chief Financial Officer.

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

5           (a) The Division of Accounting and Auditing, which  
6 shall include the following bureau and office:

7               1. The Bureau of Unclaimed Property.

8               2. The Office of Fiscal Integrity which shall function  
9 as a criminal justice agency for purposes of ss.

10 943.045-943.08 and shall have a separate budget. The office  
11 may conduct investigations within or outside this state as the  
12 bureau deems necessary to aid in the enforcement of this  
13 section. If during an investigation the office has reason to  
14 believe that any criminal law of this state has or may have  
15 been violated, the office shall refer any records tending to  
16 show such violation to state or federal law enforcement or  
17 prosecutorial agencies and shall provide investigative  
18 assistance to those agencies as required.

19           (b) The Division of State Fire Marshal.

20           (c) The Division of Risk Management.

21           (d) The Division of Treasury, which shall include a  
22 Bureau of Deferred Compensation responsible for administering  
23 the Government Employees Deferred Compensation Plan  
24 established under s. 112.215 for state employees.

25           (e) The Division of Insurance Fraud.

26           (f) The Division of Rehabilitation and Liquidation.

27           (g) The Division of Insurance Agents and Agency  
28 Services.

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

31           (i) The Division of Workers' Compensation.

- 1           (j) The Division of Administration.  
2           (k) The Division of Legal Services.  
3           (l) The Division of Information Systems.  
4           (m) The Office of Insurance Consumer Advocate.  
5           (3) FINANCIAL SERVICES COMMISSION.--Effective January  
6 7, 2003, there is created within the Department of Financial  
7 Services the Financial Services Commission, composed of the  
8 Governor, the Attorney General, the Chief Financial Officer,  
9 and the Commissioner of Agriculture, which shall for purposes  
10 of this section be referred to as the commission. Commission  
11 members shall serve as agency head of the Financial Services  
12 Commission. The commission shall be a separate budget entity  
13 and shall be exempt from the provisions of s. 20.052.  
14 Commission action shall be by majority vote consisting of at  
15 least three affirmative votes. The commission shall not be  
16 subject to control, supervision, or direction by the  
17 Department of Financial Services in any manner, including  
18 purchasing, transactions involving real or personal property,  
19 personnel, or budgetary matters.  
20           (a) STRUCTURE.--The major structural unit of the  
21 commission is the office. Each office shall be headed by a  
22 director. The following offices are established:  
23           1. The Office of Insurance Regulation, which shall be  
24 responsible for all activities concerning insurers and other  
25 risk bearing entities, including licensing, rates, policy  
26 forms, market conduct, claims, adjusters, issuance of  
27 certificates of authority, solvency, viatical settlements,  
28 premium financing, and administrative supervision, as provided  
29 under the Insurance Code or chapter 636. The head of the  
30 Office of Insurance Regulation is the Director of the Office  
31 of Insurance Regulation.



1           2. The Office of Financial Institutions and Securities  
2 Regulation, which shall be responsible for all activities of  
3 the Financial Services Commission relating to the regulation  
4 of banks, credit unions, other financial institutions, finance  
5 companies, and the securities industry. The head of the  
6 office is the Director of the Office of Financial Institutions  
7 and Securities Regulation. The Office of Financial  
8 Institutions and Securities Regulation shall include a Bureau  
9 of Financial Investigations, which shall function as a  
10 criminal justice agency for purposes of ss. 943.045-943.08 and  
11 shall have a separate budget. The bureau may conduct  
12 investigations within or outside this state as the bureau  
13 deems necessary to aid in the enforcement of this section. If,  
14 during an investigation, the office has reason to believe that  
15 any criminal law of this state has or may have been violated,  
16 the office shall refer any records tending to show such  
17 violation to state or federal law enforcement or prosecutorial  
18 agencies and shall provide investigative assistance to those  
19 agencies as required.

20           (b) ORGANIZATION.--The commission shall establish by  
21 rule any additional organizational structure of the offices.  
22 It is the intent of the Legislature to provide the commission  
23 with the flexibility to organize the offices in any manner  
24 they determine appropriate to promote both efficiency and  
25 accountability.

26           (c) POWERS.--Commission members shall serve as the  
27 agency head for purposes of rulemaking under ss.  
28 120.536-120.565 by the commission and all subunits of the  
29 commission. Each director is agency head for purposes of  
30 final agency action under chapter 120 for all areas within the  
31 regulatory authority delegated to the director's office.

1           (d) APPOINTMENT AND QUALIFICATIONS OF DIRECTORS.--The  
2 commission shall appoint or remove each director by a majority  
3 vote consisting of at least three affirmative votes, with both  
4 the Governor and the Chief Financial Officer on the prevailing  
5 side. The minimum qualifications of the directors are as  
6 follows:

7           1. Prior to appointment as director, the director of  
8 the Office of Insurance Regulation must have had, within the  
9 previous 10 years, at least 5 years of responsible private  
10 sector experience working full-time in areas within the scope  
11 of the subject matter jurisdiction of the Office of Insurance  
12 Regulation or at least 5 years of experience as a senior  
13 examiner or other senior employee of a state or federal agency  
14 having regulatory responsibility over insurers or insurance  
15 agencies.

16           2. Prior to appointment as director, the director of  
17 the Office of Financial Institutions and Securities Regulation  
18 must have had, within the previous 10 years, at least 5 years  
19 of responsible private sector experience working full-time in  
20 areas within the subject matter jurisdiction of the Office of  
21 Financial Institutions and Securities Regulation or at least 5  
22 years of experience as a senior examiner or other senior  
23 employee of a state or federal agency having regulatory  
24 responsibility over financial institutions, finance companies,  
25 or securities companies.

26           (e) ADMINISTRATIVE SUPPORT.--The offices shall have a  
27 sufficient number of attorneys, examiners, investigators,  
28 other professional personnel to carry out their  
29 responsibilities and administrative personnel as determined  
30 annually in the appropriations process. The Department of  
31

1 Financial Services shall provide administrative and  
2 information systems support to the offices.

3 Section 3. Transfers.--

4 (1) The following programs, including the incumbent  
5 employees in the existing positions of such programs on  
6 January 6, 2003, and all property issued and assigned directly  
7 to such employees, are hereby transferred by a type two  
8 transfer, as defined in s. 20.06(2), Florida Statutes:

9 (a) From the Department of Banking and Finance to the  
10 Department of Financial Services:

11 1. The Financial Accountability for Public Funds  
12 Program.

13 2. The Comptroller and Cabinet Affairs Program.

14 3. The Bureau of Funeral and Cemetery Services.

15 (b) From the Department of Insurance to the Department  
16 of Financial Services:

17 1. The Treasury Program.

18 2. The State Fire Marshal Program.

19 3. The Risk Management Program.

20 4. The Office of Insurance Consumer Advocate.

21 5. The Division of Insurance Fraud.

22 6. The Division of Rehabilitation and Liquidation.

23 7. The Division of Agents and Agencies Services,  
24 except for those portions of the division that implement  
25 functions assigned to the Office of Insurance Regulation under  
26 s. 20.121(3)(a)1., Florida Statutes, as created by this act.

27 8. The Division of Insurance Consumer Services, which  
28 is renamed the Division of Consumer Services.

29 9. The Division of Legal Services, except for those  
30 positions whose responsibilities involve the functions  
31 assigned to the Office of Insurance Regulation.

- 1           10. The Division of Information Systems.
- 2           11. The Office of the Treasurer, the Administration  
3 Program, and the Office of the Chief of Staff of the  
4 Treasurer.
- 5           (c) From the Department of Banking and Finance to the  
6 Office of Financial Institutions and Securities Regulation,  
7 the Financial Institutions Regulatory Program.
- 8           (d) From the Department of Insurance to the Office of  
9 Insurance Regulation:
- 10           1. The Division of Insurer Services.
- 11           2. Those portions of the Division of Agents and Agency  
12 Services that implement functions assigned to the Office of  
13 Insurance Regulation under s. 20.121(3)(a)1., Florida  
14 Statutes, as created by this act.
- 15           3. Those positions within the Division of Legal  
16 Services that are not transferred to the Department of  
17 Financial Services under subparagraph (b)9.
- 18
- 19 For the purposes of this section, employees transferred from  
20 the Department of Banking and Finance and the Department of  
21 Insurance to the Department of Financial Services or the  
22 Financial Services Commission shall not be considered new  
23 employees for the purpose of subjecting such employees to an  
24 employee probationary period.
- 25           (2) That portion of the Division of Workers'  
26 Compensation transferred pursuant to chapter 2002-194, Laws of  
27 Florida, to the Department of Insurance, including the  
28 incumbent employees in the existing positions of such division  
29 on January 6, 2003, and all property issued and assigned  
30 directly to such employees, are transferred by a type two  
31 transfer, as defined in s. 20.06(2), Florida Statutes, from

- 1 the Department of Insurance to the Department of Financial  
2 Services.
- 3 (3) The following trust funds are transferred:
- 4 (a) From the Department of Banking and Finance to the  
5 Department of Financial Services:
- 6 1. The Child Support Depository Trust Fund, FLAIR  
7 number 44-2-080.
- 8 2. The Child Support Clearing Trust Fund, FLAIR number  
9 44-2-081.
- 10 3. The Collections Internal Revenue Clearing Trust  
11 Fund, FLAIR number 44-2-101.
- 12 4. The Consolidated Miscellaneous Deduction Clearing  
13 Trust Fund, FLAIR number 44-2-139.
- 14 5. The Consolidated Payment Trust Fund, FLAIR number  
15 44-2-140.
- 16 6. The Electronic Funds Transfer Clearing Trust Fund,  
17 FLAIR number 44-2-188.
- 18 7. The Employee Refund Clearing Trust Fund, FLAIR  
19 number 44-2-194.
- 20 8. The Federal Tax Levy Clearing Trust Fund, FLAIR  
21 number 44-2-274.
- 22 9. The Federal Use of State Lands Trust Fund, FLAIR  
23 number 44-2-307.
- 24 10. The Florida Retirement Clearing Trust Fund, FLAIR  
25 number 44-2-323.
- 26 11. The Hospital Insurance Tax Clearing Trust Fund,  
27 FLAIR number 44-2-370.
- 28 12. The Miscellaneous Deductions Restoration Trust  
29 Fund, FLAIR number 44-2-577.
- 30 13. The Preneed Funeral Contract Consumer Protection  
31 Trust Fund, FLAIR number 44-2-536.

- 1           14. The Prison Industries Trust Fund, FLAIR number  
2 44-2-385.
- 3           15. The Social Security Clearing Trust Fund, FLAIR  
4 number 44-2-643.
- 5           16. The Tobacco Settlement Clearing Trust Fund, FLAIR  
6 number 44-2-123.
- 7           17. The Trust Funds Trust Fund, FLAIR number 44-2-732.
- 8           18. The Unclaimed Property Trust Fund, FLAIR number  
9 44-2-007.
- 10           19. The Working Capital Trust Fund, FLAIR number  
11 44-2-792.
- 12           (b) From the Department of Insurance to the Department  
13 of Financial Services:
- 14           1. The Agents and Solicitors County Tax Trust Fund,  
15 FLAIR number 46-2-024.
- 16           2. The Florida Casualty Insurance Risk Management  
17 Trust Fund, FLAIR number 46-2-078.
- 18           3. The Government Employees Deferred Compensation  
19 Trust Fund, FLAIR number 46-2-155.
- 20           4. The Rehabilitation Administrative Expense Trust  
21 Fund, FLAIR number 46-2-582.
- 22           5. The Special Disability Trust Fund, FLAIR number  
23 46-2-798.
- 24           6. The State Treasurer Escrow Trust Fund, FLAIR number  
25 46-2-622.
- 26           7. The Treasurer's Administrative And Investment Trust  
27 Fund, FLAIR number 46-2-725.
- 28           8. The Treasury Cash Deposit Trust Fund, FLAIR number  
29 46-2-720.
- 30           9. The Treasurer Investment Trust Fund, FLAIR number  
31 46-2-728.

1           10. The Workers' Compensation Administration Trust  
2 Fund, FLAIR number 46-2-795.

3           (c) From the Department of Banking and Finance to the  
4 Office of Financial Institutions and Securities Regulation  
5 within the Department of Financial Services:

6           1. The Administrative Trust Fund, FLAIR number  
7 44-2-021, except the moneys in fund account number 44-2-021003  
8 are transferred from the Department of Banking and Finance to  
9 the Office of Chief Financial Officer.

10           2. The Anti-Fraud Trust Fund, FLAIR number 44-2-038.

11           3. The Comptroller's Federal Equitable Sharing Trust  
12 Fund, FLAIR number 44-2-719.

13           4. The Financial Institutions' Regulatory Trust Fund,  
14 FLAIR number 44-2-275.

15           5. The Mortgage Brokerage Guaranty Trust Fund, FLAIR  
16 number 44-2-485.

17           6. The Regulatory Trust Fund, FLAIR number 44-2-573.

18           7. The Securities Guaranty Fund, FLAIR number  
19 44-2-626.

20           (d) From the Department of Insurance to the Department  
21 of Financial Services, the Insurance Commissioner's Regulatory  
22 Trust Fund, FLAIR number 46-2-393. There is created within the  
23 trust fund a subaccount for purposes of funding the Office of  
24 Insurance Regulation.

25           (4) The authority to make appointments to the Citizens  
26 Property Insurance Corporation shall remain with the Chief  
27 Financial Officer as provided in Committee Substitute for  
28 Senate Bill 1418 as enacted by the Legislature in the 2002  
29 Regular Session.

30           (5) This section shall take effect January 7, 2003.

31

1           Section 4. (1) Effective January 7, 2003, the rules  
2 of the Department of Banking and Finance and of the Department  
3 of Insurance that were in effect on January 6, 2003, shall  
4 become rules of the Department of Financial Services or the  
5 Financial Services Commission as is appropriate to the  
6 corresponding regulatory or constitutional function and shall  
7 remain in effect until specifically amended or repealed in the  
8 manner provided by law.

9           Section 5. (1) This act shall not affect the validity  
10 of any judicial or administrative action involving the  
11 Department of Banking and Finance or the Department of  
12 Insurance pending on January 7, 2003, and the Department of  
13 Financial Services, or the Financial Services Commission, or  
14 the respective office, shall be substituted as a party in  
15 interest in any such action.

16           (2) Notwithstanding subsection (1), if the action  
17 involves the constitutional functions of the Comptroller or  
18 Treasurer, the Chief Financial Officer shall instead be  
19 substituted as a party in interest.

20           Section 6. Transitional provisions.--

21           (1)(a) There is created the Committee of Transition  
22 Management. The committee shall function independently but  
23 shall for administrative purposes be treated as an office of  
24 the Executive Office of the Governor.

25           (b) The Governor, the Comptroller, the Treasurer, the  
26 chair of the House Fiscal Responsibility Council, and the  
27 chair of the Senate Appropriations Committee shall each  
28 appoint one member to the committee.

29           (c) The committee shall oversee the transition to the  
30 new Department of Financial Services and the new Financial  
31



1 Services Commission. The management duties of the office shall  
2 include, but not be limited to:

3 1. Providing a written report that specifies the  
4 placement of those positions that are transferred to the Chief  
5 Financial Officer, the Department of Financial Services, and  
6 the Offices of the Financial Services Commission under this  
7 act. The committee shall provide the report to the Governor,  
8 the Cabinet, the President of the Senate, the Speaker of the  
9 House of Representatives, the chair of the House Fiscal  
10 Responsibility Council, and the chair of the Senate  
11 Appropriations Committee.

12 2. Submitting to the Financial Services Commission a  
13 proposed organizational plan for the commission, which plan  
14 the commission may adopt by rule.

15 3. Providing written recommendations to the  
16 commission, the President of the Senate, and the Speaker of  
17 the House of Representatives, by no later than February 1,  
18 2003, as to statutory changes that are necessary or desirable  
19 to facilitate the operations of the department.

20 (d) The Department of Banking and Finance, the  
21 Department of Insurance, the Office of the Comptroller, and  
22 the Office of the Treasurer shall fully cooperate with the  
23 Committee of Transition Management and shall promptly provide  
24 the office with any requested information.

25 Section 7. Notwithstanding the provisions of ss.  
26 216.292 and 216.351, Florida Statutes, upon approval by the  
27 Legislative Budget Committee, the Executive Office of the  
28 Governor may transfer funds and positions between agencies to  
29 implement this act.

30 Section 8. Conforming legislation.--The Legislature  
31 recognizes that there is a need to conform the Florida

1 Statutes to the policy decisions reflected in this act and  
2 that there is a need to resolve apparent conflicts between any  
3 other legislation that has been or may be enacted during 2002  
4 and the creation by this act of the Department of Financial  
5 Services, the Office of Insurance Regulation, the Office of  
6 Financial Institutions and Securities Regulation, and the  
7 Chief Financial Officer. Therefore, in the interim between  
8 this act becoming a law and the 2003 Regular Session of the  
9 Legislature or an earlier special session addressing this  
10 issue, the Division of Statutory Revision shall provide the  
11 relevant substantive committees of the Senate and the House of  
12 Representatives with assistance, upon request, to enable such  
13 committees to prepare draft legislation to conform the Florida  
14 Statutes and any legislation enacted during 2002 to the  
15 provisions of s. 20.121, Florida Statutes, as created by this  
16 act. It is specifically the intent of the Legislature that,  
17 until June 1, 2003, the statutory responsibility for  
18 appointments to commissions, boards, associations, councils,  
19 committees, or other collegial bodies now vested in the  
20 Comptroller, the Treasurer, the Insurance Commissioner, or the  
21 State Fire Marshal shall become the responsibility of the  
22 Chief Financial Officer.

23           Section 9. Effective July 1, 2002, subsection 1 of  
24 section 1. of chapter 2002-194, Laws of Florida, is amended to  
25 read:

26           Section 1. (1) All powers, duties, functions, rules,  
27 records, personnel, property, and unexpended balances of  
28 appropriations, allocations, and other funds of the Division  
29 of Workers' Compensation are transferred by a type two  
30 transfer, as defined in s. 20.06(2), Florida Statutes, from  
31 the Department of Labor and Employment Security to the

1 Department of Insurance, except as otherwise provided in this  
2 subsection, as follows: the full-time equivalent positions and  
3 the associated funding for salaries, benefits, other capital  
4 outlay, and expenses related to oversight of medical services  
5 in workers' compensation provider relations, dispute and  
6 complaint resolution, program evaluation, data review and  
7 analysis ~~data management~~, and review of carrier medical bill  
8 payments on issues which are jurisdictionally governed by the  
9 Agency for Health Care Administration, including, but not  
10 limited to, the duties in s. 440.13(3), (7), (8), (11)(a),  
11 (11)(c), (12), (13), and (14), Florida Statutes, are  
12 transferred by a type two transfer, as defined in s. 20.06(2),  
13 Florida Statutes, from the Department of Labor and Employment  
14 Security to the Agency for Health Care Administration; the  
15 full-time equivalent positions and the associated funding for  
16 salaries, benefits, other capital outlay, and expenses related  
17 to the rehabilitation and reemployment of injured workers are  
18 transferred by a type two transfer, as defined in s. 20.06(2),  
19 Florida Statutes, from the Department of Labor and Employment  
20 Security to the Department of Education; and the full-time  
21 equivalent positions and the associated funding for salaries,  
22 benefits, other capital outlay, and expenses related to the  
23 administration of child labor laws under chapter 450, Florida  
24 Statutes, are transferred by a type two transfer, as defined  
25 in s. 20.06(2), Florida Statutes, from the Department of Labor  
26 and Employment Security to the Department of Business and  
27 Professional Regulation. To the extent feasible, the positions  
28 transferred to the Department of Insurance will be  
29 reclassified to pay grades comparable to the positions  
30 established by the Department of Labor and Employment  
31 Security, based on the classification codes and specifications

1 of the positions for work to be performed at the Department of  
2 Insurance. The number of positions the department establishes  
3 may not exceed the number of authorized positions and the  
4 salary and benefits that were authorized for the Division of  
5 Workers' Compensation within the Department of Labor and  
6 Employment Security prior to the transfer. The Department of  
7 Insurance is further authorized to reassign, reorganize,  
8 reclassify, or otherwise transfer positions to appropriate  
9 administrative subdivisions within the department and to  
10 establish such regional offices as are necessary to properly  
11 enforce and administer its responsibilities under the Florida  
12 Insurance Code and chapter 440, Florida Statutes. The  
13 department may also enter into contracts with public or  
14 private entities to administer its duties and responsibilities  
15 associated with the transfer of the Division of Workers'  
16 Compensation.

17 Section 10. Effective July 1, 2002, Subsections (3)  
18 and (4), paragraph (b) of subsection (5), paragraph (a) of  
19 subsection (6), paragraphs (a), (c), (d), (e), (f), (g), and  
20 (h) of subsection (7), paragraph (a) of subsection (8),  
21 paragraphs (a) and (b) of subsection (9), paragraph (f) of  
22 subsection (10), and subsection (11) of section 288.99,  
23 Florida Statutes, are amended, paragraph (i) is added to  
24 subsection (7) of said section, and subsection (17) is added  
25 to said section, to read:

26 288.99 Certified Capital Company Act.--

27 (3) DEFINITIONS.--As used in this section, the term:

28 (a) "Affiliate of an insurance company" means:

29 1. Any person directly or indirectly beneficially  
30 owning, whether through rights, options, convertible  
31 interests, or otherwise, controlling, or holding power to vote

1 15 ~~10~~ percent or more of the outstanding voting securities or  
2 other voting ownership interests of the insurance company;

3 2. Any person 15 ~~10~~ percent or more of whose  
4 outstanding voting securities or other voting ownership  
5 interest is directly or indirectly beneficially owned, whether  
6 through rights, options, convertible interests, or otherwise,  
7 controlled, or held with power to vote by the insurance  
8 company;

9 3. Any person directly or indirectly controlling,  
10 controlled by, or under common control with the insurance  
11 company;

12 4. A partnership in which the insurance company is a  
13 general partner; or

14 5. Any person who is a principal, director, employee,  
15 or agent of the insurance company or an immediate family  
16 member of the principal, director, employee, or agent.

17 (b) "Certified capital" means an investment of cash by  
18 a certified investor in a certified capital company which  
19 fully funds the purchase price of either or both its equity  
20 interest in the certified capital company or a qualified debt  
21 instrument issued by the certified capital company.

22 (c) "Certified capital company" means a corporation,  
23 partnership, or limited liability company which:

24 1. Is certified by the department in accordance with  
25 this act.

26 2. Receives investments of certified capital from two  
27 or more unaffiliated certified investors.

28 3. Makes qualified investments as its primary  
29 activity.

30  
31

1 (d) "Certified investor" means any insurance company  
2 subject to premium tax liability pursuant to s. 624.509 that  
3 invests ~~contributes~~ certified capital.

4 (e) "Department" means the Department of Banking and  
5 Finance.

6 (f) "Director" means the director of the Office of  
7 Tourism, Trade, and Economic Development.

8 (g) "Early stage technology business" means a  
9 qualified business that is:

10 1. Involved, at the time of the certified capital  
11 company's initial investment in such business, in activities  
12 related to developing initial product or service offerings,  
13 such as prototype development or the establishment of initial  
14 production or service processes; ~~The term includes a~~  
15 ~~qualified business that is~~

16 2. Less than 2 years old and has, together with its  
17 affiliates, less than \$3 million in annual revenues for the  
18 fiscal year immediately preceding the initial investment by  
19 the certified capital company on a consolidated basis, as  
20 determined in accordance with generally accepted accounting  
21 principles; ~~The term also includes~~

22 3. The Florida Black Business Investment Board; ~~or~~

23 4. Any entity that is majority owned by the Florida  
24 Black Business Investment Board; ~~or~~

25 5. Any entity in which the Florida Black Business  
26 Investment Board holds a majority voting interest on the board  
27 of directors.

28 (h) "Office" means the Office of Tourism, Trade, and  
29 Economic Development.

30  
31

1 (i) "Premium tax liability" means any liability  
2 incurred by an insurance company under the provisions of s.  
3 624.509 and s. 624.5091.

4 (j) "Principal" means an executive officer of a  
5 corporation, partner of a partnership, manager of a limited  
6 liability company, or any other person with equivalent  
7 executive functions.

8 (k) "Qualified business" means the Digital Divide  
9 Trust Fund established under the State of Florida Technology  
10 Office or a business that meets the following conditions as  
11 evidenced by documentation required by department rule:

12 1. The business is headquartered in this state and its  
13 principal business operations are located in this state or at  
14 least 75 percent of the employees are employed in the state.

15 2. At the time a certified capital company makes an  
16 initial investment in a business, the business would qualify  
17 for investment under ~~is a small business concern as defined in~~  
18 ~~13 C.F.R. s. 121.301(c)121.201, "Size Standards Used to~~  
19 ~~Define Small Business Concerns" of the United States Small~~  
20 ~~Business Administration~~ which is involved in manufacturing,  
21 processing or assembling products, conducting research and  
22 development, or providing services.

23 3. At the time a certified capital company makes an  
24 initial investment in a business, the business certifies in an  
25 affidavit that:

26 a. The business is unable to obtain conventional  
27 financing, which means that the business has failed in an  
28 attempt to obtain funding for a loan from a bank or other  
29 commercial lender or that the business cannot reasonably be  
30 expected to qualify for such financing under the standards of  
31 commercial lending;

1           b. The business plan for the business projects that  
2 the business is reasonably expected to achieve in excess of  
3 \$25 million in sales revenue within 5 years after the initial  
4 investment, or the business is located in a designated Front  
5 Porch community, enterprise zone, urban high crime area, rural  
6 job tax credit county, or nationally recognized historic  
7 district;

8           c. The business will maintain its headquarters in this  
9 state for the next 10 years and any new manufacturing facility  
10 financed by a qualified investment will remain in this state  
11 for the next 10 years, or the business is located in a  
12 designated Front Porch community, enterprise zone, urban high  
13 crime area, rural job tax credit county, or nationally  
14 recognized historic district; and

15           d. The business has fewer than 200 employees and at  
16 least 75 percent of the employees are employed in this state.  
17 For purposes of this subsection, the term ~~"qualified business"~~  
18 also includes the Florida Black Business Investment Board, any  
19 entity majority owned by the Florida Black Business Investment  
20 Board, or any entity in which the Florida Black Business  
21 Investment Board holds a majority voting interest on the board  
22 of directors.

23           4. The term does not include:

24           a. Any business predominantly engaged in retail sales,  
25 real estate development, insurance, banking, lending, or oil  
26 and gas exploration.

27           b. Any business predominantly engaged in professional  
28 services provided by accountants, lawyers, or physicians.

29           c. Any company that has no historical revenues and  
30 either has no specific business plan or purpose or has  
31 indicated that its business plan is solely to engage in a



1 merger or acquisition with any unidentified company or other  
2 entity.

3 d. Any company that has a strategic plan to grow  
4 through the acquisition of firms with substantially similar  
5 business which would result in the planned net loss of  
6 Florida-based jobs over a 12-month period after the  
7 acquisition as determined by the department.

8  
9 ~~A business predominantly engaged in retail sales, real estate~~  
10 ~~development, insurance, banking, lending, oil and gas~~  
11 ~~exploration, or engaged in professional services provided by~~  
12 ~~accountants, lawyers, or physicians does not constitute a~~  
13 ~~qualified business.~~

14 (1) "Qualified debt instrument" means a debt  
15 instrument, or a hybrid of a debt instrument, issued by a  
16 certified capital company, at par value or a premium, with an  
17 original maturity date of at least 5 years after the date of  
18 issuance, a repayment schedule which is no faster than a level  
19 principal amortization over a 5-year period, and interest,  
20 distribution, or payment features which are not related to the  
21 profitability of the certified capital company or the  
22 performance of the certified capital company's investment  
23 portfolio.

24 (m) "Qualified distribution" means any distribution or  
25 payment by ~~to equity holders of~~ a certified capital company  
26 for:

27 1. Reasonable costs and expenses, including, but not  
28 limited to, professional fees, of forming and, syndicating the  
29 certified capital company, if no such costs or expenses are  
30 paid to a certified investor, except as provided in  
31 subparagraph (4)(f)2., and the total cash, cash equivalents,

1 and other current assets permitted by sub-subparagraph  
2 (5)(b)3.g. that can be converted into cash within 5 business  
3 days available to the certified capital company at the time of  
4 receipt of certified capital from certified investors, after  
5 deducting the costs and expenses of forming and syndicating  
6 the certified capital company, including any payments made  
7 over time for obligations incurred at the time of receipt of  
8 certified capital but excluding other future qualified  
9 distributions and payments made under paragraph (9)(a), are an  
10 amount equal to or greater than 50 percent of the total  
11 certified capital allocated to the certified capital pursuant  
12 to subsection (7);

13 2. Reasonable costs of managing and operating the  
14 certified capital company, not exceeding 5 percent of the  
15 certified capital in any single year, including an annual  
16 management fee in an amount that does not exceed 2.5 percent  
17 of the certified capital of the certified capital company;  
18 ~~plus~~

19 3. Reasonable and necessary fees in accordance with  
20 industry custom for professional services, including, but not  
21 limited to, legal and accounting services, related to the  
22 operation of the certified capital company; or

23 ~~4.2.~~ Any projected increase in federal or state taxes,  
24 including penalties and interest related to state and federal  
25 income taxes, of the equity owners of a certified capital  
26 company resulting from the earnings or other tax liability of  
27 the certified capital company to the extent that the increase  
28 is related to the ownership, management, or operation of a  
29 certified capital company.

30 (n)1. "Qualified investment" means the investment of  
31 cash by a certified capital company in a qualified business

1 for the purchase of any debt, equity, or hybrid security ~~of~~  
2 ~~any nature and description whatsoever~~, including a debt  
3 instrument or security that ~~which~~ has the characteristics of  
4 debt but which provides for conversion into equity or equity  
5 participation instruments such as options or warrants.

6 2. The term does not include:

7 a. Any investment made after the effective date of  
8 this act the contractual terms of which require the repayment  
9 of any portion of the principal in instances, other than  
10 default as determined by department rule, within 12 months  
11 following the initial investment by the certified capital  
12 company unless such investment has a repayment schedule no  
13 faster than a level principal amortization of at least 2  
14 years;

15 b. Any "follow-on" or "add-on" investment except for  
16 the amount by which the new investment is in addition to the  
17 amount of the certified capital company's initial investment  
18 returned to it other than in the form of interest, dividends,  
19 or other types of profit participation or distributions; or

20 c. Any investment in a qualified business or affiliate  
21 of a qualified business that exceeds 15 percent of certified  
22 capital.

23 (o) "Program One" means the \$150 million in premium  
24 tax credits issued under this section in 1999, the allocation  
25 of such credits under this section, and the regulation of  
26 certified capital companies and investments made by them  
27 hereunder.

28 (p) "Program Two" means the \$150 million in premium  
29 tax credits to be issued under subsection (17), the allocation  
30 of such credits under this section, and the regulation of  
31

1 certified capital companies and investments made by them  
2 hereunder.

3 (4) CERTIFICATION; GROUNDS FOR DENIAL OR  
4 DECERTIFICATION.--

5 (a) To operate as a certified capital company, a  
6 corporation, partnership, or limited liability company must be  
7 certified by the department pursuant to this act.

8 (b) An applicant for certification as a certified  
9 capital company must file a verified application with the  
10 department on or before December 1, 1998, a date determined in  
11 rules adopted pursuant to subsection (17) in the case of  
12 applicants for Program Two, in a form which the department may  
13 prescribe by rule. The applicant shall submit a nonrefundable  
14 application fee of \$7,500 to the department. The applicant  
15 shall provide:

16 1. The name of the applicant and the address of its  
17 principal office and each office in this state.

18 2. The applicant's form and place of organization and  
19 the relevant organizational documents, bylaws, and amendments  
20 or restatements of such documents, bylaws, or amendments.

21 3. Evidence from the Department of State that the  
22 applicant is registered with the Department of State as  
23 required by law, maintains an active status with the  
24 Department of State, and has not been dissolved or had its  
25 registration revoked, canceled, or withdrawn.

26 4. The applicant's proposed method of doing business.

27 5. The applicant's financial condition and history,  
28 including an audit report on the financial statements prepared  
29 in accordance with generally accepted accounting principles.

30 The applicant must have, at the time of application for  
31 certification, an equity capitalization of at least \$500,000

1 in the form of cash or cash equivalents. The applicant must  
2 maintain this equity capitalization until the applicant  
3 receives an allocation of certified capital pursuant to this  
4 act showing net capital of not less than \$500,000 within 90  
5 days after the date the application is submitted to the  
6 department. If the date of the application is more than 90  
7 days after preparation of the applicant's fiscal year-end  
8 financial statements, the applicant may file financial  
9 statements reviewed by an independent certified public  
10 accountant for the period subsequent to the audit report,  
11 together with the audited financial statement for the most  
12 recent fiscal year. If the applicant has been in business  
13 less than 12 months, and has not prepared an audited financial  
14 statement, the applicant may file a financial statement  
15 reviewed by an independent certified public accountant.

16 6. Copies of any offering materials used or proposed  
17 to be used by the applicant in soliciting investments of  
18 certified capital from certified investors.

19 (c) Within 60 days after receipt of a verified  
20 application ~~On December 31, 1998,~~ the department shall grant  
21 or deny certification as a certified capital company. If the  
22 department denies certification within the time period  
23 specified, the department shall inform the applicant of the  
24 grounds for the denial. If the department has not granted or  
25 denied certification within the time specified, the  
26 application shall be deemed approved. The department shall  
27 approve the application if the department finds that:

28 1. The applicant satisfies the requirements of  
29 paragraph (b).

30 2. No evidence exists that the applicant has committed  
31 any act specified in paragraph (d).

1           3. At least two of the principals have a minimum of 5  
2 years of experience making venture capital investments out of  
3 private equity funds, with not less than \$20 million being  
4 provided by third-party investors for investment in the early  
5 stage of operating businesses. At least one full-time manager  
6 or principal of the certified capital company who has such  
7 experience must be primarily located in an office of the  
8 certified capital company which is based in this state.

9           4. The applicant's proposed method of doing business  
10 and raising certified capital as described in its offering  
11 materials and other materials submitted to the department  
12 conforms with the requirements of this section.

13           (d) The department may deny certification or decertify  
14 a certified capital company if the grounds for decertification  
15 are not removed or corrected within 90 days after the notice  
16 of such grounds is received by the certified capital company.  
17 The department may deny certification or decertify a certified  
18 capital company if the certified capital company fails to  
19 maintain common stock or paid in capital ~~a net worth~~ of at  
20 least \$500,000, or if the department determines that the  
21 applicant, or any principal or director of the certified  
22 capital company, has:

- 23           1. Violated any provision of this section;
- 24           2. Made a material misrepresentation or false  
25 statement or concealed any essential or material fact from any  
26 person during the application process or with respect to  
27 information and reports required of certified capital  
28 companies under this section;
- 29           3. Been convicted of, or entered a plea of guilty or  
30 nolo contendere to, a crime against the laws of this state or  
31 any other state or of the United States or any other country

1 or government, including a fraudulent act in connection with  
2 the operation of a certified capital company, or in connection  
3 with the performance of fiduciary duties in another capacity;

4 4. Been adjudicated liable in a civil action on  
5 grounds of fraud, embezzlement, misrepresentation, or deceit;  
6 or

7 5.a. Been the subject of any decision, finding,  
8 injunction, suspension, prohibition, revocation, denial,  
9 judgment, or administrative order by any court of competent  
10 jurisdiction, administrative law judge, or any state or  
11 federal agency, national securities, commodities, or option  
12 exchange, or national securities, commodities, or option  
13 association, involving a material violation of any federal or  
14 state securities or commodities law or any rule or regulation  
15 adopted under such law, or any rule or regulation of any  
16 national securities, commodities, or options exchange, or  
17 national securities, commodities, or options association; or

18 b. Been the subject of any injunction or adverse  
19 administrative order by a state or federal agency regulating  
20 banking, insurance, finance or small loan companies, real  
21 estate, mortgage brokers, or other related or similar  
22 industries.

23 ~~(e) The certified capital company shall file a copy of~~  
24 ~~its certification with the office by January 31, 1999.~~

25 (e)(f) Any offering material involving the sale of  
26 securities of the certified capital company shall include the  
27 following statement: "By authorizing the formation of a  
28 certified capital company, the State of Florida does not  
29 endorse the quality of management or the potential for  
30 earnings of such company and is not liable for damages or  
31 losses to a certified investor in the company. Use of the

1 word 'certified' in an offering does not constitute a  
2 recommendation or endorsement of the investment by the State  
3 of Florida. Investments in a certified capital company prior  
4 to the time such company is certified are not eligible for  
5 premium tax credits. If applicable provisions of law are  
6 violated, the state may require forfeiture of unused premium  
7 tax credits and repayment of used premium tax credits by the  
8 certified investor."

9 (f)1.~~(g)~~ No insurance company or any affiliate of an  
10 insurance company shall, directly or indirectly, own, whether  
11 through rights, options, convertible interests, or otherwise,  
12 15 percent or more of the voting equity interests of or manage  
13 or control the direction of investments of a certified capital  
14 company. This prohibition does not preclude a certified  
15 investor, insurance company, or any other party from  
16 exercising its legal rights and remedies, which may include  
17 interim management of a certified capital company, if a  
18 certified capital company is in default of its obligations  
19 under law or its contractual obligations to such certified  
20 investor, insurance company, or other party. Nothing in this  
21 subparagraph shall limit an insurance company's ownership of  
22 nonvoting equity interests in a certified capital company.

23 2. A certified capital company may obtain a guaranty,  
24 indemnity, bond, insurance policy or other payment undertaking  
25 in favor of all of the certified investors of the certified  
26 capital company and its affiliates; provided that the entity  
27 from which such guaranty, indemnity, bond, insurance policy or  
28 other payment undertaking is obtained may not be a certified  
29 investor of, or be affiliated with more than one certified  
30 investor of, the certified capital company.

31



1           ~~(g)(h)~~ On or before December 31 of each year, each  
2 certified capital company shall pay to the department an  
3 annual, nonrefundable renewal certification fee of \$5,000. If  
4 a certified capital company fails to pay its renewal fee by  
5 the specified deadline, the company must pay a late fee of  
6 \$5,000 in addition to the renewal fee on or by January 31 of  
7 each year in order to continue its certification in the  
8 program. On or before April 30 of each year, each certified  
9 capital company shall file audited financial statements with  
10 the department. No renewal fees shall be required within 6  
11 months after the date of initial certification.

12           ~~(h)(i)~~ The department shall administer and provide for  
13 the enforcement of certification requirements for certified  
14 capital companies as provided in this act. The department may  
15 adopt any rules necessary to carry out its duties,  
16 obligations, and powers related to certification, renewal of  
17 certification, or decertification of certified capital  
18 companies and may perform any other acts necessary for the  
19 proper administration and enforcement of such duties,  
20 obligations, and powers.

21           ~~(i)(j)~~ Decertification of a certified capital company  
22 under this subsection does not affect the ability of certified  
23 investors in such certified capital company from claiming  
24 future premium tax credits earned as a result of an investment  
25 in the certified capital company during the period in which it  
26 was duly certified.

27           (5) INVESTMENTS BY CERTIFIED CAPITAL COMPANIES.--

28           (b) All capital not invested in qualified investments  
29 by the certified capital company:  
30  
31

- 1           1. Must be held in a financial institution as defined  
2 by s. 655.005(1)(h) or held by a broker-dealer registered  
3 under s. 517.12, except as set forth in sub-subparagraph 3.g.  
4           2. Must not be invested in a certified investor of the  
5 certified capital company or any affiliate of the certified  
6 investor of the certified capital company, except for an  
7 investment permitted by sub-subparagraph 3.g., provided  
8 repayment terms do not permit the obligor to directly or  
9 indirectly manage or control the investment decisions of the  
10 certified capital company.  
11           3. Must be invested only in:  
12           a. Any United States Treasury obligations;  
13           b. Certificates of deposit or other obligations,  
14 maturing within 3 years after acquisition of such certificates  
15 or obligations, issued by any financial institution or trust  
16 company incorporated under the laws of the United States;  
17           c. Marketable obligations, maturing within 10 5 years  
18 or less after the acquisition of such obligations, which are  
19 rated "A" or better by any nationally recognized credit rating  
20 agency;  
21           d. Mortgage-backed securities, with an average life of  
22 5 years or less, after the acquisition of such securities,  
23 which are rated "A" or better by any nationally recognized  
24 credit rating agency;  
25           e. Collateralized mortgage obligations and real estate  
26 mortgage investment conduits that are direct obligations of an  
27 agency of the United States Government; are not private-label  
28 issues; are in book-entry form; and do not include the classes  
29 of interest only, principal only, residual, or zero; ~~or~~  
30  
31

1 f. Interests in money market funds, the portfolio of  
2 which is limited to cash and obligations described in  
3 sub-subparagraphs a.-d.; or

4 g. Obligations that are issued by an insurance company  
5 that is not a certified investor of the certified capital  
6 company making the investment, that has provided a guarantee  
7 indemnity bond, insurance policy, or other payment undertaking  
8 in favor of the certified capital company's certified  
9 investors as permitted by subparagraph (3)(m)1. or an  
10 affiliate of such insurance company as defined by subparagraph  
11 (3)(a)3. that is not a certified investor of the certified  
12 capital company making the investment, provided that such  
13 obligations are:

14 (I) Issued or guaranteed as to principal by an entity  
15 whose senior debt is rated "AA" or better by Standard & Poor's  
16 Ratings Group or such other nationally recognized credit  
17 rating agency as the department may by rule determine.

18 (II) Not subordinated to other unsecured indebtedness  
19 of the issuer or the guarantor.

20 (III) Invested by such issuing entity in accordance  
21 with sub-subparagraphs 3.a.-f.

22 (IV) Readily convertible into cash within 5 business  
23 days for the purpose of making a qualified investment unless  
24 such obligations are held to provide a guarantee, indemnity  
25 bond, insurance policy, or other payment undertaking in favor  
26 of the certified capital company's certified investors as  
27 permitted by subparagraph (3)(m)1.

28 (6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.--

29 (a) Any certified investor who makes an investment of  
30 certified capital shall earn a vested credit against premium  
31 tax liability equal to 100 percent of the certified capital

1 invested by the certified investor. Certified investors shall  
2 be entitled to use no more than 10 percentage points of the  
3 vested premium tax credit earned under a particular program,  
4 including any carryforward credits from such program under  
5 this act, per year beginning with premium tax filings for  
6 calendar year 2000 for credits earned under Program One. Any  
7 premium tax credits not used by certified investors in any  
8 single year may be carried forward and applied against the  
9 premium tax liabilities of such investors for subsequent  
10 calendar years. ~~The carryforward credit may be applied~~  
11 ~~against subsequent premium tax filings through calendar year~~  
12 ~~2017.~~

13 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION  
14 PROCESS.--

15 (a) The total amount of tax credits which may be  
16 allocated by the office shall not exceed \$150 million with  
17 respect to Program One and \$150 million with respect to  
18 Program Two. The total amount of tax credits which may be used  
19 by certified investors under this act shall not exceed \$15  
20 million annually with respect to credits earned under Program  
21 One and \$15 million annually with respect to credits earned  
22 under Program Two.

23 (c) Each certified capital company must apply to the  
24 office for an allocation of premium tax credits for potential  
25 certified investors ~~by March 15, 1999~~, on a form developed by  
26 the office with the cooperation of the Department of Revenue.  
27 The form shall be accompanied by an affidavit from each  
28 potential certified investor confirming that the potential  
29 certified investor has agreed to make an investment of  
30 certified capital in a certified capital company up to a  
31 specified amount, subject only to the receipt of a premium tax

1 credit allocation pursuant to this subsection. No certified  
2 capital company shall submit premium tax allocation claims on  
3 behalf of certified investors that in the aggregate would  
4 exceed the total dollar amount appropriated by the Legislature  
5 for the specific program. No allocation shall be made to the  
6 potential investors of a certified capital company under  
7 Program Two unless such certified capital company has filed  
8 premium tax allocation claims ~~that would result in an~~  
9 ~~allocation to the potential investors in such certified~~  
10 ~~capital company~~ of not less than \$15 million in the aggregate.

11 (d) ~~On or before April 1, 1999,~~The office shall  
12 inform each certified capital company of its share of total  
13 premium tax credits available for allocation to each of its  
14 potential investors.

15 (e) If a certified capital company does not receive  
16 certified capital equaling the amount of premium tax credits  
17 allocated to a potential certified investor for which the  
18 investor filed a premium tax allocation claim within 10  
19 business days after the investor received a notice of  
20 allocation, the certified capital company shall notify the  
21 office by overnight common carrier delivery service of the  
22 company's failure to receive the capital. That portion of the  
23 premium tax credits allocated to the certified capital company  
24 shall be forfeited. If the office must make a pro rata  
25 allocation under paragraph (f), the office shall reallocate  
26 such available credits among the other certified capital  
27 companies on the same pro rata basis as the initial  
28 allocation.

29 (f) If the total amount of capital committed by all  
30 certified investors to certified capital companies in premium  
31 tax allocation claims under Program Two exceeds the aggregate

1 cap on the amount of credits that may be awarded under Program  
2 Two, the premium tax credits that may be allowed to any one  
3 certified investor under Program Two shall be allocated using  
4 the following ratio:

$$A/B = X / > \$150,000,000$$

5  
6  
7  
8 where the letter "A" represents the total amount of certified  
9 capital certified investors have agreed to invest in any one  
10 certified capital company under Program Two, the letter "B"  
11 represents the aggregate amount of certified capital that all  
12 certified investors have agreed to invest in all certified  
13 capital companies under Program Two, the letter "X" is the  
14 numerator and represents the total amount of premium tax  
15 credits and certified capital that may be allocated to a  
16 certified capital company on a date determined by rule adopted  
17 by the department pursuant to subsection (17) in calendar year  
18 ~~1999~~, and \$150 million is the denominator and represents the  
19 total amount of premium tax credits and certified capital that  
20 may be allocated to all certified investors under Program Two  
21 ~~in calendar year 1999~~. Any such premium tax credits are not  
22 first available for utilization until annual filings are made  
23 in 2001 for calendar year 2000 in the case of Program One, and  
24 the tax credits may be used at a rate not to exceed 10 percent  
25 annually per program.

26 (g) The maximum amount of certified capital for which  
27 premium tax allocation claims may be filed on behalf of any  
28 certified investor and its affiliates by one or more certified  
29 capital companies may not exceed \$15 million for Program One  
30 and \$22.5 million for Program Two.

31

1 (h) To the extent that less than \$150 million in  
2 certified capital is raised in connection with the procedure  
3 set forth in paragraphs (c)-(g), the department may adopt  
4 rules to allow a subsequent allocation of the remaining  
5 premium tax credits authorized under this section.

6 (i) The office shall issue a certification letter for  
7 each certified investor, showing the amount invested in the  
8 certified capital company under each program. The applicable  
9 certified capital company shall attest to the validity of the  
10 certification letter.

11 (8) ANNUAL TAX CREDIT; CLAIM PROCESS.--

12 (a) On an annual basis, on or before January ~~December~~  
13 31, each certified capital company shall file with the  
14 department and the office, in consultation with the  
15 department, on a form prescribed by the office, for each  
16 calendar year:

17 1. The total dollar amount the certified capital  
18 company received from certified investors, the identity of the  
19 certified investors, and the amount received from each  
20 certified investor during the immediately preceding calendar  
21 year.

22 2. The total dollar amount the certified capital  
23 company invested and the amount invested in qualified  
24 businesses, together with the identity and location of those  
25 businesses and the amount invested in each qualified business  
26 during the immediately preceding calendar year.

27 3. For informational purposes only, the total number  
28 of permanent, full-time jobs either created or retained by the  
29 qualified business during the immediately preceding calendar  
30 year, the average wage of the jobs created or retained, the  
31 industry sectors in which the qualified businesses operate,

1 and any additional capital invested in qualified businesses  
2 from sources other than certified capital companies.

3 (9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE  
4 PARTICIPATION.--

5 (a) A certified capital company may make qualified  
6 distributions at any time. In order to make a distribution to  
7 its equity holders, other than a qualified distribution from  
8 funds related to a particular program, a certified capital  
9 company must have invested an amount cumulatively equal to 100  
10 percent of its certified capital raised under such program in  
11 qualified investments. Payments to debt holders of a certified  
12 capital company, however, may be made without restriction with  
13 respect to repayments of principal and interest on  
14 indebtedness owed to them by a certified capital company,  
15 including indebtedness of the certified capital company on  
16 which certified investors earned premium tax credits. A debt  
17 holder that is also a certified investor or equity holder of a  
18 certified capital company may receive payments with respect to  
19 such debt without restrictions.

20 (b) Cumulative distributions from a certified capital  
21 company from funds related to a particular program to its  
22 certified investors and equity holders under such program,  
23 other than qualified distributions, in excess of the certified  
24 capital company's original certified capital raised under such  
25 program and any additional capital contributions to the  
26 certified capital company with respect to such program may be  
27 audited by a nationally recognized certified public accounting  
28 firm acceptable to the department, at the expense of the  
29 certified capital company, if the department directs such  
30 audit be conducted. The audit shall determine whether  
31 aggregate cumulative distributions from the funds related to a



1 particular program made by the certified capital company to  
2 all certified investors and equity holders under such program,  
3 other than qualified distributions, have equaled the sum of  
4 the certified capital company's original certified capital  
5 raised under such program and any additional capital  
6 contributions to the certified capital company with respect to  
7 such program. If at the time of any such distribution made by  
8 the certified capital company, such distribution taken  
9 together with all other such distributions from the funds  
10 related to such program made by the certified capital company,  
11 other than qualified distributions, exceeds in the aggregate  
12 the sum of the certified capital company's original certified  
13 capital raised under such program and any additional capital  
14 contributions to the certified capital company with respect to  
15 such program, as determined by the audit, the certified  
16 capital company shall pay to the Department of Revenue 10  
17 percent of the portion of such distribution in excess of such  
18 amount. Payments to the Department of Revenue by a certified  
19 capital company pursuant to this paragraph shall not exceed  
20 the aggregate amount of tax credits used by all certified  
21 investors in such certified capital company for such program.

22 (10) DECERTIFICATION.--

23 (f) Decertification of a certified capital company for  
24 failure to meet all requirements for continued certification  
25 under paragraph (5)(a) with respect to the certified capital  
26 raised under a particular program may cause the recapture of  
27 premium tax credits previously claimed by such company under  
28 such program and the forfeiture of future premium tax credits  
29 to be claimed by certified investors under such program with  
30 respect to such certified capital company, as follows:

31

1           1. Decertification of a certified capital company  
2 within 3 years after its certification date with respect to a  
3 particular program shall cause the recapture of all premium  
4 tax credits earned under such program and previously claimed  
5 by such company and the forfeiture of all future premium tax  
6 credits earned under such program which are to be claimed by  
7 certified investors with respect to such company.

8           2. When a certified capital company meets all  
9 requirements for continued certification under subparagraph  
10 (5)(a)1. with respect to certified capital raised under a  
11 particular program and subsequently fails to meet the  
12 requirements for continued certification under the provisions  
13 of subparagraph (5)(a)2. with respect to certified capital  
14 raised under such program, those premium tax credits earned  
15 under such program which have been or will be taken by  
16 certified investors within 3 years after the certification  
17 date of the certified capital company with respect to such  
18 program shall not be subject to recapture or forfeiture;  
19 however, all premium tax credits earned under such program  
20 that have been or will be taken by certified investors after  
21 the third anniversary of the certification date of the  
22 certified capital company for such program shall be subject to  
23 recapture or forfeiture.

24           3. When a certified capital company meets all  
25 requirements for continued certification under subparagraphs  
26 (5)(a)1. and 2. with respect to a particular program and  
27 subsequently fails to meet the requirements for continued  
28 certification under the subparagraph (5)(a)3. with respect to  
29 such program, those premium tax credits earned under such  
30 program which have been or will be taken by certified  
31 investors within 4 years after the certification date of the

1 certified capital company with respect to such program shall  
2 not be subject to recapture or forfeiture; however, all  
3 premium tax credits earned under such program that have been  
4 or will be taken by certified investors after the fourth  
5 anniversary of the certification date of the certified capital  
6 company with respect to such program shall be subject to  
7 recapture and forfeiture.

8           4. If a certified capital company has met all  
9 requirements for continued certification under paragraph  
10 (5)(a) with respect to certified capital raised under a  
11 particular program, but such company is subsequently  
12 decertified, those premium tax credits earned under such  
13 program which have been or will be taken by certified  
14 investors within 5 years after the certification date of such  
15 company with respect to such program shall not be subject to  
16 recapture or forfeiture. Those premium tax credits earned  
17 under such program to be taken subsequent to the 5th year of  
18 certification with respect to such program shall be subject to  
19 forfeiture only if the certified capital company is  
20 decertified within 5 years after its certification date with  
21 respect to such program.

22           5. If a certified capital company has invested an  
23 amount cumulatively equal to 100 percent of its certified  
24 capital raised under a particular program in qualified  
25 investments, all premium tax credits claimed or to be claimed  
26 by its certified investors under such program shall not be  
27 subject to recapture or forfeiture.

28           (11) TRANSFERABILITY.--The premium tax credit  
29 established pursuant to this act may be transferred or sold.  
30 The Department of Revenue shall adopt rules to facilitate the  
31 transfer or sale of such premium tax credits. A transfer or

1 sale shall not affect the time schedule for taking the premium  
2 tax credit as provided in this act. Any premium tax credits  
3 recaptured shall be the liability of the taxpayer who actually  
4 claimed the premium tax credits. The claim of a transferee of  
5 a certified investor's unused premium tax credit shall be  
6 permitted in the same manner and subject to the same  
7 provisions and limitations of this act as the original  
8 certified investor. ~~The term "transferee" means any person~~  
9 ~~who:~~

10 ~~(a) Through the voluntary sale, assignment, or other~~  
11 ~~transfer of the business or control of the business of the~~  
12 ~~certified investor, including the sale or other transfer of~~  
13 ~~stock or assets by merger, consolidation, or dissolution,~~  
14 ~~succeeds to all or substantially all of the business and~~  
15 ~~property of the certified investor;~~

16 ~~(b) Becomes by operation of law or otherwise the~~  
17 ~~parent company of the certified investor;~~

18 ~~(c) Directly or indirectly owns, whether through~~  
19 ~~rights, options, convertible interests, or otherwise,~~  
20 ~~controls, or holds power to vote 10 percent or more of the~~  
21 ~~outstanding voting securities or other ownership interest of~~  
22 ~~the certified investor;~~

23 ~~(d) Is a subsidiary of the certified investor or 10~~  
24 ~~percent or more of whose outstanding voting securities or~~  
25 ~~other ownership interest are directly or indirectly owned,~~  
26 ~~whether through rights, options, convertible interests, or~~  
27 ~~otherwise, by the certified investor; or~~

28 ~~(e) Directly or indirectly controls, is controlled by,~~  
29 ~~or is under the common control with the certified investor.~~

30 Section 11. Except as otherwise specifically provided  
31 in this act, the provisions of this act shall apply only to

1 "Program Two" as defined in s. 288.99(3), Florida Statutes, as  
2 amended by this act.

3 (17) Notwithstanding the limitations set forth in  
4 paragraph (7)(a), in the first fiscal year in which the total  
5 insurance premium tax collections as determined by the Revenue  
6 Estimating Conference exceed collections for fiscal year  
7 2000-2001 by more than the total amount of tax credits issued  
8 pursuant to this section which were used by certified  
9 investors in that year, the office may allocate to certified  
10 investors in accordance with paragraph (7)(a) tax credits for  
11 Program Two. The department shall establish, by rule, a date  
12 and procedures by which certified capital companies must file  
13 applications for allocations of such additional premium tax  
14 credits, which date shall be no later than 180 days from the  
15 date of determination by the Revenue Estimating Conference.  
16 With respect to new certified capital invested and premium tax  
17 credits earned pursuant to this subsection, the schedule  
18 specified in subparagraphs (5)(a)1.-4. is satisfied by  
19 investments by December 31 of the 2nd, 3rd, 4th, and 5th  
20 calendar year, respectively, after the date established by the  
21 department for applications of additional premium tax credits.  
22 The department shall adopt rules by which an entity not  
23 already certified as a certified capital company may apply for  
24 certification as a certified capital company for participation  
25 in this additional allocation. The insurance premium tax  
26 credit authorized by Program Two may not be used by certified  
27 investors until the annual return due March 1, 2004, and may  
28 be used on all subsequent returns and estimated payments;  
29 however, notwithstanding the provisions of s. 624.5092(2)(b),  
30 the installments of taxes due and payable on April 15, 2004,  
31 and June 15, 2004, shall be based on the net tax due in 2003

1 not taking into account credits granted pursuant to this  
2 section for Program Two.

3 Section 12. Subsection (20) is added to section  
4 517.12, Florida Statutes, to read:

5 517.12 Registration of dealers, associated persons,  
6 investment advisers, and branch offices.--

7 (20) The registration requirements of this section do  
8 not apply to individuals licensed under s. 626.041 or its  
9 successor statute, or s. 626.051 or its successor statute, for  
10 the sale of a security as defined in s. 517.021(19)(g), if the  
11 individual is directly authorized by the issuer to offer or  
12 sell the security on behalf of the issuer and the issuer is a  
13 federally chartered savings bank subject to regulation by the  
14 Federal Deposit Insurance Corporation. Actions under this  
15 subsection shall constitute activity under the insurance  
16 agent's license for purposes of ss. 626.611 and 626.621.

17 Section 13. Subsection (21) of section 570.07, Florida  
18 Statutes, is amended to read:

19 570.07 Department of Agriculture and Consumer  
20 Services; functions, powers, and duties.--The department shall  
21 have and exercise the following functions, powers, and duties:

22 (21) To declare an emergency when one exists in any  
23 matter pertaining to agriculture; to make, adopt, and  
24 promulgate rules and issue orders which will be effective  
25 during the term of the emergency; and to issue or require to  
26 be issued food safety information, pertaining to the  
27 emergency, that is based on reliable scientific facts and  
28 reliable scientific data. When the Commissioner of Agriculture  
29 has declared an agricultural emergency, no county or municipal  
30 ordinance relating to any action intended to end the emergency  
31 shall be enforced within a county or municipality with respect

1 to such action taken by the Department of Agriculture and  
2 Consumer Services during the agricultural emergency.

3 Section 14. Paragraph (b) of subsection (4), paragraph  
4 (a) of subsection (5), and paragraphs (a) and (c) of  
5 subsection (6) of section 624.91, Florida Statutes, as amended  
6 by section 20 of chapter 2001-377, Laws of Florida, are  
7 amended to read:

8 624.91 The Florida Healthy Kids Corporation Act.--

9 (4) CORPORATION AUTHORIZATION, DUTIES, POWERS.--

10 (b) The Florida Healthy Kids Corporation shall phase  
11 in a program to:

12 1. Organize school children groups to facilitate the  
13 provision of comprehensive health insurance coverage to  
14 children;

15 2. Arrange for the collection of any family, local  
16 contributions, or employer payment or premium, in an amount to  
17 be determined by the board of directors, to provide for  
18 payment of premiums for comprehensive insurance coverage and  
19 for the actual or estimated administrative expenses;

20 3. Establish the administrative and accounting  
21 procedures for the operation of the corporation;

22 4. Establish, with consultation from appropriate  
23 professional organizations, standards for preventive health  
24 services and providers and comprehensive insurance benefits  
25 appropriate to children; provided that such standards for  
26 rural areas shall not limit primary care providers to  
27 board-certified pediatricians;

28 5. Establish eligibility criteria which children must  
29 meet in order to participate in the program;

30 6. Establish procedures under which applicants to and  
31 participants in the program may have grievances reviewed by an

1 impartial body and reported to the board of directors of the  
2 corporation;

3           7. Establish participation criteria and, if  
4 appropriate, contract with an authorized insurer, health  
5 maintenance organization, or insurance administrator to  
6 provide administrative services to the corporation;

7           8. Establish enrollment criteria which shall include  
8 penalties or waiting periods of not fewer than 60 days for  
9 reinstatement of coverage upon voluntary cancellation for  
10 nonpayment of family premiums;

11           9. If a space is available, establish a special open  
12 enrollment period of 30 days' duration for any child who is  
13 enrolled in Medicaid or Medikids if such child loses Medicaid  
14 or Medikids eligibility and becomes eligible for the Florida  
15 Healthy Kids program;

16           10. Contract with authorized insurers or any provider  
17 of health care services, meeting standards established by the  
18 corporation, for the provision of comprehensive insurance  
19 coverage to participants. Such standards shall include  
20 criteria under which the corporation may contract with more  
21 than one provider of health care services in program sites.  
22 Health plans shall be selected through a competitive bid  
23 process. The selection of health plans shall be based  
24 primarily on quality criteria established by the board. The  
25 health plan selection criteria and scoring system, and the  
26 scoring results, shall be available upon request for  
27 inspection after the bids have been awarded;

28           11. Develop and implement a plan to publicize the  
29 Florida Healthy Kids Corporation, the eligibility requirements  
30 of the program, and the procedures for enrollment in the  
31



1 program and to maintain public awareness of the corporation  
2 and the program;

3           12. Secure staff necessary to properly administer the  
4 corporation. Staff costs shall be funded from state and local  
5 matching funds and such other private or public funds as  
6 become available. The board of directors shall determine the  
7 number of staff members necessary to administer the  
8 corporation;

9           13. As appropriate, enter into contracts with local  
10 school boards or other agencies to provide onsite information,  
11 enrollment, and other services necessary to the operation of  
12 the corporation;

13           14. Provide a report annually ~~on an annual basis~~ to  
14 the Governor, Chief Financial Officer ~~Insurance Commissioner~~,  
15 Commissioner of Education, Senate President, Speaker of the  
16 House of Representatives, and Minority Leaders of the Senate  
17 and the House of Representatives;

18           15. Each fiscal year, establish a maximum number of  
19 participants by county, on a statewide basis, who may enroll  
20 in the program without the benefit of local matching funds.  
21 Thereafter, the corporation may establish local matching  
22 requirements for supplemental participation in the program.  
23 The corporation may vary local matching requirements and  
24 enrollment by county depending on factors which may influence  
25 the generation of local match, including, but not limited to,  
26 population density, per capita income, existing local tax  
27 effort, and other factors. The corporation also may accept  
28 in-kind match in lieu of cash for the local match requirement  
29 to the extent allowed by Title XXI of the Social Security Act;  
30 and  
31

1           16. Establish eligibility criteria, premium and  
2 cost-sharing requirements, and benefit packages which conform  
3 to the provisions of the Florida Kidcare program, as created  
4 in ss. 409.810-409.820; and

5           17. Notwithstanding the requirements of subparagraph  
6 15. to the contrary, establish a local matching requirement of  
7 \$0.00 for the Title XXI program in each county of the state  
8 for the 2001-2002 fiscal year. This subparagraph shall take  
9 effect upon becoming a law and shall operate retroactively to  
10 July 1, 2001. This subparagraph expires July 1, 2002.

11           (5) BOARD OF DIRECTORS.--

12           (a) The Florida Healthy Kids Corporation shall operate  
13 subject to the supervision and approval of a board of  
14 directors chaired by the Chief Financial Officer ~~Insurance~~  
15 ~~Commissioner~~ or her or his designee, and composed of 14 ~~12~~  
16 other members selected for 3-year terms of office as follows:

17           1. One member appointed by the Commissioner of  
18 Education from among three persons nominated by the Florida  
19 Association of School Administrators;

20           2. One member appointed by the Commissioner of  
21 Education from among three persons nominated by the Florida  
22 Association of School Boards;

23           3. One member appointed by the Commissioner of  
24 Education from the Office of School Health Programs of the  
25 Florida Department of Education;

26           4. One member appointed by the Governor from among  
27 three members nominated by the Florida Pediatric Society;

28           5. One member, appointed by the Governor, who  
29 represents the Children's Medical Services Program;

30  
31

1           6. One member appointed by the Chief Financial Officer  
2 ~~Insurance Commissioner~~ from among three members nominated by  
3 the Florida Hospital Association;

4           7. Two members, appointed by the Chief Financial  
5 ~~Officer Insurance Commissioner~~, who are representatives of  
6 authorized health care insurers or health maintenance  
7 organizations;

8           8. One member, appointed by the Chief Financial  
9 ~~Officer Insurance Commissioner~~, who represents the Institute  
10 for Child Health Policy;

11           9. One member, appointed by the Governor, from among  
12 three members nominated by the Florida Academy of Family  
13 Physicians;

14           10. One member, appointed by the Governor, who  
15 represents the Agency for Health Care Administration; ~~and~~

16           11. One member, appointed by the Chief Financial  
17 Officer, from among three members nominated by the Florida  
18 Association of Counties, representing rural counties;

19           12. One member, appointed by the Governor, from among  
20 three members nominated by the Florida Association of  
21 Counties, representing urban counties; and

22           ~~13.11.~~ The State Health Officer or her or his  
23 designee.

24           (6) LICENSING NOT REQUIRED; FISCAL OPERATION.--

25           (a) The corporation shall not be deemed an insurer.  
26 The officers, directors, and employees of the corporation  
27 shall not be deemed to be agents of an insurer. Neither the  
28 corporation nor any officer, director, or employee of the  
29 corporation is subject to the licensing requirements of the  
30 insurance code or the rules of the Department of Financial  
31 Services Insurance. However, any marketing representative

1 utilized and compensated by the corporation must be appointed  
2 as a representative of the insurers or health services  
3 providers with which the corporation contracts.

4 (c) The Department of Financial Services ~~Insurance~~  
5 shall supervise any liquidation or dissolution of the  
6 corporation and shall have, with respect to such liquidation  
7 or dissolution, all power granted to it pursuant to the  
8 insurance code.

9 Section 15. Sections 633.801, 633.802, 633.803,  
10 633.804, 633.805, 633.806, 633.807, 633.808, 633.809, 633.810,  
11 633.811, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817,  
12 633.818, 633.819, 633.820, and 633.821, Florida Statutes, are  
13 created to read:

14 633.801 Short title.--Sections 633.801-633.821 may be  
15 cited as the "Florida Firefighters Occupational Safety and  
16 Health Act."

17 633.802 Definitions.--Unless the context clearly  
18 requires otherwise, the following definitions shall apply to  
19 ss. 633.801-633.821:

20 (1) "Department" means the Department of Insurance.

21 (2) "Division" means the Division of State Fire  
22 Marshal of the department.

23 (3) "Firefighter employee" means any person engaged in  
24 any employment, public or private, as a firefighter under any  
25 appointment or contract of hire or apprenticeship, express or  
26 implied, oral or written, whether lawfully or unlawfully  
27 employed, responding to or assisting with fire or medical  
28 emergencies, whether or not the firefighter is on duty, except  
29 those appointed under s. 590.02(1)(d).

30 (4) "Firefighter employer" means the state and all  
31 political subdivisions of this state, all public and

1 quasi-public corporations in this state, and every person  
2 carrying on any employment for this state, political  
3 subdivisions of this state, and public and quasi-public  
4 corporations in this state which employs firefighters, except  
5 those appointed under s. 590.02(1)(d).

6 (5) "Firefighter employment" or "employment" means any  
7 service performed by a firefighter employee for the  
8 firefighter employer.

9 (6) "Firefighter place of employment" or "place of  
10 employment" means the physical location at which the  
11 firefighter is employed.

12 633.803 Legislative intent.--It is the intent of the  
13 Legislature to enhance firefighter occupational safety and  
14 health in the state through the implementation and maintenance  
15 of policies, procedures, practices, rules, and standards that  
16 reduce the incidence of firefighter employee accidents,  
17 firefighter employee occupational diseases, and firefighter  
18 employee fatalities compensable under chapter 440 or  
19 otherwise. The Legislature further intends that the division  
20 develop a means by which the division can identify individual  
21 firefighter employers with a high frequency or severity of  
22 work-related injuries, conduct safety inspections of those  
23 firefighter employers, and assist those firefighter employers  
24 in the development and implementation of firefighter employee  
25 safety and health programs. In addition, it is the intent of  
26 the Legislature that the division administer the provisions of  
27 ss. 633.801-633.821; provide assistance to firefighter  
28 employers, firefighter employees, and insurers; and enforce  
29 the policies, rules, and standards set forth in ss.  
30 633.801-633.821.

31

1           633.804 Safety inspections and consultations;  
2 rules.--The division shall adopt rules governing the manner,  
3 means, and frequency of firefighter employer and firefighter  
4 employee safety inspections and consultations by all insurers  
5 and self-insurers.

6           633.805 Division to make study of firefighter employee  
7 occupational diseases.--The division shall make a continuous  
8 study of firefighter employee occupational diseases and the  
9 ways and means for their control and prevention and shall  
10 adopt rules necessary for such control and prevention. For  
11 this purpose, the division is authorized to cooperate with  
12 firefighter employers, firefighter employees, and insurers and  
13 with the Department of Health.

14           633.806 Investigations by the division; refusal to  
15 admit; penalty.--

16           (1) The division shall make studies and investigations  
17 with respect to safety provisions and the causes of  
18 firefighter employee injuries in firefighter employee places  
19 of employment and shall make such recommendations to the  
20 Legislature and firefighter employers and insurers as the  
21 division considers proper as to the best means of preventing  
22 firefighter injuries. In making such studies and  
23 investigations, the division may cooperate with any agency of  
24 the United States charged with the duty of enforcing any law  
25 securing safety against injury in any place of firefighter  
26 employment covered by ss. 633.801-633.821 or any agency or  
27 department of the state engaged in enforcing any law to ensure  
28 safety for firefighter employees.

29           (2) The division by rule may adopt procedures for  
30 conducting investigations of firefighter employers under ss.  
31 633.801-633.821.

1           633.807 Safety; firefighter employer  
2 responsibilities.--Every firefighter employer shall furnish  
3 and use safety devices and safeguards, adopt and use methods  
4 and processes reasonably adequate to render such an employment  
5 and place of employment safe, and do every other thing  
6 reasonably necessary to protect the lives, health, and safety  
7 of such firefighter employees. As used in this section, the  
8 terms "safe" and "safety," as applied to any employment or  
9 place of firefighter employment, mean such freedom from danger  
10 as is reasonably necessary for the protection of the lives,  
11 health, and safety of firefighter employees, including  
12 conditions and methods of sanitation and hygiene. Safety  
13 devices and safeguards required to be furnished by the  
14 firefighter employer by this section or by the division under  
15 authority of this section shall not include personal apparel  
16 and protective devices that replace personal apparel normally  
17 worn by firefighter employees during regular working hours.

18           633.808 Division authority.--The division shall:  
19           (1) Investigate and prescribe by rule what safety  
20 devices, safeguards, or other means of protection must be  
21 adopted for the prevention of accidents in every firefighter  
22 employee place of employment or at any fire scene; determine  
23 what suitable devices, safeguards, or other means of  
24 protection for the prevention of occupational diseases must be  
25 adopted or followed in any or all such firefighter places of  
26 employment or at any fire scene; and adopt reasonable rules  
27 for the prevention of accidents, the safety, protection, and  
28 security of firefighter employees engaged in interior  
29 firefighting, and the prevention of occupational diseases.

30           (2) Ascertain, fix, and order such reasonable  
31 standards and rules for the construction, repair, and

1 maintenance of firefighter employee places of employment as  
2 shall render them safe. Such rules and standards shall be  
3 adopted in accordance with chapter 120.

4 (3) Assist firefighter employers in the development  
5 and implementation of firefighter employee safety training  
6 programs by contracting with professional safety  
7 organizations.

8 (4) Adopt rules prescribing recordkeeping  
9 responsibilities for firefighter employers, which may include  
10 maintaining a log and summary of occupational injuries,  
11 diseases, and illnesses, for producing on request a notice of  
12 injury and firefighter employee accident investigation  
13 records, and prescribing a retention schedule for such  
14 records.

15 633.809 Firefighter employers whose firefighter  
16 employees have a high frequency of work-related injuries.--The  
17 division shall develop a means by which the division may  
18 identify individual firefighter employers whose firefighter  
19 employees have a high frequency or severity of work-related  
20 injuries. The division shall carry out safety inspections of  
21 the facilities and operations of those firefighter employers  
22 in order to assist them in reducing the frequency and severity  
23 of work-related injuries. The division shall develop safety  
24 and health programs for those firefighter employers. Insurers  
25 shall distribute such safety and health programs to the  
26 firefighter employers so identified by the division. Those  
27 firefighter employers identified by the division as having a  
28 high frequency or severity of work-related injuries shall  
29 implement a safety and health program developed by the  
30 division. The division shall carry out safety inspections of  
31 those firefighter employers so identified to ensure compliance



1 with the safety and health program and to assist such  
2 firefighter employers in reducing the number of work-related  
3 injuries. The division may not assess penalties as a result  
4 of such inspections, except as provided by s. 633.813. Copies  
5 of any report made as the result of such an inspection shall  
6 be provided to the firefighter employer and its insurer.  
7 Firefighter employers may submit their own safety and health  
8 programs to the division for approval in lieu of using the  
9 safety and health program developed by the division. The  
10 division shall promptly review the program submitted and  
11 approve or disapprove the program within 60 days or such  
12 program shall be deemed approved. Upon approval by the  
13 division, the program shall be implemented by the firefighter  
14 employer. If the program is not approved or if a program is  
15 not submitted, the firefighter employer shall implement the  
16 program developed by the division. The division shall adopt  
17 rules setting forth the criteria for safety and health  
18 programs, as such rules relate to this section.

19 633.810 Workplace safety committees and safety  
20 coordinators.--

21 (1) In order to promote health and safety in  
22 firefighter employee places of employment in this state:

23 (a) Each firefighter employer of 20 or more  
24 firefighter employees shall establish and administer a  
25 workplace safety committee in accordance with rules adopted  
26 under this section.

27 (b) Each firefighter employer of fewer than 20  
28 firefighter employees identified by the division as having  
29 high frequency or high severity of work-related injuries shall  
30 establish and administer a workplace safety committee or  
31 designate a workplace safety coordinator who shall establish

1 and administer workplace safety activities in accordance with  
2 rules adopted under this section.

3 (2) The division shall adopt rules:

4 (a) Prescribing the membership of the workplace safety  
5 committees so as to ensure an equal number of firefighter  
6 employee representatives who are volunteers or are elected by  
7 their peers and firefighter employer representatives, and  
8 specifying the frequency of meetings.

9 (b) Requiring firefighter employers to make adequate  
10 records of each meeting and to file and to maintain the  
11 records subject to inspection by the division.

12 (c) Prescribing the duties and functions of the  
13 workplace safety committee and workplace safety coordinator,  
14 which include, but are not limited to:

15 1. Establishing procedures for workplace safety  
16 inspections by the committee.

17 2. Establishing procedures for investigating all  
18 workplace accidents, safety-related incidents, illnesses, and  
19 deaths.

20 3. Evaluating accident prevention and illness  
21 prevention programs.

22 4. Prescribing guidelines for the training of safety  
23 committee members.

24 (3) The composition, selection, and function of  
25 workplace safety committees shall be a mandatory topic of  
26 negotiations with any certified collective bargaining agent  
27 for firefighter employers that operate under a collective  
28 bargaining agreement. Firefighter employers that operate  
29 under a collective bargaining agreement that contains  
30 provisions regulating the formation and operation of workplace  
31 safety committees that meet or exceed the minimum requirements

1 contained in this section, or firefighter employers who  
2 otherwise have existing workplace safety committees that meet  
3 or exceed the minimum requirements established by this  
4 section, are in compliance with this section.

5 (4) Firefighter employees shall be compensated their  
6 regular hourly wage while engaged in workplace safety  
7 committee or workplace safety coordinator training, meetings,  
8 or other duties prescribed under this section.

9 633.811 Firefighter employer penalties.--If any  
10 firefighter employer violates or fails or refuses to comply  
11 with ss. 633.801-633.821, or with any rule adopted by the  
12 division under such sections in accordance with chapter 120  
13 for the prevention of injuries, accidents, or occupational  
14 diseases or with any lawful order of the division in  
15 connection with ss. 633.801-633.821, or fails or refuses to  
16 furnish or adopt any safety device, safeguard, or other means  
17 of protection prescribed by division rule under ss.  
18 633.801-633.821 for the prevention of accidents or  
19 occupational diseases, the division may assess against the  
20 firefighter employer a civil penalty of not less than \$100 nor  
21 more than \$5,000 for each day the violation, omission,  
22 failure, or refusal continues after the firefighter employer  
23 has been given written notice of such violation, omission,  
24 failure, or refusal. The total penalty for each violation  
25 shall not exceed \$50,000. The division shall adopt rules  
26 requiring penalties commensurate with the frequency or  
27 severity of safety violations. A hearing shall be held in the  
28 county in which the violation, omission, failure, or refusal  
29 is alleged to have occurred, unless otherwise agreed to by the  
30 firefighter employer and authorized by the division. All  
31 penalties assessed and collected under this section shall be

1 deposited in the Insurance Commissioner's Regulatory Trust  
2 Fund.

3 633.812 Division cooperation with Federal Government;  
4 exemption from requirements for private firefighter  
5 employers.--

6 (1) The division shall cooperate with the Federal  
7 Government so that duplicate inspections will be avoided while  
8 at the same time ensuring safe firefighter employee places of  
9 employment for the citizens of this state.

10 (2) Except as provided in this section, a private  
11 firefighter employer is not subject to the requirements of the  
12 division if:

13 (a) The private firefighter employer is subject to the  
14 federal regulations in 29 C.F.R. ss. 1910 and 1926.

15 (b) The private firefighter employer has adopted and  
16 implemented a written safety program that conforms to the  
17 requirements of 29 C.F.R. ss. 1910 and 1926.

18 (c) A private firefighter employer with 20 or more  
19 full-time firefighter employees shall include provisions for a  
20 safety committee in the safety program. The safety committee  
21 shall include firefighter employee representation and shall  
22 meet at least once each calendar quarter. The private  
23 firefighter employer shall make adequate records of each  
24 meeting and maintain the records subject to inspections under  
25 subsection (3). The safety committee shall, if appropriate,  
26 make recommendations regarding improvements to the safety  
27 program and corrections of hazards affecting workplace safety.

28 (d) The private firefighter employer provides the  
29 division with a written statement that certifies compliance  
30 with this subsection.

31

1           (3) The division may enter at any reasonable time any  
2 place of private firefighter employment for the purpose of  
3 verifying the accuracy of the written certification. If the  
4 division determines that the private firefighter employer has  
5 not complied with the requirements of subsection (2), the  
6 private firefighter employer shall be subject to the rules of  
7 the division until the private firefighter employer complies  
8 with subsection (2) and recertifies that fact to the division.

9           (4) This section shall not restrict the division's  
10 performance of any duties pursuant to a written contract  
11 between the division and the federal Occupational Safety and  
12 Health Administration.

13           633.813 Failure to implement a safety and health  
14 program; cancellations.--If a firefighter employer that is  
15 found by the division to have a high frequency or severity of  
16 work-related injuries fails to implement a safety and health  
17 program, the insurer or self-insurer's fund that is providing  
18 coverage for the firefighter employer may cancel the contract  
19 for insurance with the firefighter employer. In the  
20 alternative, the insurer or fund may terminate any discount or  
21 deviation granted to the firefighter employer for the  
22 remainder of the term of the policy. If the contract is  
23 canceled or the discount or deviation is terminated, the  
24 insurer shall make such reports as are required by law.

25           633.814 Expenses of administration.--The amounts that  
26 are needed to administer ss. 633.801-633.821 shall be  
27 disbursed from the Insurance Commissioner's Regulatory Trust  
28 Fund.

29           633.815 Refusal to admit; penalty.--The division and  
30 authorized representatives of the division may enter and  
31 inspect any firefighter place of employment at any reasonable

1 time for the purpose of investigating compliance with ss.  
2 633.801-633.821 and conducting inspections for the proper  
3 enforcement of ss. 633.801-633.821. A firefighter employer  
4 who refuses to admit any member of the division or authorized  
5 representative of the division to any place of employment or  
6 to allow investigation and inspection pursuant to this section  
7 commits a misdemeanor of the second degree, punishable as  
8 provided in s. 775.082 or s. 775.083.

9 633.816 Firefighter employee rights and  
10 responsibilities.--

11 (1) Each firefighter employee of a firefighter  
12 employer covered under ss. 633.801-633.821 shall comply with  
13 rules adopted by the division and with reasonable workplace  
14 safety and health standards, rules, policies, procedures, and  
15 work practices established by the firefighter employer and the  
16 workplace safety committee. A firefighter employee who  
17 knowingly fails to comply with this subsection may be  
18 disciplined or discharged by the firefighter employer.

19 (2) A firefighter employer may not discharge, threaten  
20 to discharge, cause to be discharged, intimidate, coerce,  
21 otherwise discipline, or in any manner discriminate against a  
22 firefighter employee for any of the following reasons:

23 (a) The firefighter employee has testified or is about  
24 to testify, on her or his own behalf or on behalf of others,  
25 in any proceeding instituted under ss. 633.801-633.821;

26 (b) The firefighter employee has exercised any other  
27 right afforded under ss. 633.801-633.821; or

28 (c) The firefighter employee is engaged in activities  
29 relating to the workplace safety committee.  
30  
31

1           (3) No pay, position, seniority, or other benefit may  
2 be lost for exercising any right under, or for seeking  
3 compliance with any requirement of, ss. 633.801-633.821.

4           633.817 Compliance.--Failure of a firefighter employer  
5 or an insurer to comply with ss. 633.801-633.821, or with any  
6 rules adopted under ss. 633.801-633.821, constitutes grounds  
7 for the division to seek remedies, including injunctive  
8 relief, by making appropriate filings with the circuit court.

9           633.818 False statements to insurers.--A firefighter  
10 employer who knowingly and willfully falsifies or conceals a  
11 material fact, who makes a false, fictitious, or fraudulent  
12 statement or representation, or who makes or uses any false  
13 document knowing the document to contain any false,  
14 fictitious, or fraudulent entry or statement to an insurer of  
15 workers' compensation insurance under ss. 633.801-633.821  
16 commits a misdemeanor of the second degree, punishable as  
17 provided in s. 775.082 or s. 775.083.

18           633.819 Matters within jurisdiction of the division;  
19 false, fictitious, or fraudulent acts, statements, and  
20 representations prohibited; penalty; statute of  
21 limitations.--A person may not, in any matter within the  
22 jurisdiction of the division, knowingly and willfully falsify  
23 or conceal a material fact; make any false, fictitious, or  
24 fraudulent statement or representation; or make or use any  
25 false document, knowing the same to contain any false,  
26 fictitious, or fraudulent statement or entry. A person who  
27 violates this section commits a misdemeanor of the second  
28 degree, punishable as provided in s. 775.082 or s. 775.083.  
29 The statute of limitations for prosecution of an act committed  
30 in violation of this section is 5 years after the date the act  
31 was committed or, if not discovered within 30 days after the

1 act was committed, 5 years after the date the act was  
2 discovered.

3 633.820 Volunteer firefighters.--Sections  
4 633.803-633.821 apply to volunteer firefighters and volunteer  
5 fire departments.

6 633.821 Workplace safety.--

7 (1) The division shall assist in making the  
8 firefighter employee place of employment a safer place to work  
9 and decreasing the frequency and severity of on-the-job  
10 injuries in such workplace.

11 (2) The division shall have the authority to adopt  
12 rules for the purpose of ensuring safe working conditions for  
13 all firefighter employees by authorizing the enforcement of  
14 effective standards, by assisting and encouraging firefighter  
15 employers to maintain safe working conditions, and by  
16 providing for education and training in the field of safety.  
17 Specifically, the division may by rule adopt all or any part  
18 of subparts C through T and subpart Z of 29 C.F.R. s. 1910, as  
19 revised April 8, 1998; the National Fire Protection  
20 Association, Inc., Standard 1500, paragraph 5-7 (Personal  
21 Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

22 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the  
23 two individuals located outside the immediately dangerous to  
24 life and health atmosphere may be assigned to an additional  
25 role, such as incident commander, pumper operator, engineer,  
26 or driver, so long as such individual is able to immediately  
27 perform assistance or rescue activities without jeopardizing  
28 the safety or health of any firefighter working at an  
29 incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):  
30  
31



1           (a) Each county, municipality, and special district  
2 shall implement such provision by April 1, 2002, except as  
3 provided in paragraphs (b) and (c).

4           (b) If any county, municipality, or special district  
5 is unable to implement such provision by April 1, 2002,  
6 without adding additional personnel to its firefighting staff  
7 or expending significant additional funds, such county,  
8 municipality, or special district shall have an additional 6  
9 months within which to implement such provision. Such county,  
10 municipality, or special district shall notify the division  
11 that the 6-month extension to implement such provision is in  
12 effect in such county, municipality, or special district  
13 within 30 days after its decision to extend the time for the  
14 additional 6 months. The decision to extend the time for  
15 implementation shall be made prior to April 1, 2002.

16           (c) If, after the extension granted in paragraph (b),  
17 the county, municipality, or special district, after having  
18 worked with and cooperated fully with the division and the  
19 Firefighters Employment, Standards, and Training Council, is  
20 still unable to implement such provisions without adding  
21 additional personnel to its firefighting staff or expending  
22 significant additional funds, such municipality, county, or  
23 special district shall be exempt from the requirements of 29  
24 C.F.R. s. 1910.134(g)(4). However, each year thereafter the  
25 division shall review each such county, municipality, or  
26 special district to determine if such county, municipality, or  
27 special district has the ability to implement such provision  
28 without adding additional personnel to its firefighting staff  
29 or expending significant additional funds. If the division  
30 determines that any county, municipality, or special district  
31 has the ability to implement such provision without adding

1 additional personnel to its firefighting staff or expending  
2 significant additional funds, the division shall require such  
3 county, municipality, or special district to implement such  
4 provision. Such requirement by the division under this  
5 paragraph constitutes final agency action subject to chapter  
6 120.

7 (4) The provisions of chapter 440 that pertain to  
8 workplace safety apply to the division.

9 (5) The division may adopt any rule necessary to  
10 implement, interpret, and make specific the provisions of this  
11 section, provided the division may not adopt by rule any other  
12 standard or standards of the Occupational Safety and Health  
13 Administration or the National Fire Protection Association  
14 relating solely to ss. 633.801-633.821 and firefighter  
15 employment safety without specific legislative authority.

16 Section 16. Section 633.31, Florida Statutes, is  
17 amended to read:

18 633.31 Firefighters Employment, Standards, and  
19 Training Council.--

20 (1) There is created within the Department of  
21 Insurance a Firefighters Employment, Standards, and Training  
22 Council of 13 ~~nine~~ members ~~appointed by the State Fire~~  
23 Marshal. Two members shall be fire chiefs appointed by the  
24 Florida Fire Chiefs Association, two members shall be  
25 firefighters who are not officers, appointed by the Florida  
26 Professional Firefighters Association, two members shall be  
27 firefighter officers who are not fire chiefs, appointed by the  
28 State Fire Marshal, one member appointed by the Florida League  
29 of Cities, one member appointed by the Florida Association of  
30 Counties, one member appointed by the Florida Association of  
31 Special Districts, one member appointed by the Florida Fire

1 Marshal's Association, and one member appointed by the State  
2 Fire Marshal, and one member shall be a director or instructor  
3 of a state-certified firefighting training facility appointed  
4 by the State Fire Marshal. To be eligible for appointment as a  
5 fire chief member, firefighter officer member, firefighter  
6 member, or a director or instructor of a state-certified  
7 firefighting facility, a person shall have had at least 4  
8 years' experience in the firefighting profession. The  
9 remaining member, who shall be appointed by the State Fire  
10 Marshal, two members shall not be a member or representative  
11 members of the firefighting profession or of any local  
12 government. Members shall serve only as long as they continue  
13 to meet the criteria under which they were appointed, or  
14 unless a member has failed to appear at three consecutive and  
15 properly noticed meetings unless excused by the chair.

16 (2) ~~Initially, the State Fire Marshal shall appoint~~  
17 ~~three members for terms of 4 years, two members for terms of 3~~  
18 ~~years, two members for terms of 2 years, and two members for~~  
19 ~~terms of 1 year. Thereafter, Members shall be appointed for~~  
20 4-year terms and in no event shall a member serve more than  
21 two consecutive terms. Any vacancy shall be filled in the  
22 manner of the original appointment for the remaining time of  
23 the term.

24 (3) The State Fire Marshal, in making her or his  
25 appointments, shall take into consideration representation by  
26 geography, population, and other relevant factors, in order  
27 that the membership on the council will be apportioned to give  
28 representation to the state at large rather than to a  
29 particular area.

30 (4) Membership on the council shall not disqualify a  
31 member from holding any other public office or being employed

1 by a public entity, except that no member of the Legislature  
2 shall serve on the council.

3 Section 17. Subsections (4) and (5) of section 633.33,  
4 Florida Statutes, are amended to read:

5 633.33 Special powers; firefighter training.--The  
6 council shall have special powers in connection with the  
7 employment and training of firefighters to:

8 (4) Consult and cooperate with any employing agency,  
9 university, college, community college, the Florida State Fire  
10 College, or other educational institution concerning the  
11 employment and safety of firefighters, including, but not  
12 limited to, the safety of firefighters while at the scene of a  
13 fire or the scene of an incident related to the provision of  
14 emergency services to which a firefighter responds, and the  
15 development of firefighter training schools and programs of  
16 courses of instruction, including, but not limited to,  
17 education and training in the areas of firefighter employment,  
18 fire science, fire technology, fire administration, and all  
19 allied and supporting fields.

20 (5) Make or support studies on any aspect of  
21 firefighting employment, education, and training or  
22 recruitment.

23 Section 18. Paragraph (c) of subsection (3) of section  
24 383.3362, Florida Statutes, is amended to read:

25 383.3362 Sudden Infant Death Syndrome.--

26 (3) TRAINING.--

27 (c) The Department of Health, in consultation with the  
28 Emergency Medical Services Advisory Council, the Firefighters  
29 Employment, Standards, and Training Council, and the Criminal  
30 Justice Standards and Training Commission, shall develop and  
31 adopt, by rule, curriculum that, at a minimum, includes

1 training in the nature of SIDS, standard procedures to be  
2 followed by law enforcement agencies in investigating cases  
3 involving sudden deaths of infants, and training in responding  
4 appropriately to the parents or caretakers who have requested  
5 assistance.

6 Section 19. Subsection (4) of section 633.30, Florida  
7 Statutes, is amended to read:

8 633.30 Standards for firefighting; definitions.--As  
9 used in this chapter:

10 (4) "Council" means the Firefighters Employment,  
11 Standards, and Training Council.

12 Section 20. Subsection (4) of section 633.32, Florida  
13 Statutes, is amended to read:

14 633.32 Organization; meetings; quorum; compensation;  
15 seal.--

16 (4) The council may adopt a seal for its use  
17 containing the words "Firefighters Employment, Standards, and  
18 Training Council."

19 Section 21. The Legislature determines and declares  
20 that this act fulfills an important state interest.

21 Section 22. Effective June 30, 2002, paragraphs (a)  
22 and (c) of subsection (1) and subsections (4), (5), (6), (7),  
23 (8), and (9) of section 163.05, Florida Statutes, are amended  
24 to read:

25 163.05 Small County Technical Assistance Program.--

26 (1) Among small counties, the Legislature finds that:

27 (a) The percentage of the population of small counties  
28 residing in the unincorporated areas is relatively high based  
29 on the United States Decennial Census of 2000 ~~and increased~~  
30 ~~substantially between 1980 and 1990.~~

31

1 (c) Fiscal shortfalls persist even though 12 ~~13~~ of the  
2 small counties levied the maximum ad valorem millage  
3 authorized in their jurisdictions in 2001 ~~1990~~ and an  
4 additional 15 ~~13~~ small counties levied between 8 and 10 mills.

5 (4) The Commissioner of Agriculture ~~Comptroller~~ shall  
6 enter into contracts with program providers who shall:

7 (a) Be a foundation that meets the requirements for  
8 nonprofit status under s. 501(c)(3) of the Internal Revenue  
9 Code with a governing board which includes in its membership  
10 county commissioners and professional staff of the county  
11 ~~public agency or private, nonprofit corporation, association,~~  
12 ~~or entity.~~

13 (b) Have substantial and documented experience working  
14 closely with county governments in providing both educational  
15 and technical assistance.

16 (c) ~~(b)~~ Use existing resources, services, and  
17 information that are available from state or local agencies,  
18 universities, or the private sector.

19 (d) ~~(c)~~ Seek and accept funding from any public or  
20 private source.

21 (d) ~~Annually submit information to assist the~~  
22 ~~Legislative Committee on Intergovernmental Relations in~~  
23 ~~preparing a performance review that will include an analysis~~  
24 ~~of the effectiveness of the program.~~

25 (e) Assist small counties in developing alternative  
26 revenue sources.

27 (f) Provide assistance to small counties in ~~the~~ areas  
28 such as ~~of~~ financial management, accounting, investing,  
29 purchasing, planning and budgeting, debt issuance, public  
30 management, management systems, computers and information  
31

1 technology, economic and community development, and public  
2 safety management.

3 (g) Provide for an annual independent financial audit  
4 of the program.

5 (h) In each county served, conduct a needs assessment  
6 upon which the assistance provided for that county will be  
7 designed.

8 (5)(a) The Commissioner of Agriculture ~~Comptroller~~  
9 shall issue a request for proposals to provide assistance to  
10 small counties. The request for proposals shall be required no  
11 more frequently than every third year beginning with fiscal  
12 year 2004-2005. All contracts in existence on the effective  
13 date of this act between the Comptroller and any other party  
14 with respect to the Small County Technical Assistance Program  
15 may be accepted by the Commissioner of Agriculture as the  
16 party in interest and said contracts shall remain in full  
17 force and effect according to their terms. ~~At the request of~~  
18 ~~the Comptroller, the Legislative Committee on~~  
19 ~~Intergovernmental Relations shall assist in the preparation of~~  
20 ~~the request for proposals.~~

21 (b) The Commissioner of Agriculture ~~Comptroller~~ shall  
22 review each contract proposal submitted.

23 ~~(c) The Legislative Committee on Intergovernmental~~  
24 ~~Relations shall review each contract proposal and submit to~~  
25 ~~the Comptroller, in writing, advisory comments and~~  
26 ~~recommendations, citing with specificity the reasons for its~~  
27 ~~recommendations.~~

28 ~~(c)(d)~~ The Commissioner of Agriculture ~~Comptroller~~ and  
29 ~~the council~~ shall consider the following factors in reviewing  
30 contract proposals:

31

1           1. The demonstrated capacity of the provider to  
2 conduct needs assessments and implement the program as  
3 proposed.

4           2. The number of small counties to be served under the  
5 proposal.

6           3. The cost of the program as specified in a proposed  
7 budget.

8           4. The short-term and long-term benefits of the  
9 assistance to small counties.

10          5. The form and extent to which existing resources,  
11 services, and information that are available from state and  
12 local agencies, universities, and the private sector will be  
13 used by the provider under the contract.

14          (6) A decision of the Commissioner of Agriculture  
15 ~~Comptroller~~ to award a contract under this section is final  
16 and shall be in writing ~~with a copy provided to the~~  
17 ~~Legislative Committee on Intergovernmental Relations.~~

18          ~~(7) The Comptroller may enter into contracts and~~  
19 ~~agreements with other state and local agencies and with any~~  
20 ~~person, association, corporation, or entity other than the~~  
21 ~~program providers, for the purpose of administering this~~  
22 ~~section.~~

23          (7)(8) The Commissioner of Agriculture Comptroller  
24 shall provide fiscal oversight to ensure that funds expended  
25 for the program are used in accordance with the contracts  
26 entered into pursuant to subsection (4) and shall conduct a  
27 performance review of the program as may be necessary to  
28 ensure that the goals and objectives of the program are being  
29 met.

30          ~~(9) The Legislative Committee on Intergovernmental~~  
31 ~~Relations shall annually conduct a performance review of the~~



1 ~~program. The findings of the review shall be presented in a~~  
2 ~~report submitted to the Governor, the President of the Senate,~~  
3 ~~the Speaker of the House of Representatives, and the~~  
4 ~~Comptroller by January 15 of each year.~~

5           Section 23. Effective June 30, 2002, Specific  
6 Appropriation 2252 in the 2002-2003 General Appropriations Act  
7 is hereby repealed and an identical amount is hereby  
8 appropriated to the Department of Agriculture and Consumer  
9 Services from the General Revenue Fund for the purposes of  
10 this act.

11           Section 24. Except as otherwise provided herein, this  
12 act shall take effect upon becoming a law.